

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Brookings-Harbor School District 17C (district) enters into this Voluntary Resolution Agreement (agreement) to resolve the allegation in a complaint (Reference No. 10171242) 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. Self-Evaluation

1. Action Steps

- a. In consultation with OCR, the district will conduct a self-evaluation to assess whether, for the 2016-2017 and 2017-2018 school years, the district changed the diploma determinations for high school special education students from a regular diploma to a modified diploma in accordance with Section 504 and Title II. The evaluation will be designed to accurately assess, based on the totality of information and data available to the district, with respect to these high school special education students:
 - (i) Whether the decision to place them on modified diplomas complied with the Section 504 evaluation and procedural requirements at 34 C.F.R. §§ 104.35(a), 104.35(c), and 104.36, if applicable.
 - (ii) Whether the process for placing special education students on modified diplomas differed from similarly-situated high school students without disabilities, and if so, whether the reason(s) for placing them on modified diplomas was legitimate and non-discriminatory.
- b. Based on the results of its self-evaluation, the district will develop and implement an action plan to address any identified deficiencies and concerns, if any, including but not limited to, providing individual relief to address any discriminatory effects on students. The district will ensure that its process for making individual relief determinations for any currently enrolled special education student adheres to Section 504's procedural requirements at 34 C.F.R. §§ 104.35 and 104.36, if applicable.

2. Reporting Steps

- a. By September 1, 2019, the district will submit a report regarding its self-evaluation. The district’s self-evaluation report will include at a minimum: an explanation of who conducted the evaluation and his/her qualifications; a list of the information collected and reviewed during the evaluation; and a detailed explanation of the district’s self-evaluation findings. If OCR requires any changes to the district’s self-evaluation report, the district will re-submit the report within 60 days of receiving notice of the required changes. OCR and the district will continue this process until OCR approves the district’s self-evaluation report. Nothing in this agreement prevents the district from submitting its report earlier than September 1, 2019.
- b. Within 90 days of OCR’s approval of the district’s self-evaluation report, the district will submit its action plan to address any identified deficiencies and concerns. The district’s action plan will include at a minimum: a detailed description and schedule of the steps that the district plans to take to address the deficiencies and concerns identified under the district’s self-evaluation, including individual relief for students, and the employees responsible for their completion. OCR will accept the district’s action plan if it is reasonable, is consistent with the requirements of Section 504 and Title II, and addresses the deficiencies identified in the district’s self-evaluation report. However, if OCR does require any changes to the district’s action plan, the district will re-submit the action plan within 45 days of receiving notice of the required changes. OCR and the district will continue this process until OCR approves the district’s action plan.
- c. Within the deadlines set forth in the district’s approved action plan, the district will complete its implementation of the action plan. The district will submit reports demonstrating its progress towards completing the action plan at the following intervals: 90 days after OCR approves the action plan, yearly thereafter, and one final report once the plan has been completed (e.g., if the district completes the plan within 18 months of OCR’s approval of the action plan, then the district would submit progress reports three times at the following intervals – 90 days, 15 months, and 18 months after OCR’s approval of the action plan). Each report will provide sufficient information and detail for OCR to determine that the district is adhering to the plan and that the district’s actions comply with Section 504 and Title II.

B. Policies and Procedures

1. Action Step

The district will review and revise, as necessary, its policies and procedures to ensure that high school special education students are placed on modified diplomas in accordance with the Section 504 regulations at 34 C.F.R. §§ 104.4(a), 104.4(b)(1)(iv),

104.35(a), 104.35(c), and 104.36, and the Title II regulations at 28 CFR 35.130(a) and 35.130(b)(1)(iv).

2. Reporting Steps

- a. By September 1, 2019, the district will submit to OCR for its review and approval a copy of its proposed policies and procedures, including any revisions needed to address systemic issues identified by the district pursuant to its self-evaluation. If OCR requires any changes to the policies and procedures, the district will re-submit them within 45 days of receiving notice of the required changes. OCR and the district will continue this process until OCR approves the policies and procedures.
- b. Within 60 days of receiving OCR’s approval of the district’s policies and procedures, the district will submit documentation demonstrating that it has adopted, published, and implemented them.

C. Notice

1. Action Step

The district will provide written notice (e.g., written notice may be accomplished electronically, such as via e-mail or posting to the district’s primary website) to its employees, students, and parents and guardians at Brookings-Harbor High School of the following:

- a. any new or revised policies and procedures developed under this agreement;
- b. the district’s assurance that it does not discriminate against students based on disability in its modified diploma selection and eligibility process;
- c. a description of the differences between a regular diploma and a modified diploma, and their respective requirements; and
- d. the name, position title, and contact information of the district employee who is responsible for responding to complaints of disability discrimination, and inquiries regarding modified diplomas.

2. Reporting Steps

- a. By November 1, 2019, the district will provide OCR with a copy of its proposed notice. If OCR requires any changes to the proposed notice, the district will re-submit the notice within 30 days of receiving notice of the required changes. OCR and the district will continue this process until OCR approves the notice.

- b. Within 60 days of receiving OCR’s approval of the notice, the district will submit a report demonstrating it has disseminated the notice, including a copy of the final notice and a description of how and where the notice was disseminated.

D. Training

1. Action Step

The district will provide comprehensive training to all district employees who are responsible for determining the diploma options for students with disabilities. The training will include, at a minimum:

- a. Guidance that when the district changes a special education student’s diploma determination from a regular diploma to a modified diploma, the decision must comply with the Section 504 evaluation and procedural requirements at 34 C.F.R. §§ 104.35(c) and 104.36, and 34 C.F.R. § 104.35(a), if the decision constitutes a significant change in placement.
- b. Guidance that the district may not place a special education student on a modified diploma solely because of his/her disability, unless the district determines that the modified diploma is necessary to meet the individual educational needs of the student with a disability as adequately as the needs of a students without a disability.
- c. Guidance that the district may not deny a special education student who is eligible for a regular diploma the opportunity to earn a regular diploma.
- d. Guidance that when the district is considering whether a student is ineligible for a regular diploma, the district must carefully consider whether the student’s ineligibility is the result of the failure to provide a free appropriate public education as defined by Section 504 at 34 C.F.R. § 104.33, in which case a diploma determination may need to be postponed until the student has had an opportunity to receive regular or special education and related aids and services as defined by Section 504.
- e. The name, position title, and contact information of the district employee who is responsible for responding to complaints of disability discrimination, and inquiries about modified diplomas.

2. Reporting Steps

- a. By October 1, 2019, the district will submit to OCR for its review and approval a copy of its proposed training materials. If OCR requires any changes to the proposed training materials, the district will re-submit them within 30 days of receiving notice of the required changes. OCR and the district will continue this process until OCR

approves the training materials.

- b. Within 90 days of OCR’s approval of the training materials, the district will 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.

III. GENERAL PROVISIONS

- A. The district understands that 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 the 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. Upon the district’s satisfaction of the commitments made under this agreement, OCR will close the complaint.
- B. 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 will give the district written notice of the alleged breach and 60 calendar days to cure the alleged breach.

Signed:

/s/

Sean Gallagher
Superintendent
Brookings-Harbor School District 17C

November 5, 2018

Date