

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Tumwater School District No. 33 (District) enters into this Voluntary Resolution Agreement (Agreement) to resolve the allegations in a complaint (Reference No. 10171082) 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 its implementing regulations at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulations at 28 C.F.R. Part 35.

II. RESOLUTION PROVISIONS

A. Policies and Procedures

1. Service Animals

The District will review and revise as necessary its existing policies, procedures, and practices (policies) regarding service animals to ensure that they are consistent with the Section 504 and Title II regulations at 34 C.F.R. § 104.4; and 28 C.F.R. §§ 35.104, 35.130, and 35.136. In particular, the policies will state that:

- (a) The District permits students with disabilities to use their service animals at District facilities and in District programs and activities, including District bus services.
- (b) In determining whether an animal that accompanies an individual with a disability qualifies as a service animal, the District may ask if the animal is required because of a disability, and what work or task the animal has been trained to perform. The District may not ask for documentation (e.g., service animal identification, proof that the animal has been certified or prescribed by a physician, etc.), or ask about the nature or extent of the individual's disability. This provision shall not limit the District's obligations under its policies to make inquiries regarding a student's disability while conducting child find and evaluation activities as required under 34 C.F.R. § 300.111

2. Free Appropriate Public Education (FAPE)

The District will review and revise as necessary its existing policies, procedures, and practices (policies) regarding the evaluation and placement of students who have or are suspected of having a disability, including those students who use service animals to meet their disability related needs, to ensure the District's policies are consistent with the Section 504 regulations. In particular, the policies will provide that the District:

- (a) Timely evaluates a student, at no cost to a parent or a student, if it is aware of a student's disability or has reason to suspect a student has a disability (including a disability that is being addressed by a student's service animal), and the student needs or is believed to need special education or related services, in all areas of educational need.
- (b) Conducts an evaluation before any significant changes to a student's placement are made in accordance with the Section 504 regulations at 34 C.F.R. § 104.35. Significant changes in placement include initiating or discontinuing a service, such as no longer permitting a student to use his/her service animal at school.
- (c) When determining if a student has a disability and needs special education or related services and when making placement decisions, including whether or not to allow a student to be accompanied by his/her service animal, (i) draws from a variety of sources, and documents and carefully considers all the information from all such sources; and (ii) ensures that any placement decision is made by a group of individuals, including individuals knowledgeable about the student, the meaning of the evaluation data, and the placement options. "Sources" may include information about a student's physical or mental conditions requiring the help of a service animal. "Individuals knowledgeable about a student" may include individuals who have knowledge of what work the service animal performs for the benefit of the student, and the impact on a student when s/he is not accompanied by his/her service animal.
- (d) Provides regular or special education and related services that are designed so that the individual educational needs of a student with a disability, including those students who use service animals, are met as adequately as the needs of non-disabled students.

- (e) Interprets the term “related services” broadly to include any service that a student needs to participate in and benefit from a school district’s education program, such as school health services; counseling; and environmental, instructional, and behavioral accommodations. Accommodations may include permitting a student with a disability to use his/her service animal in District programs and facilities.

3. Coordination of Service Animal Policies and Procedures under Section 504 and Title II

The District will review and revise as needed its policies, procedures, and practices (policies) implicating service animals for individuals with disabilities to ensure that they incorporate accurate rules of interpretation under the Title II and Section 504 regulations. Specifically, the District’s policies will be consistent with the following:

- (a) The District must comply with both the Title II regulations and the Section 504 regulations. The Title II regulations at 28 C.F.R. § 35.104 and § 35.136 have specific service animal requirements for individuals with disabilities, including limiting what inquiries the District may make in determining whether an animal qualifies as a service animal, while the Section 504 regulations do not.
- (b) Equal educational opportunity to elementary- and secondary-school-age individuals with disabilities is achieved through the provision of FAPE to each qualified student with a disability in a school system, regardless of the nature or severity of the individual’s disability. Because of this specific FAPE responsibility, in some cases it may be necessary for the District to assess its responsibilities under Title II with respect to students entitled to FAPE (such as a disabled student who uses a service animal) in a different manner than its assessment of its Title II responsibilities with respect to other individuals with disabilities who are not students, such as parents, visitors, and the general public, to whom the District is not obligated to provide FAPE.
- (c) Generally, the District will apply both the Title II service animal analysis and the Section 504 FAPE analysis in its approach for determining if a student with a disability will be allowed to use his/her service dog in its facilities and programs, and how to meet the individual disability-related needs of the student, including what, if any,

accommodations and modifications are needed for the student to use his/her service animal in District facilities and programs. In some cases, it may be necessary for the District to conduct the Title II service animal analysis before it conducts its Section 504 FAPE analysis.

4. Reporting Requirement: By November 1, 2019, the District will submit a copy of its proposed policies pursuant to Sections II.A.1-3 for OCR's review. If OCR requires any changes to the District's proposed policies, the District will make the changes and re-submit them within 30 calendar days of receiving OCR's notice of the required changes. OCR and the District will continue this process until OCR approves the District's policies.
5. Reporting Requirement: Within 60 calendar days of receiving OCR's approval of the District's policies, the District will adopt, publish, and implement them, and submit a report regarding its actions.

B. Notice

1. The District will provide written notice to its employees, students, parents and guardians, and other interested community members of: (a) the District's assurance that it will permit individuals with disabilities to use their service animals on District property and in District programs and activities, including District bus services, in accordance with Section 504 and Title II; (b) any new or revised policies developed pursuant to Section II.A., and where they may be viewed on the District's website; and (c) the name, position title, and contact information of the District employee who is responsible for responding to any inquiries or complaints regarding these policies.
2. Reporting Requirement: By November 1, 2019, the District will submit a copy of its proposed notice pursuant to Section II.B.1 for OCR's review. If OCR requires any changes to the notice, the District will make the changes and re-submit the proposed notice within 30 calendar days of receiving OCR's notice of the required changes. OCR and the District will continue this process until OCR approves the District's notice.
3. Reporting Requirement: Within 30 calendar days of receiving OCR's approval of the District's notice, the District will disseminate the general notice and provide OCR with a copy of the final notice, and a description of how and where the general notice was disseminated.

C. Training

1. District Administrators and Employees

The District will provide training to all District administrators who are responsible for implementing the new or revised policies developed pursuant to Section II.A and the District employees who are responsible for responding to inquiries and complaints pursuant to Section II.B. The training will review:

- (a) The Title II provisions regarding service animals at 28 C.F.R. §§ 35.104, and 35.136.
- (b) The District's policies regarding service animals, FAPE, and any substantive changes made to them under this Agreement.
- (c) The employees' responsibilities and duties under the District's policies when interacting with an individual with a disability who is accompanied by a service animal.
- (d) The name, position title, and contact information of the District employee who is responsible for responding to inquiries and complaints regarding service animals.

2. District Bus Drivers

The District will provide training to all District bus drivers who are responsible for implementing the new or revised policies developed pursuant to Section II.A. The training will review:

- (a) The Title II provisions regarding service animals at 28 C.F.R. §§ 35.104, and 35.136.
- (b) The District's policies regarding service animals and any substantive changes made to them under this Agreement.
- (c) The employees' responsibilities and duties under the District's policies when interacting with an individual with a disability who is accompanied by a service animal.

- (d) The name, position title, and contact information of the District employee who is responsible for responding to inquiries and complaints regarding service animals.
- 3. Reporting Requirement: By November 1, 2019, the District will submit a copy of its proposed training materials pursuant to Sections II.C.1 and 2 for OCR's review. If OCR requires any changes to the training materials, the District will make the changes and re-submit them within 30 calendar days of receiving OCR's notice of the required changes. OCR and the District will continue this process until OCR approves the District's training materials.
- 4. Reporting Requirement: Within 80 calendar days of receiving OCR's approval of its training materials, the District will conduct the required training, and provide OCR with a report about its training actions within 10 calendar days of completion of the training. The report will include a copy of the training materials; the date(s) of the training; a summary of the qualifications of the presenter(s); and a copy of the sign-in sheets for all training sessions showing the names and position titles of the District employees who attended.

D. Student Letter

- 1. The District will provide the Student a letter, sent to her last known mailing address, which will include:
 - (a) An assurance that the District does not discriminate against individuals with disabilities, including individuals with service animals, in compliance with Section 504 and Title II. The letter will specifically state that the District permits students with disabilities to use their service animals at District facilities or in District programs and activities, including District bus services.
 - (b) A statement that the District will provide a copy of any District policies, which may be revised pursuant to the Agreement, to the Student once approved by OCR.
 - (c) The name, position title, and contact information of the District employee who is responsible for responding to any questions or complaints regarding access to the District's programs, activities, and

facilities, including school bus services, or the District's policies and procedures regarding service animals.

2. Reporting Requirement: By November 1, 2019, the District will submit a copy of its proposed letter for OCR's review. If OCR requires any changes to the letter, the District will make the changes and re-submit it within 14 calendar days of receiving OCR's notice of the required changes. OCR and the District will continue this process until OCR approves the District's letter.
3. Reporting Requirement: Within 5 calendar days of receiving OCR's approval of the letter, the District will send the letter to the Student with a courtesy copy to OCR.
4. Reporting Requirement: Within 5 calendar days of receiving OCR's approval of the District's policies to Section II.A, the District will send a copy of them to the Student with a courtesy copy to OCR.

III. GENERAL PROVISIONS

- A. The District understands by signing the Agreement it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, the District understands that during the monitoring of the Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional data and reports as are necessary for OCR to determine whether the District has fulfilled the terms and obligations of the Agreement.
- B. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the case.
- C. The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the agreement and/or the applicable statutes and regulations. Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Signed:

/s/

9/11/2019

Sean Dotson
Superintendent
Tumwater School District No. 33

Date