

**Resolution Agreement
Tuslaw Local School District
OCR Docket No. 15-13-1395**

In order to voluntarily resolve the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 and its implementing regulation at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. part 35 (Title II), Tuslaw Local School District (the District) agrees to take the following actions:

ACTION STEPS

I. The District's Open Enrollment Policies and Procedures

- A. By September 1, 2014, the District will draft for OCR's review and approval revised open enrollment policies and procedures to ensure that the District does not take a student's disability status into account in making its open enrollment acceptance decisions. The enrollment policies will ensure that if, after acceptance, the District learns that a student has a disability, the District may consider whether it is capable of providing the student a free appropriate public education (FAPE), without taking cost into account. The District is not required to create a new program to provide FAPE. However, the District may not use the lack of an existing program as a pretext for denying students with disability open enrollment. The District's policies and procedures must ensure that the District make a meaningful determination of the individual needs of each student for special education and related aids and services as known at the time of acceptance and consider all alternative services it does have available for that student before determining that it does not have the capability of providing the student a FAPE.
- B. Within 15 calendar days of receipt of the OCR-approved revised open enrollment policies and procedures, the District will adopt, implement, and disseminate the approved policies and procedures, including on the District's website, in its promotional materials, and in other publications used by the District.

REPORTING REQUIREMENT: By September 1, 2014, the District will provide OCR with a draft of its revised open enrollment policies and procedures for review and approval. Within 15 calendar days after receiving written notification from OCR of its approval of the open enrollment policies and procedures, the District will submit documentation to OCR to verify that it has adopted, published, and implemented the OCR-approved requirements and procedures.

- C. By August 1, 2015 (for the school year 2015-2016) and August 1, 2016 (for the school year 2016-2017) the District will provide OCR documentation demonstrating compliance with its revised and approved policies and procedures.

REPORTING REQUIREMENT: By August 1, 2015 (for the school year 2015-2016) and August 1, 2016 (for the school year 2015-2016), the District will provide OCR copies of the applications for each student with a disability who applied for open enrollment in the District, documentation showing each students' individual needs, and documentation showing whether the applicant was offered enrollment and whether the applicant actually enrolled. For every applicant not offered enrollment, the District will provide OCR a description of the reason(s) for not offering enrollment and documentation supporting its reason(s).

II. Student-Focused Remedies

- A. By May 16, 2014, the District will submit, for OCR's review and approval, a letter from the District's Superintendent to the parents of the Student xxxxxxxx xxxxxxxx and all students with known disabilities who were denied open enrollment or placed on a waiting list for the 2013-2014 school year, explaining that the District is making changes to its open enrollment policy and procedures, extending the timeframe for applications until June 30, 2014, and inviting them to reapply for open enrollment for the 2014-2015 school year and any future year when open enrollment is offered. The letter will also explain that the application of these students will receive priority consideration for open enrollment at the District for the 2014-2015 school year.
- B. Within five (5) calendar days of receiving OCR's approval, the District will mail the letter to the parents of the students.

REPORTING REQUIREMENT: By May 16, 2014, the District will submit to OCR a copy of the draft letter for review and approval. Within five (5) days of mailing the letter, the District will provide OCR with a copy of the final version of the letters and written assurance that the District has satisfied its obligations.

GENERAL REQUIREMENTS

The District understands that by signing this agreement it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the District understands that 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 and is in compliance with the regulations implementing Section 504 at C.F.R. 34 § 104.4(a) and (b) and Title II at 28 C.F.R. § 35.130(a) and (b), which were at issue in this case.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at C.F.R. 34 § 104.4(a) and (b) and Title II and its implementing regulation at 28 C.F.R. § 35.130(a) and (b).

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

/s/

05/29/14

Superintendent

Date