

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Oregon Department of Education (ODE) enters into this agreement to resolve the allegation in a complaint (Reference No. 10171027) filed with the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II). This agreement resolves the allegations in Reference No. 10171027 and does not constitute an admission by ODE of any violation of Section 504, Title II, or any other law.

II. RESOLUTION PROVISIONS

A. Policies and Procedures

1. ODE will review and revise as necessary of the Section 504 policies and procedures utilized at Three Lakes High School (Three Lakes) in the Oak Creek Youth Correctional Facility. The purpose of the review is to ensure that students with disabilities are provided a free appropriate public education (FAPE). The policies and procedures will state that a student will receive all services listed in a student's Section 504 plan or Individualized Education Program (IEP) unless a placement decision consistent with the procedural requirements of Section 504 has been made that a particular service is no longer necessary or appropriate. The policies and procedures will also state that notice is provided to the parents or legal guardians of student subject to a placement decision and that the notice specifies that the evaluation and placement procedures of Section 504 are to be followed prior to significantly changing the educational placement and program of students with disabilities.

Reporting Requirement: By January 31, 2021, the ODE will submit to OCR for review and approval a draft of the Section 504 policies and procedures developed in accordance with section II.A.1. If OCR requires any changes to the draft notice the ODE will respond and resubmit the draft within 30 days of receiving OCR's notice of required revisions. OCR and the ODE will repeat this process until OCR has approved the procedures.

2. Within 60 days of receiving OCR's approval, the ODE will provide a report to OCR stating that the revised Section 504 policies and procedures were adopted and implemented at Three Lakes High School.

B. Training

By March 31, 2021, the ODE will ensure that training is provided to all Three Lakes employees who provide special education and related aids and services to students with disabilities at Three Lakes regarding their obligation to consistently implement a student's Section 504 plan or IEP. The training will include information about the Section 504 requirements with respect to the identification, evaluation and placement of students with disabilities, and will provide information to staff at Three Lakes about who to ask if they have questions about a student's Section 504 plan or IEP, or how to implement such plans.

Reporting Requirement: By April 30, 2021, the ODE will provide a report to OCR demonstrating its compliance with section II.B, above. The report will include a list of the Three Lakes staff who attended the training, including the name and position title of each attendee, the date of the training, an outline of the presentation or copy of materials presented, and the name and position title of the person conducting the training.

C. Compensatory Education Services

1. By February 28, 2021, the ODE will ensure that a team of Three Lakes staff (hereinafter "team") identify the students with disabilities who were provided education service at Three Lakes during the 2016-2017 school year and who may have been denied a free appropriate public education because they did not receive special education and related aids and services in accordance with the student's Section 504 Plan or because the student's IEP was not developed in accordance with Section 504.
2. The team will send a written notice by regular, first class mail or e-mail to the last known address available to ODE for each eligible student and/or, if the eligible student is under 18 years old and unemancipated, the parents or guardians of each eligible student to offer compensatory education services for the student and describe the method the team will use to determine appropriate compensatory services and amounts for each eligible student. The notice will allow the students, parents, or guardians no less than 30 days to accept the team's offer of compensatory education services.
3. Within 20 days of receiving the responses of the students/parents/guardians to the team's offer of compensatory services, the team will meet to develop an individualized plan for providing compensatory education services to each student who responded affirmatively to the offer.

Reporting Requirement: Within 45 days of receiving the responses to the team's offer of compensatory education services, the team will submit to OCR for its review and approval the proposed individualized compensatory education plan for

each student who responded affirmatively to the team’s offer. If OCR requires any revisions to the proposed compensatory education plan(s), the team will make the revisions and resubmit the proposed plan(s) within 30 days of receiving OCR’s notice of revisions.

4. The team will implement the compensatory education plan identified by the team for each applicable student.

Reporting Requirement: Within 120 days of sending the notice(s) described in section C (2), the team will provide a report to OCR documenting its implementation of the compensatory education plans. The report will include at a minimum the dates, times and locations that the compensatory education was provided to students, the name of the attending students, a description of what instruction was provided to each students, and the name(s) and qualifications of the entity providing the compensatory education. The report will also contain a list of the students, parents and guardians who declined the team’s offer of compensatory education or who failed to respond to the team’s written offer.

III. GENERAL PROVISIONS

- A. The ODE understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner in accordance with the reporting requirements of the agreement. Further, the ODE understands that during the monitoring of this agreement, if necessary, OCR may interview staff and students and request such additional reports or data as are necessary for OCR to determine whether the ODE has fulfilled the terms and obligations of this agreement. Upon the ODE’s satisfaction of the commitments made under the agreement, OCR will close the case.
- B. The ODE understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this agreement and/or Section 504 and Title II and regulations at 34 C.F.R. §§ 104.4 and 104.33 and 28 C.F.R. §§ 35.130(a) and (b). Before initiating such proceedings, OCR shall give the ODE written notice of the alleged breach and 60 days to cure the alleged breach.

Signed:

/s/

9/29/20

Colt Gill
Deputy Superintendent
Oregon Department of Education

Date