

VOLUNTARY RESOLUTION AGREEMENT

Yakima School District (District) voluntarily agrees to take the following actions to resolve OCR Reference No. 10221372, filed with the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 and 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131– 65 and 28 C.F.R. Part 35.

I. POLICIES AND PROCEDURES

- A. The District will complete a review of its existing policies and procedures and make any revisions necessary to ensure that the policies and procedures (revised policies) are consistent with the regulatory requirements of Title II and Section 504 to 1) fully implement placement decisions to provide students with a free appropriate public education (FAPE); and 2) make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.
 - 1. The District will provide regular or special education and/or related aids and services that meet the individual educational needs of each student with a disability. In this regard, the District's revised policies will include a description of the steps the District will follow to ensure that:
 - a. documentation is maintained that specifies any modifications, adjustments, accommodations, or other services determined to be appropriate and to be provided in regular and special education classrooms to meet the needs of each disabled student;
 - b. all regular and special education classroom teachers and aides of students with disabilities are provided with a description of the modifications, adjustments, accommodations or other services to be provided in the regular and special education classrooms with sufficient detail to allow staff to address the needs of each such disabled student;
 - c. all regular and special education classroom teachers of students with disabilities are provided with notice that implementation of any modifications, accommodations, or other services identified as necessary to address a student's individual educational needs in the regular classroom are required by law to be provided and are not discretionary;
 - d. all regular and special education classroom teachers and aides of students with disabilities are provided with the name and location of the person(s) available to respond to questions from staff regarding the revised policies and their implementation; and
 - e. documentation is maintained of all the services that are provided to the students, including any services that are missed or not provided.

2. The District will make reasonable modifications to its policies, procedures and practices when the modifications are necessary to avoid discrimination on the basis of disability. In this regard, the District's revised policies will include:
 - a. a process to ensure that the District will modify policies, procedures, and practices when necessary to avoid disability discrimination, or instead demonstrate that the modification would fundamentally alter a service, program, or activity;
 - b. a process to ensure that the District considers the individual, disability-related, circumstances of each request when making a determination about reasonability, without applying general prohibitions against particular types of modifications; and
 - c. specific examples of reasonable modifications that may be necessary to avoid discrimination.

B. Reporting Requirements:

1. By May 1, 2023, the District will provide OCR, for its review and approval, the revised policies.
2. Within 30 days of receiving OCR's written approval of the revised policies, the District will provide OCR with documentation verifying that the District has adopted them, including links to the District website.

II. NOTICE AND TRAINING

- A. The District will provide written notice regarding the revised policies to all District staff and administrators. The written notice will include electronic versions or links to the electronic version of the revised policies. The notice will also include contact information for the staff member(s) or administrator(s) who can answer questions about the revised policies.
- B. The District will provide in-person training for all teachers, aides, staff, and administrators of McClure Elementary School and the District's Office of Special Education Services regarding the revised policies. At a minimum, the training will include:
 1. A review of the relevant provisions of the Section 504 and Title II regulations, including the District's legal obligations to implement 504 plans and Individualized Education Programs (IEPs).
 2. A review of the trainee's responsibilities under the revised policies.

3. Examples of reasonable modifications and how the obligation to make reasonable modifications is separate from the duty to implement 504 plans and IEPs.
4. The position title and contact information for the District employee(s) who is/are responsible for responding to questions regarding the revised policies.

C. Reporting Requirements:

1. Within 30 days of receiving OCR's written approval of the revised policies, the District will provide OCR, for its review and approval, the written notice.
2. Within 30 days of receiving OCR's written approval of the written notice, the District will provide OCR with documentation verifying that the District has distributed the notice.
3. Within 30 days of receiving OCR's written approval of the District's revised policies, the District will provide OCR, for its review and approval, a plan for providing the applicable training, including information about the identity and qualifications of the trainer(s).
4. Within 90 days of receiving OCR's written approval of the training plan, the District will provide OCR documentation demonstrating that the District provided the training. At a minimum, this will include the time and date of the training(s), all lesson plans, handouts, or presentation slides used during the training(s), and a list, by name and job position, of persons trained, and the name of the trainer(s).

III. STUDENT REMEDY

- A. The District will offer to provide reimbursement, and then provide reimbursement, if accepted by Student A's parents (Parents), for counseling services to Student A to address the effects of denying Student A the use of an accessible restroom and appropriate support services to access restroom facilities while attending XXXXXXXXXX during the 2021-2022 school year. The counseling services will be provided by a qualified person of the Parents' choosing. The reimbursement by the District will not exceed \$2,000.
- B. The District will convene an IEP meeting for Student A to ensure that he is receiving appropriate services with respect to toileting assistance, hygiene, and the use of accessible restroom facilities in his current educational placement.
- C. Student A's IEP team will determine whether Student A needs compensatory services as a result of any failure on the part of the District to implement Student A's IEP and/or Individual Health Plan (IHP) during the 2021-2022 school year. If the IEP team determines that Student A needs such services, the team will develop a plan for providing timely compensatory services to him.

The Parents will receive notice at least 14 days in advance of the meeting and an opportunity to participate. To make its determination regarding compensatory services, the IEP team will consider, at a minimum:

1. Whether Student A was provided services required by his IEP or IHP in effect during the 2021-2022 school year, including, but not limited to, physical therapy, the provision of a 1:1 aide, and/or any provision of his IEP or IHP.
2. Whether Student A was otherwise deprived of any aspects of the District's programs that he would have been entitled to participate in had the District reasonably modified its policies and procedures to allow him to use the nearest accessible restrooms or to receive support required by his IEP or IHP.
3. Any input the Parents provide with respect to whether the District provided a FAPE to Student A during the 2021-2022 school year, and with respect to whether the District implemented, or failed to implement, any provision(s) of Student A's IEP or IHP.

The District will offer to the Parents any compensatory services it has determined need to be provided to Student A. The District's offer will specify how the Parents can accept or reject the District's offer. The District will provide the Parents no less than 30 days to accept the District's offer of compensatory services. If the Parents accept the District's offer of compensatory services, the District will provide to Student A the compensatory services identified in its report. If the Parents do not accept the District's offer within 30 days, the District will not be obligated under this Agreement to provide to Student A the compensatory services identified in its report.

D. Reporting Requirements:

1. Within 45 days of signing this Agreement, the District will provide OCR a report that the District offered to provide reimbursement for counseling for Student A, and that it afforded the Parents no less than 14 days to respond to the District's offer. The report will include the Parent's response.
2. Within 180 days of signing this Agreement and if the offer was accepted, the District will provide OCR with documentation that the District provided the Parents with reimbursement for counseling for Student A.
3. Within 30 days of signing this Agreement, the District will submit a report that it convened an IEP meeting for Student A. The report will include a copy of all records created with respect to the meeting, including all Prior Written Notice (PWN), IEP(s), attendance lists, and/or meeting minutes, and will include information reflecting the District's plan, with respect to the remainder of the 2022-2023 school year, to ensure that Student A is provided

appropriate services with respect to toileting assistance, hygiene, and the use of accessible restroom facilities in his current educational placement.

4. Within 60 days of signing this Agreement, the District will provide OCR with a report containing the District's determination with regard to compensatory services for Student A. The report shall include the information considered and a description of and schedule for providing any compensatory services (if any) to Student A. The report will also include whether the District provided the Parents notice and an opportunity to participate in the IEP meeting, and whether the Parents did so.
5. Within 120 days of receiving OCR's written approval of the District's plan to provide compensatory services, the District will provide OCR, as necessary, a report reflecting that the District offered to the Parents to provide to Student A the compensatory services approved by OCR, whether the Parents accepted the District's offer, and that the District, as necessary, provided to Student A the compensatory services detailed in the approved plan.

IV. GENERAL MONITORING PRINCIPLES

- A. 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. 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.
- B. The District understands that OCR will not close the monitoring of this Agreement until such time as OCR determines that the District is in compliance with the terms of the Agreement and the statute(s) and regulation(s) at issue in the case.
- C. The District understands that OCR may initiate administrative enforcement or refer the case to the Department of Justice (DOJ) for judicial proceedings in the event of breach. Before initiating such proceedings, OCR will give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the Superintendent or the Superintendent's designee below.

Signed:

Date:

/s/

2/16/23

Superintendent
Yakima School District