

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Mabton School District No. 120 (the district) enters into this agreement to resolve the allegations in OCR Case No. 10171247, a complaint 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).

II. RESOLUTION PROVISIONS

A. Policies and Procedures

1. The district will review and revise its current policies and procedures to ensure that students with disabilities are not treated differently from non-disabled students with respect to the length of the school day. In particular, the district's policies and procedures will ensure that students with disabilities who receive specialized transportation will not arrive to class later or leave class earlier than the district's general education program at each school, due to transportation schedules for buses serving those students or for any other administrative reasons unless such need is individually necessary and documented on a student's individualized education plan (IEP) or Section 504 plan. Further, the district will draft a new policy which memorializes the district's commitment to ensuring that students with disabilities are treated the same as non-disabled students with respect to the length of the school day.
2. The district will submit its revised policies and procedures related to transportation of students with disabilities and new policy related to length of school day for students with disabilities to OCR for OCR's review and approval. The district will adopt the new and revised policies and procedures after OCR has approved them.
3. After receiving OCR's approval of the policies and procedures, the district will notify all staff, administrators, and bus drivers of the policies and procedures. The district can notify staff, administrators, and bus drivers by e-mail, or another method calculated to reach all these groups of employees.

Reporting Provisions:

- a) By December 15, 2017, the district will submit to OCR for review and approval a copy of its revised policies and procedures. If OCR requires any revisions to the policies and procedures, then the district will make

the revisions and resubmit the policies and procedures to OCR within 20 days of receiving OCR's notice of any necessary revisions. OCR and the district will repeat this process until OCR approves the policies and procedures.

- b) Within 90 calendar days of receiving OCR's written approval of the revised policies and procedures, the district will provide OCR with documentation demonstrating that the revised policies and procedures have been formally adopted by the district.
- c) Within 90 calendar days of receiving OCR's written approval of the revised policies and procedures, the district will provide OCR with a copy of its notice(s) to special education staff, building level administrators, and bus drivers of the revised policies and procedures.

B. Training

Within 90 calendar days of receiving OCR's written approval of the revised policies and procedures described in Section II.A, the district will provide in-person training to special education staff, building level administrators, transportation administrators, and other appropriate district employees about the district's revised policies and procedures adopted pursuant to Section II.A. This training must be provided by an instructor with knowledge of the applicable Title II and Section 504 requirements.

Reporting Provisions:

- a) At least 30 days before providing the training, the district will submit a report to OCR describing the training. The report will include: the date and time of the training, the name and qualifications of the person providing the training, and a copy of the materials that will be provided to participants at the training. The district will receive written approval from OCR for the proposed training materials prior to providing the training, and if OCR requires any modifications to the proposed training or materials, the district will make the requisite changes within 15 days and resubmit any applicable items to OCR as needed for OCR's written approval.
- b) Within 15 days of completion of this training, the district will provide OCR with a list of participants including their names, position titles, and

program/school. The district will provide a list of any employees, including their name, position titles, and program/school, who were not able to attend the training and a description of the district's plan to provide them with makeup or alternate training.

- c) Within 90 days of the initial training session, the district will provide a report verifying that the employees who were unable to attend the initial training session have been trained. The report will include a list of the employees who attended subsequent trainings, including their name, position title, and program/school.

C. Transportation Assessment

1. By January 15, 2018, for the 2015-2016 and 2016-2017 school years, the district will conduct an assessment of the transportation provided to students with disabilities to determine whether students with disabilities are treated differently from non-disabled students. The district's assessment may include information gathered from building administrators, parents or guardians, special education teachers and aides, and bus drivers regarding specialized transportation. The assessment will include:
 - a) A review of each school's start and end times as established by the school's bell schedule;
 - b) A review of the arrival and departure times for all district-provided modes of transportation;
 - c) The identification of individual students with disabilities (those students who have an IEP or Section 504 plan) who use specialized transportation;
 - d) For each student identified in C.1.c above, a determination of whether each student received a shortened school day due to their use of specialized transportation services;
 - e) For each student identified in C.1.c above, a determination of which students received a shortened school day because it was required by that student's IEP or Section 504 plan; and
 - f) For those students who received a shortened school day that was not required by that student's IEP or Section 504 plan, a determination of the reasons why each of the students received a shortened school day.

2. Based on the information collected under C.1 above, the district will develop a plan, with timeframes, to remedy any problems identified by this assessment.

Reporting Provision:

- a) By April 16, 2018, the district will submit a report to OCR for review and approval documenting the results of its assessment. The report will include, but is not limited to, the information collected and analyzed under section C.1 above, including bell schedules, transportation routes and schedules, lists of students, copies of each student's IEP or Section 504, and a summary of problems identified during the assessment. The district will also submit to OCR for review and approval the plan that was developed under section C.2 for remedying the problems that were identified. OCR will review the assessment and plan and notify the district if it requires any additional assessment or changes to the plan. The district will conduct any additional assessment or make changes to the plan within 20 days of receiving OCR's notice of the additional assessment or plan changes. The district and OCR will repeat this process until OCR approves the plan.
- b) The district will submit a report to OCR within 30 days of its final implementation of the plan developed under section C.2, above, containing information demonstrating that it completed implementation of the plan.

D. Compensatory Education and Services

1. For each student identified in section C.1 as receiving a shortened school day that was not required by the student's IEP or Section 504 plan, the district will determine whether the student needs compensatory and/or remedial services as a result of the district providing a shortened school day to that student during the 2015-2016 and/or 2016-2017 school years.
2. Within 45 days of receiving OCR's written approval of the list of students identified in section D.1, the district will develop a comprehensive plan for all students identified in section D.1 for providing timely compensatory and/or remedial services with a completion date not to extend beyond December 31, 2018. The plan should take into account the lost instructional time, if any, that resulted in a denial of a free

appropriate public education (FAPE) for the student and which services would be appropriate for the student to receive as compensation. The plan will have input by persons knowledgeable about each student and the student's IEP or Section 504 plan.

Reporting Provision:

- a) By January 29, 2018, the district will submit to OCR for review and approval the list of students created pursuant to section D.1, with documentation supporting the district's determinations regarding the students who are on the list, and the students who received shortened school days who are not on the list. OCR will notify the district if it requires additional information or amendments to the student list, and the district will provide the additional information or make the amendments within 20 days of OCR's notice and resubmit the list and new information to OCR. OCR and the district will repeat this process until OCR approves the student list.
 - b) Within 60 days of receiving OCR's written approval of the student list, the district will provide to OCR for review and approval a report containing the plan it created pursuant to section D.2. For each student on the list approved by OCR, the report will include the name of the student; the amount of time the student missed due to a shortened school day; the number of compensatory hours provided; the type of services provided; the date, time, and location proposed for the delivery of the services; a description of the qualifications of the service provider(s); and a description of the persons making the compensatory education decisions for each student. If separate transportation is necessary for the student(s) to receive the compensatory education services, the district will provide a brief description of the associated transportation services offered. If no additional transportation services are needed for students to access the compensatory hours, the district will explain this in the supporting documentation. OCR will review the plan and notify the district if it requires any changes to the plan. The district will make any requested changes within 20 days of OCR's notice of the changes, and resubmit the plan to OCR. OCR and the district will repeat this process until OCR approves the plan.
3. Within 10 days of receiving OCR's written approval of the plan under Section D.2, the district will draft a notification for the parent or guardian

of each student identified in the plan containing an offer of compensatory education and/or remedial services consistent with the plan. The notification will provide the parent or guardian at least 20 days to accept or deny the offer for these services. The district will send the notification to the parents or guardians after receiving OCR's approval of the notification.

Reporting Provisions:

- a) Within 10 days of receiving OCR's written approval of the plan under Section D.2, the district will provide to OCR for review and approval a draft of the notification. If OCR requires any changes to the notification, the district will make the changes and resubmit the notification to OCR within 10 days of receiving notice of OCR's changes. OCR and the district will repeat this process until OCR approves the notification.
 - b) Within 10 days of receiving OCR's written approval of the notification, the district will submit to OCR verification that the notification was sent to all eligible parents or guardians.
4. The district will implement the compensatory education and/or remedial services plan for each applicable student whose parents or guardians accept the district's offer, within the timelines approved by OCR in the plan.

Reporting Provision:

Within 30 days of completing the implementation of the compensatory education and/or remedial services plan, the district will provide a report to OCR documenting its implementation of the compensatory education and/or remedial services plan for each student whose parents accepted the district's offer under Section D.3. The report will include at a minimum the dates, times and locations that the compensatory instructional time was provided to students, the name of the attending students, each student's current school of enrollment, a description of what instruction was provided to each student, and the names and qualifications of the service providers. The report will also contain a list of the parents or guardians who declined the district's offer to provide additional instructional time to their student or did not respond to the offer, and any reasons provided by the parents or guardians for not accepting the additional instructional time.

E. Student Specific Provisions

1. By January 29, 2018, after providing proper written notice to the parents or guardians of the student who is the subject of this complaint, a group of persons knowledgeable about the student will determine whether the district failed to provide appropriate regular and/or special education or related services to the student and therefore, did not provide him a Free Appropriate Public Education (FAPE), due to a shortened school day since the beginning of the 2015- 2016 school year. If so, the group will also develop a plan for providing timely compensatory education and/or remedial services to address the district's failure to provide the student with a FAPE with a completion date not to extend beyond December 31, 2018. The district will invite the student's parents to the meeting(s).

Reporting Provision:

- a. By February 5, 2018, the district will submit to OCR for its review and approval documents supporting the group's decision pursuant to section E.1. The information submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the student. OCR will, prior to approving the district's decision and plan for providing the proposed services, review the documentation to ensure that the district met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.
- b. By December 31, 2018, the District will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services were provided, a description of what was provided, and the names of the service providers.

III. OTHER PROVISIONS

- A. The district understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner. Further, the district understands that during the monitoring of this agreement, 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 and is in compliance with Section 504 and Title II and the implementing regulations at 34 C.F.R. 104.4(b)(1)(ii) -(iv), 34 C.F.R. 104.4(a), 28 C.F.R. 35.130(a), and 28 C.F. R. 35.130(b) (ii)-(iv), which were at issue in this review. Upon completion of the obligations under this agreement, OCR shall close this case.

- B. The district understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including enforcing the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. 100.9, 100.10), or judicial proceedings, including to enforce this agreement, OCR shall give the district written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.
- C. This agreement will become effective immediately upon the signature of the Superintendent or his or her designee below.

Signed:

_____/s/_____
Minerva Morales
Superintendent
Mabton School District No. 120

November 9, 2017
Date