

RESOLUTION AGREEMENT

I. INTRODUCTION

The Department of Education, State of Hawaii (HIDOE) enters into this agreement to resolve the compliance issues identified by the U.S. Department of Education, Office for Civil Rights (OCR) in its investigation of OCR Reference No. 10171331 conducted under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II).

II. REMEDIAL PROVISIONS

A. Procedures

1. The HIDOE will review and revise, as necessary, Castle High School's (CHS) procedures (procedures) to ensure that 504 eligible students at CHS are provided with a free appropriate public education (FAPE). The procedures will specifically ensure that CHS will comply with Section 504 regulations, at 34 C.F. R. §§ 104.33 - 36. when making placement decisions for Section 504 eligible students. CHS will follow the procedures concerning student transitions to CHS.
2. Reporting Provisions:
 - (a) By June 1, 2019, the HIDOE will submit to OCR a copy of CHS procedures for OCR's review and approval. If OCR requires any changes to the procedures, the HIDOE will resubmit the revised procedures to OCR within 21 calendar days of receiving notice or the required changes. OCR and the HIDOE will repeat this process until OCR approves the procedures.
 - (b) Within 45 calendar days of receiving OCR's written approval of the procedures the HIDOE will provide OCR with documentation demonstrating it has adopted and implemented the procedures.

B. Notice and Training

1. Within 60 days of receiving OCR's written approval of the procedures described in section II.A, the HIDOE will provide notice to all administrators and teachers at CHS regarding the revisions to the procedures. The notice may be made electronically.
2. Within 60 days of receiving OCR's written approval of the procedures described in section II.A, the HIDOE will provide training to all teachers at King intermediate School (KIS) and CHS who teach students with disabilities who are eligible for special education services, as well as the KIS' and CHS's principals, vice principals special education administrators. and other relevant employees regarding the procedures.
3. Reporting Provisions:
 - (a) Within 75 days of receiving OCR's written approval of the procedures described in section II.A. the HIDOE will submit documentation to OCR demonstrating its compliance with section II.B.1 including a copy of the notice sent to administrators and teachers.
 - (b) Within 75 days of receiving OCR's written approval of the procedures described in

section II.A. the HIDOE will submit documentation to OCR demonstrating its compliance with section II.B.2. The report will contain at a minimum: the date and time of training; a copy of the training materials provided to participants; a list of administrators and teachers who were not able to attend the training, a description of HIDOE's plan to provide the individual(s) with the training.

C. Compensatory Instructional Time

1. HIDOE agrees to conduct an assessment of the student's educational program for the period which occurred at the beginning of the 2017-2018 school year to determine the appropriate amount of compensatory instructional time for the student who is the subject of the complaint. As part of this assessment, HIDOE will review the IEP in effect at that time, the amount of instructional time that the student was placed in general education classes for her core classes and her current level of academic performance and needs. If it is determined that compensatory instructional time is required, HIDOE will draft a plan to include the specific amount of additional instructional time HIDOE plans to offer to the student, including the proposed method to provide the compensatory instructional time, the qualifications of the provider, and a timeline for completion. Upon receiving OCR's written approval of HIDOE's assessment and plan, HIDOE will provide the appropriate amount of compensatory instructional time to the student.

2. Reporting Provision:

By June 1, 2019, HIDOE will provide a copy of its assessment and, if necessary, its plan developed in accordance with section II.C. I, to OCR for its review and approval. The report will include sufficient information to support its determination regarding the provision of compensatory instruction time to the student. If OCR requires any changes to the assessment or plan, HIDOE will resubmit the assessment or plan to OCR within 21 calendar days of receiving notice of the required changes. OCR and HIDOE will repeat this process until OCR approves the assessment and plan.

3. Within 14 days of receiving OCR's written approval of the assessment and plan, if necessary, HIDOE will make an offer to the student's parent(s) to provide the student with compensatory instructional time consistent with its plan, the letter will allow the parent(s) no less than 30 days to accept HIDOE's offer. If the parent(s) reject the offer, or fail to respond to HIDOE's offer within the timeline, HIDOE will not be obligated to provide the compensatory instructional time. If the parent(s) accept the offer, HIDOE will provide the compensatory instructional time consistent with the plan.

4. Reporting Provisions:

- (a) By July 1, 2019, the HIDOE will submit to OCR a draft of the letter to the student's parents to offer the compensatory instructional time to the student.
- (b) Within 14 calendar days of HIDOE receiving notice of the parents' acceptance or refusal of the offer or the lapse of the timeline for the parents' response to the offer, the HIDOE will submit a report to OCR documenting its compliance with section II.C.2. The report will include information regarding the parents' acceptance or refusal or lack of response, including the reason the parent gave for refusing the offer if any.
- (c) If the student's parents accept the offer, within 14 calendar days after the completion of providing the compensatory instructional time, the HIDOE will provide documentation to OCR of the dates, times and locations that compensatory instructional time was

provided, a description of what was provided, and the name(s) and qualifications of the service providers.

III. GENERAL PROVISIONS

- A. This agreement resolves only those compliance issues identified by OCR in the investigation of OCR Reference No. 10171331.
- B. HIDOE understands that by signing this agreement it agrees to provide OCR data and other information in a timely manner. Further, HIDOE understands that during- the monitoring of this agreement and if necessary, OCR may visit the HIDOE, interview staff and students, and request such additional reports or data as necessary for OCR to determine whether HIDOE has fulfilled the terms of this agreement.
- C. Upon HIDOE's satisfaction with the commitments made under this agreement. OCR will close the case.
- D. HIDOE understands and acknowledges that OCR may initiate administrative enforcement or judicial proceeding to enforce the specific terms and obligations of the agreement. Before such proceedings, OCR will give the HIDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Signed:

/s/

4/29/19

Dr. Christina M. Kishimoto
Superintendent
Hawaii Department of Education

Date