

# VOLUNTARY RESOLUTION AGREEMENT

## I. INTRODUCTION

The Beaverton School District 48J (District) enters into this Voluntary Resolution Agreement (Agreement) to resolve the allegations in a complaint (Reference No. 10171345) 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

The District will review and revise as required by law its existing policies, procedures, and practices regarding service animals, and if needed, develop such policies, procedures, and practices, to ensure that, consistent with the Section 504 and Title II regulations at 34 C.F.R. §§ 104.4(a) and 104.4(b)(1)(iii); and 28 C.F.R. §§ 35.104, 35.130(a), 35.136, and 35.139:

- (1) Generally, the District permits individuals with disabilities, including parents, who visit District schools and facilities or participate in District programs and activities, to use their service animals.
- (2) The District does not treat individuals with disabilities, including parents, who are accompanied by service animals differently than others, based on disability, when they visit District schools and facilities or participate in District programs and activities, by requiring them to provide information and documentation about their disabilities and service animals.
- (3) In determining whether an animal that accompanies an individual with a disability, including a parent, who visits a District school or facility or participates in a District program or activity 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, but it cannot 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.

**Reporting Step 1:** By May 1, 2018, the District will submit a copy of its proposed policies, procedures, and practices for OCR's review. If OCR requires

any changes to the District's proposed policies, procedures, and practices, the District will make the changes and re-submit them within \_\_\_ 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, procedures, and practices.

**Reporting Step 2:** Within 60 calendar days of receiving OCR's approval of the District's policies, procedures, and practices, or by the next available meeting of the District's School Board, whichever is later, the District will adopt, publish, and implement them, including at Sexton Mountain Elementary School, and will submit a report regarding its actions.

**B. Notice**

**(1) General Notice**

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 in accordance with Section 504 and Title II; (b) any new or revised policies and procedures developed under this Agreement, 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 and procedures.

**(2) School Notice**

The District will post a prominent notice at the main office of Sexton Mountain Elementary School and on its website, which states: (a) service animals are permitted at Sexton Mountain Elementary School; and (b) the position title and contact information of the District employee who is responsible for responding to any inquiries or complaints regarding service animals.

**Reporting Step 1:** By May 1, 2018, the District will submit a copy of its proposed notices for OCR's review. If OCR requires any changes to the notices, 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 notices.

**Reporting Step 2:** Within 5 calendar days of receiving OCR's approval of the District's notices, the District will disseminate the general notice and post the school notice, and provide OCR with a copy of the final notices, a description of how and where the general notice was disseminated, and documentation showing that the school notice was posted.

**C. Training**

The District will provide training to all District employees who are responsible for implementing the new or revised policies, procedures, and practices developed pursuant to Section II.A; the District employees who are responsible for responding to inquiries and complaints pursuant to Sections II.B and II.D, if different; and all administrators and staff at Sexton Mountain Elementary School who may encounter visitors, including parents, with service animals at the school. The training will review:

- (1) The Title II provisions regarding service animals at 28 C.F.R. §§ 35.104, 35.136, and 35.139.
- (2) The District's policies, procedures, and practices regarding service animals, and any substantive changes made to them under this Agreement.
- (3) The employees' responsibilities and duties under the District's policies, procedures, and practices when interacting with an individual with a disability who is accompanied by a service animal.
- (4) The name, position title, and contact information of the District employee who is responsible for responding to inquiries and complaints regarding service animals.

**Reporting Step 1:** By June 1, 2018, the District will submit a copy of its proposed training materials 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.

**Reporting Step 2:** Following receipt of OCR's approval of its training materials, the District will conduct the required training, and provide OCR with a report about its training actions by October 1, 2018. 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. Individual Remedy**

**(1) Service Animal Determination**

The District will determine whether or not it will permit the Parent to use her dog when she visits Sexton Mountain Elementary School consistent with the Title II regulations regarding service animals at 28 C.F.R. § 35.136. The District will allow the Parent to use her dog, unless it determines that the dog does not qualify as a service animal. If the District needs more information in order to make this determination, it may ask the two questions permitted by Title II at 28 C.F.R. § 35.136(f). If the District has concerns about allergies, the District will conduct an individualized assessment in accordance with Title II at 28 C.F.R. §35.139.

**Reporting Step 1:** By April 2, 2018, the District will provide OCR a report regarding its service animal determination, including a copy of any communications with the Parent. If the District determines that the Parent may not use her dog at Sexton Mountain Elementary School, the District will provide a detailed justification for this decision and a description of its individualized assessment, if any. OCR will review the report and provide feedback.

**Reporting Step 2:** Within 30 days of receiving OCR's feedback, the District will incorporate OCR's feedback and provide OCR a revised report. OCR and the District will continue this process until OCR approves the report and the District's determination.

**(2) Parent Letter**

The District will provide the Parent a letter, 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.

- (b) A explanation of the District's determination made under II.D.(1) regarding whether or not the District will permit the Parent to use her dog when she visits Sexton Mountain Elementary School.
- (c) A statement that the District will provide a copy of any District policies, procedures, and practices, which may be revised pursuant to the Agreement, to the Parent once approved by OCR.
- (d) The name, position title, and contact information of the District employee who is responsible for responding to any questions or complaints from the Parent regarding access to the District's programs, activities, and facilities, including Sexton Mountain Elementary School, or the District's policies and procedures regarding service animals.

**Reporting Step 1:** By May 1, 2018, 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.

**Reporting Step 2:** Within 5 calendar days of receiving OCR's approval of the letter, the District will send the letter to the Parent with a courtesy copy to OCR.

**Reporting Step 3:** Within 5 calendar days of receiving OCR's approval of the District's policies, procedures, and practices pursuant to Section II.A, the District will send a copy of them to the Parent with a courtesy copy to OCR.

### **III. GENERAL PROVISIONS**

- A. This Agreement resolves the allegations in OCR Reference No. 10171345, 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 No. 10171345 based upon the District's commitment to take the actions specified in this Agreement which, when fully implemented, will resolve the allegations in this complaint.
- C. By signing this Agreement, the District 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 the regulations implementing Section 504 and Title II, which were at issue in this complaint.

- D. The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in this complaint.
- E. The District understands and acknowledges that, if it does not fully implement this Agreement, OCR will take appropriate measures within its authority to effect compliance and 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) calendar days to cure the alleged breach.

**Signed:**

/s/

March 15, 2018

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Don Grotting  
Superintendent  
Beaverton School District 48J

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Date