

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Centennial School District 28J (District) enters into this Voluntary Resolution Agreement (Agreement) to resolve the allegations in two complaints (Reference Nos. 10171124 and 10171282) 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 AND REPORTING PROVISIONS

A. Policies and Procedures

1. Action Steps

a. Service Animal Policies and Procedures under Title II

The District will review and revise its policies, procedures, and practices to ensure: (1) they conform to the service animal definition and requirements of the Title II regulations at 28 C.F.R. § 35.104 and § 35.136, and provide that the District will permit an individual with a disability to be accompanied by his/her service animal in its facilities, once the District has information, if requested, indicating that the individual's service animal has been trained to perform work or a task for the benefit of the individual's disability; (2) the decision to permit an individual with a disability to use a service animal in its facilities may not be unduly delayed once the District obtains information that the individual's service animal has been trained to perform work or a task for the benefit of the individual's disability; and (3) District and school employees have clear and effective procedures explaining how they will timely respond to a request for an individual to use a service animal in District facilities.

b. Free Appropriate Public Education (FAPE) Policies and Procedures under Section 504

The District will review and revise as needed its policies, procedures, and any related manuals 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 that they comply with the Section 504 regulations. This will include ensuring that the District will:

- (1) Timely evaluate 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.
- (2) Conduct 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.
- (3) If the District determines, based on the facts and circumstances of an individual case, that a medical assessment is necessary to conduct an evaluation in order to determine whether a student has a disability and needs special education or related services because of the disability, and if the District does not have the personnel on staff to conduct a medical assessment for diagnostic and evaluative purposes, the Section 504 regulations at 34 C.F.R. §§ 104.33(a), (b), and (c) require that the District make arrangements for the medical assessment at no cost to the student's parents or guardians. The parents or guardians may volunteer to pay for a private medical assessment, provided that the District has informed the parents or guardians that they can receive a District-furnished assessment. Funds available from public or private agencies may be used to pay for the medical assessment. The District cannot require a parent, guardian, or student to provide the medical diagnosis before it will initiate an evaluation.
- (4) 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) ensure that the District draws from a variety of sources, and documents and carefully considers all the information from all such sources; and (ii) ensure 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, and “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.

- (5) Provide 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.
- (6) Interpret 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 facilities.

c. 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 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 will ensure they are consistent with the following:

- (1) 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.
- (2) Equal educational opportunity to elementary- and secondary-school-age individuals with disabilities is achieved through the

provision of a free appropriate public education (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.

- (3) 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 first, before it conducts its Section 504 FAPE analysis.

d. Disability Discrimination Grievance Procedures under Section 504 and Title II

The District will review and revise as needed its policies, procedures, and any related manuals for resolving complaints of disability discrimination, including complaints alleging that a school is not granting a student's request to bring a service animal to school, to ensure that they incorporate appropriate due process standards and provide for the prompt and equitable resolution of such complaints.

2. Reporting Steps

- a. By July 13, 2018, the District will provide OCR a copy of its proposed policies, procedures, and any related manuals developed pursuant to § II.A. OCR will review them and provide feedback.
- b. Within 30 days of receiving OCR's feedback, the District will incorporate OCR's feedback and provide OCR with revised policies,

procedures, and manuals for OCR's review and approval. OCR and the District will continue this process until OCR approves the policies, procedures, and manuals.

- c. Within 30 days of receiving OCR's approval of the revised policies, procedures, and manuals, the District will adopt, publish, and implement them, including at the District's Centennial Transition Center, and will submit a report regarding its actions.

B. Notice

1. Action Steps

- a. The District will include notice of the following in its student and employee handbooks, which are published on the District's website:
 - (1) Any new or revised policies, procedures, and practices developed under this Agreement;
 - (2) The District's assurance that it will modify its policies, procedures, and practices to permit students to use their service animals in schools, in accordance with Title II; and
 - (3) The name, position title, and contact information of the District's employee who is responsible for responding to complaints of disability discrimination, and inquiries regarding the District's policies and procedures, including those regarding service animals.
- b. The District will post a statement on its "Parents and Students" webpage, notifying students, parents, and guardians of §§ II.B.1.a.(1) and (3), and where the District's new or revised policies, procedures, and practices can be found on the District's website.

2. Reporting Steps

- a. By July 13, 2018, the District will provide OCR with a copy of its proposed notices for the District's handbooks and "Parents and Students" webpage. OCR will review them and provide feedback.
- b. Within 30 days of receiving OCR's feedback, the District will incorporate OCR's feedback and provide OCR with revised notices for

OCR's approval. OCR and the District will continue this process until OCR approves the notices for the District's handbooks and webpage.

- c. Within 30 days of receiving OCR's approval of the notices, the District will include/post the relevant notices in/on the District's handbooks and webpage, and provide OCR with a report demonstrating that these changes have been completed (e.g., hyperlinks to webpages, copies of handbooks, etc.).

C. Training

1. Action Steps

The District will provide training to all District employees who are responsible for implementing any new or revised policies, procedures, and manuals developed pursuant to Section II.A, and to all administrators and school instructional staff at Centennial Transition Center. The training will review:

- a. The Title II provisions regarding service animals, including (1) the legal obligation to permit a student to use his/her service animal at District facilities except when the service animal is properly excluded because it is out of control or not housebroken, the student is unable to describe what work or task the animal has been trained to perform for him/her or state whether the animal is needed because of the student's disability, or admission of the service animal would fundamentally alter the District's service or program that the student is seeking to participate in; (2) the prohibition against requiring documentation of an animal's certification or insurance status; and (3) the two inquiries that the District may ask a student with a disability and/or his/her parents or guardians to determine whether an animal qualifies as a service animal;
- b. Any substantive changes to the District's policies, procedures, and manuals, including the District's procedures explaining how employees will timely respond to a request for a student to use a service animal in District facilities;
- c. The employees' responsibilities and duties under the District's policies, procedures, and manuals, when interacting with a student who is accompanied by a service animal in school; and
- d. The name, position title, and contact information of the District's employee who is responsible for responding to complaints of disability discrimination and inquiries regarding service animals.

2. Reporting Steps

- a. By July 13, 2018, the District will provide OCR with a copy of its proposed training materials. OCR will review them and provide feedback.
- b. Within 30 days of receiving OCR's feedback, the District will incorporate OCR's feedback and provide OCR with revised training materials for its approval. OCR and the District will continue this process until OCR approves the training materials.
- c. Within 30 days of OCR's approval of the training materials, the District will conduct the required training, and provide OCR a report about its training actions. 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 employees who attended.

D. Individual Remedies

1. Service Dog Determination Pursuant to Title II

a. Action Steps

- (1) The District will determine whether or not it will allow the Student to use his dog on District property and in District programs and activities as a student-participant and as a visitor, if different, and whether any modifications to District policies, procedures, and practices are needed in order for the Student to do so, in accordance with the Title II regulations regarding service animals. The District will allow the Student to use his dog as a student-participant and as a visitor, unless it determines that the dog does not qualify as a service animal, the dog is not required because of a disability, or admission of the dog would fundamentally alter the District's service or program that the Student is seeking to participate in. If the information already provided by the Parent is not sufficient, the District may obtain more or updated information by asking the two questions permitted by Title II at 28 C.F.R. § 35.136(f) of the Student and the Parent.

- (2) The District will provide the Student and the Parent with a letter explaining its determination regarding the Student's right to access the District's facilities and educational programs with the use of his service dog as a student and as a visitor, if different, and the name, position title, and contact information of the District's employee who has been designated to respond to questions or concerns from the Student and the Parent.

b. Reporting Steps

- (1) By May 25, 2018, the District will provide OCR a report regarding its determination pursuant to § II.D.1.a, including a copy of any communications with the Student and/or the Parent, and a copy of its proposed letter for OCR's review and approval. If the District determines that the Student may not use his dog on District property and in District programs and activities, the District will provide a detailed justification for this decision. OCR will review them and provide feedback.
- (2) Within 10 days of receiving OCR's feedback, the District will incorporate OCR's feedback and provide OCR a revised report and letter for its approval. OCR and the District will continue this process until OCR approves the report and the letter.
- (3) Within 5 days of receiving OCR's approval of the report and letter, the District will send the letter to the Student and the Parent with a courtesy copy to OCR.

2. Letter about Section 504 Remedial Services for the Student

a. Action Steps

If the Student is eligible for special education transition services, the District will provide the Student and the Parent a letter, which will include:

- (1) Pursuant to Section 504, an offer that, if the Student re-enrolls in the District and is eligible for special education transition services:
 - (a) The District will convene an individualized education program (IEP) team to review the Student's special education records to determine whether an appropriate

evaluation has been conducted concerning the Student's mental and physical health impairments, which assessed whether he needs any related services, including accommodations related to the presence of his service dog, to meet his individual needs as adequately as non-disabled students' needs are met.

- (b) If such an evaluation has been conducted, the IEP team will review the evaluation and any other relevant information to determine whether the Student needs any related services, including accommodations related to the presence of his service dog, to meet his individual needs as adequately as non-disabled students' needs are met.
 - (c) If such an evaluation has not been conducted, the IEP team will conduct one.
- (2) Pursuant to Section 504, an offer that, if the Student re-enrolls in the District and is eligible for special education transition services, the District will evaluate the Student's need for compensatory education due to the absence of his service dog at the Centennial Transition Center and in the District's programs and activities off-campus during the 2016-2017 school year.

b. Reporting Steps

- (1) By May 25, 2018, the District will provide OCR with a copy of its proposed letter. OCR will review it and provide feedback.
- (2) Within 10 days of receiving OCR's feedback, the District will incorporate OCR's feedback and provide OCR with a revised letter for its approval. OCR and the District will continue this process until OCR approves the letter.
- (3) Within 5 days of receiving OCR's approval of the letter, the District will send the letter to the Student and the Parent with a courtesy copy to OCR.
- (4) Within 30 days of sending the letter to the Student and the Parent, the District will provide OCR with a copy of any communications from the Student and the Parent in response to the District's letter.

3. Instructions for Section 504 Remedial Services for the Student

a. Action Steps

- (1) If the Student re-enrolls in the District and is eligible for special education transition services, the District will evaluate the Student to determine if he has a disability and needs special education or related services with respect to his anxiety, respiratory problems, depression, and anger management, which are health conditions that are served by his service dog, if the District determines that such an evaluation has not already been conducted. When conducting the evaluation, the District will draw from a variety of sources, and will document and carefully consider all the information from such sources, including information about the Student's physical or mental conditions requiring the help of his service dog. When interpreting the evaluation data and in making any placement decisions, including changing the Student's IEP to include accommodations related to the presence of his service dog, if any, the District will ensure they are made by a group of individuals knowledgeable about the Student, including individuals who are knowledgeable about the Student's service dog, what work the service dog performs for the benefit of the Student, and what barriers or problems the Student experiences when he is not accompanied by his service dog.
- (2) If the Student re-enrolls in the District and is eligible for special education transition services, the District will convene a group of persons knowledgeable about the Student and his disabilities, the evaluation data, and the placement options, including the Student and the Parent, to determine what compensatory education, if any, the Student requires due to the absence of his service dog at school during the 2016-2017 school year. The group will develop a written plan for providing the Student with the compensatory education deemed necessary, including identifying the nature and amount of services to be provided at no cost to the Student and the Parent, who will provide the services, and the schedule for providing them.
- (3) The District will provide the Student and the Parent with a meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of

the procedural safeguards available to them under 34 C.F.R. § 104.36.

b. Reporting Steps

- (1) The District will notify OCR within 10 days of the Student's re-enrollment in the District.
- (2) Within 30 days of the Student's re-enrollment, the District will submit a report regarding its evaluation and compensatory education determinations, if the Student is eligible for special education transition services. The report will include a copy of the evaluation report, detailed meeting minutes, any remedial plans or revised IEPs developed for the Student, documentation of any input provided by the Student and/or the Parent, documentation that procedural safeguards were provided to the Student, and any other documentation relevant to the determinations reached by the group. If the District determines that no compensatory education is necessary, the District will provide OCR with a written explanation of the reasons for that determination, along with any supporting documentation.
- (3) If applicable, every 30 days after the date the group first determines that the Student will receive compensatory education, the District will submit a report to OCR regarding the Student's receipt of such education or services, including the type and amount of services provided, the dates the services were provided, and the name(s) and title(s) of the service provider(s). The final report is due 30 days after the last of these services have been provided.

4. Title II Remedies for the Student

a. Assessment of Student's Need for Individual Relief under Title II

(1) Action Step

Whether or not the Student re-enrolls in the District or is eligible for special education transition services, the District will solicit and consider input from the Student and the Parent to assess what individual remedies (e.g., tutoring, counseling, etc.), if any, are needed to address the effects on the Student caused by the absence of the Student's service dog at the Centennial

Transition Center and in the District's programs and activities during the 2016-2017 school year, pursuant to Title II. OCR is available to facilitate the parties' communications upon the District's request.

(2) Reporting Steps

- (a)** By May 25, 2018, in consultation with OCR, the District will solicit the Student's and the Parent's input on how the service dog's absence impacted the Student during the 2016-2017 school year.
- (b)** Within 10 days of receiving the Student's and the Parent's input, the District will provide OCR with a report regarding its assessment of what individual relief, if any, is needed for the Student under Title II in order to remedy the effects on the Student caused by the absence of the Student's service dog at school. The report will include documentation of the Student's and the Parent's input, a detailed explanation of the District's assessment and analysis, and any other documentation relevant to the District's determination. If the District determines that individual relief is not necessary, the District will provide OCR with an explanation of the reasons for that determination, along with any supporting documentation. OCR will review the report and provide feedback.
- (c)** Within 10 days of receiving OCR's feedback, the District will incorporate OCR's feedback and provide OCR with a revised report for its approval. OCR and the District will continue this process until OCR approves the report.

b. Letter to Parent about Title II Remedies for the Student

(1) Action Step

Once the District's assessment has been approved, the District will provide the Student and the Parent with a letter explaining its conclusions from its assessment, and what individual remedies it will offer to the Student, if any, under Title II.

(2) Reporting Steps

- (a) By July 13, 2018, or as soon as § II.D.4.a.(1) is completed, whichever is sooner, the District will provide OCR with a copy of its proposed letter. OCR will review it and provide feedback.
- (b) Within 20 days of receiving OCR's feedback, the District will incorporate OCR's feedback and provide OCR with a revised letter for its approval. OCR and the District will continue this process until OCR approves the letter.
- (c) Within 5 days of receiving OCR's approval of the letter, the District will send the letter to the Student and the Parent with a courtesy copy to OCR.
- (d) Within 30 days of sending the letter to the Student and the Parent, the District will provide OCR with a copy of any communications from the Student and the Parent in response to the District's letter.

c. Provision of Title II Remedies to the Student

(1) Action Step

If the Student and the Parent accept the District's offer, if any, the District will provide the Student with the specified individual remedies.

(2) Reporting Step

If the Student and/or Parent accept the District's offer, then every 30 days after their initial acceptance, the District will submit a report to OCR regarding the provision of remedies. The final report is due 30 days after the last remedy has been provided.

III. GENERAL PROVISIONS

- A. This Agreement resolves the allegations in OCR Reference Nos. 10171124 and 10171282, and it does not constitute an admission by the District of any violation of Section 504, Title II, or any other law.

- B.** OCR agrees to discontinue its investigation of OCR Reference Nos. 10171124 and 10171282 based upon the District's commitment to take the actions specified in this Agreement which, when fully implemented, will resolve the allegations in these complaints.
- C.** By signing this Agreement, the District agrees to provide OCR data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement.
- D.** Upon the District's satisfaction of the commitments made under this Agreement, OCR will close OCR Reference Nos. 10171124 and 10171282.
- E.** The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) days to cure the alleged breach.

Signed:

/s/

Dr. Paul Coakley
Superintendent
Centennial School District 28J

April 30, 2018

Date