

RESOLUTION AGREEMENT
Mountain Discovery Charter School
OCR Case No. 11-16-1106

Mountain Discovery Charter School (the School) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 11-16-1106. This Agreement does not constitute an admission by the School of a violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), or any other law enforced by OCR.

1. By July 29, 2016, the School will submit for OCR approval Section 504 grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by the laws cited above. Specifically, the procedures will include:
 - a. Adequate notice of the procedures, including with whom grievances should be filed;
 - b. The adequate, reliable and impartial investigation of grievances, including the opportunity to present witness information and other information;
 - c. Designated and reasonably prompt timeframes for the major stages of the grievance process;
 - d. Written notice to the parties of the outcome of each stage of the grievance process;
 - e. An opportunity to appeal the findings and remedy; and
 - f. The prohibition of retaliation against any individual who files a grievance or participates in a grievance process.
2. Within one month of the School's receipt of the OCR approval referenced in Provision 1, it will adopt the grievance procedures, as approved by OCR.
3. Within two months of the School's receipt of the OCR approval referenced in Provision 1, it will provide written notice of the approved grievance procedures in all appropriate publications, including School handbooks and catalogs, and on its website.

Reporting Requirements:

Within two months and two weeks of the School's receipt of the OCR approval referenced in Provision 1, it will provide OCR with copies of or web addresses for all publications in which its revised grievance procedures appear.

4. By June 30, 2016, the School will adopt notices of nondiscrimination that:
 - a. Contain a general statement that the School does not discriminate on the basis of disability (and any additional bases it wishes to include) in any of its programs or activities; and
 - b. Provide the name or title, address and telephone number of the employee or employees responsible for coordinating the School's compliance efforts regarding the laws referenced in the first paragraph of this Agreement.
5. By July 29, 2016, the School will publish the notices of nondiscrimination it has adopted pursuant to Provision 4 in all appropriate publications and on all appropriate webpages, including hard copy and website versions of School handbooks, catalogs and recruitment and application materials, and the School's home webpage. If it is unable to timely publish the notice in any hard copy publication, it will include the notice as an insert or attachment and provide the reason why it was unable to do so.

Reporting Requirements:

By August 12, 2016, the School will provide OCR with copies of or web addresses for all publications in which its revised notice of nondiscrimination appears and, if applicable, a copy of all notice inserts and the reason why it was unable to include the notice in the particular publication.

6. By July 31, 2016, the School will submit for OCR approval a draft of a letter or other notice (e.g., a paragraph included with other distributed materials) to the parents of *all* School students notifying them of Section 504, North Carolina's "Policies Governing Services for Children with Disabilities," the availability of aids and services for students with medical conditions that are serious enough to constitute disabilities (i.e., "medical disabilities," including severe asthma, severe allergies and diabetes), and the name or title, address and telephone number of the School staff persons to contact in connection with such aids and services.
7. Within two weeks of the OCR approval referenced in Provision 6, the School will send the approved letter or other notice to the parents of *all* School students. Continuously thereafter, the School will, before the first day of each school year, send such a letter or notice to the parents of *all* School students.

Reporting Requirements:

Within two weeks of sending the letter or notice to parents, the School will provide OCR with unredacted copies of the letters it sent to three parents and the notice, if any, and the publications in which it appears.

8. The School will, effective immediately, promptly identify and conduct an evaluation of every School student who, because of a medical condition, needs or is believed to need special education or related aids or services and, if it determines that a Section 504 plan or similar plan (e.g., an Individualized Education Program) is needed, promptly develop and implement such a plan and provide the student with a free and appropriate public education (FAPE).
9. With regard to the evaluation for and establishment of each plan referenced in Provision 8, the School will: a) draw upon a variety of sources in evaluating the student; b) document and carefully consider the information obtained from all sources, including all available medical information regarding the student's medical condition (e.g., the treating physician's medical orders), the nature and severity of the student's medical condition and the types of circumstances that can result in the student having a reaction or incident as a result of the student's medical condition (e.g., whether allergic reactions are likely to occur due to ingestion or topical or airborne exposure); c) ensure that the plan is developed by a group of individuals familiar with the student, the student's medical condition, the meaning of the information and documentation relating to the student's medical condition and the School programs and activities in which the student participates; and d) notify the student's parent or guardian of his or her due process rights.
10. Effective immediately, the School will, for each School student with a medical condition who is found eligible for a Section 504 plan or similar plan, finalize and implement a plan that: provides all aids and services that are required by Section 504, Title II or this Agreement; fully addresses the individualized needs of the student and provides the student with FAPE; and incorporates by reference all other plans relating to the student's medical condition, e.g., individual health plans and emergency care plans.
11. Each plan will, *to the extent necessary to provide the student with a medical disability with FAPE*, include either the following elements or references to the School policies, procedures and practices that contain these elements.
 - a. Adequate policies, procedures and practices governing the care of the student in each type of School program and activity, including the student's classroom and common use rooms (e.g., the cafeteria, library, computer labs, gymnasium and art and music rooms), and during recess periods, bus

- transportation, field trips and all extracurricular and other activities in which the student participates that receive significant assistance from the School.
- b. Sufficient emergency response policies, procedures and practices covering all School programs and activities to address instances in which the student is suspected of having a reaction or incident as a result of the student's medical disability. These policies, etc., will address the proper handling and administration of medicine in the event of an reaction or incident resulting from the student's medical disability and will identify the School staff responsible for emergency responses.
 - c. A requirement that all School staff (including substitutes) responsible for the immediate custodial supervision or care of the student receive adequate, periodic training on Section 504, the student's medical disability and the implementation of the student's plan. Also when, how often and by whom the training will be conducted, and the content of the training.
 - d. A requirement that at least one School staff person who is adequately trained about the student's medical disability to recognize the signs and symptoms of a reaction or incident resulting from the student's medical disability, and about administering medication to the student consistent with applicable policies, procedures and practices, be at the School during all regular school hours and at all extracurricular and other activities in which the student participates that receive significant assistance from the School (e.g., which take place on School grounds).
 - e. The responsibilities of School staff, parents and the student relating to the student's medical disability in all School programs and activities, and an effective process for communicating their responsibilities relating to the student's medical disability to them.

Reporting Requirements:

By September 16, 2016, the School will provide OCR with:

- a. All medical documentation relating to all students with medical conditions whom the School did not consider for a Section 504 plan or similar plan and the reasons why it did not consider them;
- b. All medical and evaluation documentation (including notes and minutes of meetings and the School's determinations) relating to all students with medical conditions whom the School considered but found ineligible for a Section 504 plan or similar plan and, to the extent not contained in such documentation, the reasons why;
- c. The Section 504 and other plans for all students with medical conditions whom the School found eligible for such plans; and

- d. All policies, procedures and practices, if any, that the School adopted or revised relating or applicable to students with medical disabilities since the date of this Agreement.
12. By October 28, 2016, the School will, for each student with a medical condition who it failed to evaluate during the 2015-2016 school year and who is found to be eligible for a Section 504 plan or similar plan as part of the implementation of this agreement, complete the following actions. After providing proper written notice to the student's parent/guardian, the School will convene a group of persons knowledgeable about the student, making all reasonable efforts to include the parent/guardian, with the purpose of developing a plan for providing compensatory and/or remedial services to the student for the time period the student did not receive appropriate regular or special education or related services during the 2015-2016 school year. The group will develop a plan for providing timely compensatory or remedial services with a completion date not to extend beyond December 9, 2016. The School will provide each such student's parent/guardian with notice of his or her procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements:

- a. Within one week of the meeting for each student, the School will submit to OCR a copy of the meeting minutes or similar documentation from the meeting, including an explanation for the decisions that were made, a description of and schedule for providing compensatory and/or remedial services (if any) to the student, the notice of procedural safeguards, the written invitation to the student's parent/guardian and a list of meeting attendees. OCR will review the documentation submitted to ensure that the School met the procedural and other requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35, and 104.36, in making these determinations.
- b. Within 10 calendar days after receiving OCR's approval of the documentation described immediately above for each student, the School will provide the student's parent/guardian with written notice of the outcome of the meeting, including an explanation for decisions made and a description of and schedule for providing compensatory or remedial services (if any) to the student. The School will provide a copy of this written notice to OCR within 20 calendar days after receiving OCR's approval of the documentation described immediately above for each student.

- c. By January 13, 2017, the School 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 name(s) of the service provider(s).
13. By July 15, 2016, the School will submit for OCR approval proposed: (a) general training materials on Section 504 and North Carolina's "Policies Governing Services for Children with Disabilities" for all School staff responsible for the immediate custodial supervision or care of a student with a medical disability; (b) similar but more comprehensive training materials for the School Office Manager, Exceptional Children Director, Exceptional Children Assistant Coordinator and all other School staff with general responsibilities for students with disabilities; (c) additional training materials on the medical disabilities of the students for whom the School staff referenced in Provision 11c, above, are or will be responsible; and (d) the names and qualifications of the individuals the School is proposing to provide each of these trainings. All such training will be developed by the School in collaboration with a third party with expertise in the subject matter of the training.
 14. Within four weeks of the OCR approval referenced in Provision 13, the School will provide all of the School staff referenced therein with the training referenced therein.

Reporting Requirements:

Within six weeks of the OCR approval referenced in Provision 13, the School will provide OCR with the names and positions of all staff who completed each of the three types of training described in Provision 13, the dates on which the training sessions were conducted, and sign-in sheets documenting that all appropriate School staff attended each type of training.

The School understands that OCR will not close the monitoring of this Agreement until OCR determines that the School has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504, at 34 C.F.R. Part 104.

The School understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the School understands that during the monitoring of this Agreement, OCR may visit the School, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the School has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504, at 34 C.F.R. Part 104, which was at issue in this case.

The School 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 shall give the School written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

By: _____/S/_____
Carter Petty, Director
Mountain Discovery Charter School

Date:_____6/14/2016_____