

## **RESOLUTION AGREEMENT**

Allegheny Valley SD  
OCR Case No. 03-22-1240

The Allegheny Valley School District (the District) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 03-22-1240. The District submits this Agreement to ensure compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities.

In order to address the violations identified in OCR's investigation of complaint 03-22-1240, the District agrees to the following terms:

### **ACTION ITEMS & REPORTING REQUIREMENTS**

#### **I. Notice to Staff**

1. **By September 29, 2023**, the District will distribute via email, a notice to all District staff, which affirms the District's obligations to not discriminate on the basis of disability. The notice will include, but need not be limited to, the items set forth in Action Steps I.1(a)-(d), below.
  - a. Pursuant to the Section 504 regulation, at 34 C.F.R. § 104.4(a) as well as Title II, at 28 C.F.R. § 35.130(a), no qualified individual shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.
  - b. Disability harassment is a form of disability discrimination prohibited by Section 504 and Title II. Disability harassment under Section 504 and Title II is intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the institution's program.
  - c. The District is obligated to provide a free appropriate public education (FAPE) to each qualified student with a disability within its jurisdiction, regardless of the nature or severity of the individual's disability in accordance with Section 504 at 34 C.F.R. § 104.33.
  - d. Harassment and bullying of a student with a disability that results in a denial of FAPE under Section 504 must be remedied.

#### **Reporting Requirement:**

1. **By October 6, 2023**, the District will provide OCR with a copy of the notice and email message, including a list of recipients by name or title, to OCR.

## II. School and District Staff Training

### A. Training

1. The District will provide training during the 2023-2024, 2024-2025, and 2025-2026 school years to all employees at [Redacted content] School, including administrators, and also to District level staff and administrators who have responsibilities related to investigating disability harassment complaints. The training will address the following topics:
  - a. Title II/Section 504's prohibition on discrimination based on disability;
  - b. Disability-based harassment, including what constitutes disability-based harassment and how to recognize potential incidents;
  - c. Examples of harassment on the basis of disability;
  - d. The District's procedure for resolving complaints of disability discrimination, including disability-based harassment;
  - e. Instructions on how to conduct and document reliable and impartial investigations of alleged discrimination on the basis of disability;
  - f. School administrators' responsibilities to investigate such complaints;
  - g. A review of the appropriate legal standards to apply in such investigations, the importance of evaluating the totality of the circumstances, including previous acts of harassment, and the need to take appropriate measures to assure that harassment does not continue during the investigation or recur thereafter;
  - h. A statement that a student or parent/guardian who has reported alleged incidents of harassing behavior must be notified of the steps the District is taking in response to the reported incident(s), and guidance to staff on how and when to provide this notification;
  - i. A description of the steps the District will take in response to any harassing behavior discovered, including actions to ensure that the offending student(s) understands the seriousness of the alleged offense and, where applicable, progressive disciplinary steps;
  - j. The existence of OCR and its authority to enforce Title II and Section 504;
  - k. The District's responsibility to consider the effects of bullying of a student with a disability, on any basis, including whether the student was denied a free appropriate public education (FAPE), that must be remedied under Section 504; and
  - l. A distribution of written materials that contain the information discussed.
2. The District will ensure that any new District employees hired after the training outlined above in Action Step II.A.1, who are tasked with investigating reports of disability harassment, receive the training. Such training may be provided by means of a video recording of training sessions previously presented by the District.

### **Reporting Requirements:**

1. **By October 6, 2023**, the District will provide to OCR draft training materials and the name(s), title(s)/positions(s), and qualifications of one or more qualified individuals to

provide the training required under Action Step II.A. The District will promptly and fully address OCR’s feedback, if any, until the District receives OCR’s final approval of the training materials and trainer(s).

2. **After receiving OCR’s final approval of the training materials and trainer(s), the District will provide the training on its next scheduled professional development day during the 2023–2024 school year, and by August 30, 2024 and 2025.** The District will ensure that School and appropriate District level staff are trained and will submit to OCR within 30 days of the completion of the training: (i) the date, time and location of the training; (ii) confirmation that the approved training materials were used; (iii) confirmation that the approved trainer(s) was used; (iv) the names and titles/positions of staff who attended the training; and (v) the names and titles/positions of staff who did not attend the training, an explanation for each person’s absence, and a plan to train each person.

The District will promptly and fully address OCR’s feedback, if any, until the District receives notice from OCR that no further reporting is required for this item.

## **B. Training Surveys**

1. The District will assess the effectiveness of the training referenced in Action Step II.A by conducting training assessment surveys at the conclusion of the training each year, of all staff who attended the training(s). The survey will specifically inquire about their knowledge and perceptions about their obligation to report all allegations of possible disability harassment, and the process for doing so, and will specifically inquire about their knowledge of the process for responding to and investigating disability harassment complaints.

### **Reporting Requirements:**

1. **Within 30 calendar days** of completing the training required under Action Step II.A, the District will provide OCR draft surveys for assessing the effectiveness of the training. The District will promptly and fully address OCR’s feedback, if any, until the District receives notice from OCR that no further reporting of this item is required.
2. **Within 30 calendar days** of receiving OCR’s final approval of the survey, the District will disseminate the survey to all staff who were trained.
3. **Within 30 calendar days** of disseminating the survey required by Action Step II.B, and by September 30, 2024 and 2025, the District will provide OCR with the survey results regarding the effectiveness of the training. The District will promptly and fully address OCR’s feedback on the results of the assessment survey, including the potential need for additional training, until the District receives OCR’s final approval that no further action or reporting is required for this item.

### **III. Individual Remedies**

#### **A. Reimbursement to Complainant**

1. **By September 29, 2023**, the District will write to Complainant to offer to reimburse the Complainant up to [Redacted content] for past counseling, academic, or therapeutic services the Complainant obtained for the Student as a direct result of the disability based harassment the Student experienced through the conclusion of the [Redacted content] school year and/or for future services received for up to one year after the date of the signing of this Agreement. The total amount of reimbursement shall not exceed [Redacted content] total for both past and future counseling, academic, or therapeutic services the Complainant obtained for the Student as a result of the disability based harassment the Student experienced and is conditioned on reasonable proof of expenditure by or on behalf of Student. The District will reimburse the Complainant within 30 days of receiving proof of expenditure.

#### **Reporting Requirements:**

1. **By October 31, 2023**, the District will inform OCR that it has offered to reimburse the Complainant up to [Redacted content] for past counseling, academic, or therapeutic services received by the Student after the alleged harassment began and/or for future services received for up to one year after the date of the signing of this Agreement.
2. **By September 29, 2024**, the District will also provide OCR with documentation to show that the District reimbursed Complainant up to [Redacted content] for the services described in III.A.1, if Complainant provides reasonable proof of expenditure to the District up to one year after the date of the signing of this Agreement.

#### **B. Convening an IEP Team for the Student**

1. If the Student who is the subject of the complaint at Case No. 03-22-1240 returns to the District prior to the conclusion of the 2023-24 school year, the District will convene the Student's Individualized Education Program (IEP) team within 45 calendar days of his reenrollment to determine whether the Student suffered an educational loss during the [Redacted content] school year due to the bullying or harassment he experienced. The District will invite the Complainant, in writing via regular mail as well as by email, to attend the IEP meeting, at least fifteen (15) calendar days in advance of the meeting, unless the Complainant agrees to waive this requirement. If the District determines that the Student suffered an educational loss due to the bullying or harassment he experienced, regardless of the basis, the District will assess whether the Student requires any compensatory or remedial services as a result, and develop a schedule for implementing the services, as appropriate. In making this determination, the IEP team will adhere to the requirements of 34 C.F.R. § 104.35 (evaluation and placement) and § 104.36 (procedural safeguards). The District will ensure that accurate meeting minutes

are kept to document this meeting, including documenting information considered from all sources and all decisions made by the team, which includes the Complainant.

**Reporting Requirement:**

1. **Within 60 calendar days** of the IEP team meeting required by Action Step III.B.1., contingent on the Student’s reenrollment in the District, the District will provide OCR with documentation demonstrating that it held the required IEP meeting and determined whether the Student requires compensatory education. OCR will review and approve the documentation submitted by the District to ensure that the District has met the procedural and other requirements of the Section 504 implementing regulation, at 34 C.F.R. §§ 104.34, 104.35, and 104.36, in making these determinations.

Specifically, the documentation submitted shall include:

- a) the written invitation sent to the Complainant for the IEP team meeting;
- b) a list of meeting participants;
- c) the information considered by the IEP team;
- d) an explanation for all decisions made, including the team’s decision as to whether the Student suffered an educational loss;
- e) a description of the types of compensatory education or other remedial service options discussed;
- f) a description of and schedule for providing compensatory and/or other remedial services the Student for educational loss (if any);
- g) the notice of procedural safeguards provided to the Complainant; and
- h) a copy of the meeting minutes.

If the District determines that the Student is eligible to receive compensatory and/or other remedial services, the District will provide documentation to OCR of the dates, times, and locations that the services were provided, a description of what was provided, and the name(s) of the service provider(s) within 14 calendar days of the conclusion of services.

**IV. Review of Bullying Incidents from the [Redacted content] school years**

1. **By December 15, 2023**, the District will conduct a review of all incidents of bullying reported at [Redacted content] School during the [Redacted content] school years to determine if any of these incidents constituted harassment on the basis of disability or involved bullying, on any basis, of a student with a disability for which an investigation consistent with the District’s procedures should have been conducted but was not.

In conducting this review, the District will assess the following for each report or disciplinary referral for “bullying”:

- a) Was the student who was the target of the bullying a student with a disability?
- b) What was reported?

- c) What was the District’s response? Specifically, was the incident investigated consistent with its harassment grievance procedures or was it treated only as a disciplinary referral?
  - d) Did the District’s response stop the recurrence of the bullying/harassment?
  - e) If not, did the same student(s) engage in the recurring bullying/harassment?
  - f) What were the effects of the bullying/harassment on the targeted student?
  - g) Did the District consider whether the behavior constituted harassment?
  - h) For a student with a disability who was the target of bullying and is eligible for FAPE services under the Individuals with Disabilities Education Act (IDEA) or Section 504, did the District consider whether the bullying or harassment impacted the affected student’s receipt of a FAPE?
2. If the District concludes that there were incidents that constituted harassment on the basis of disability or involved bullying, on any basis, of a student with a disability that were not investigated, consistent with Section 504, the District will investigate each incident promptly and respond appropriately. If the District’s investigation reveals that harassment based on disability created a hostile environment for the student, the District will take prompt and effective steps reasonably calculated to end the bullying, eliminate the hostile environment, prevent it from recurring, and, as appropriate, remedy its effects. The District will also notify each student’s parent/guardian of the outcome. For a student with a disability who is eligible for FAPE services, the District will determine whether the student experienced a denial in FAPE due to the bullying or harassment. In each instance, the District will determine whether the affected student requires additional remedies, such as counseling and compensatory educational services, to address the effects of the bullying or harassment and will offer these remedies to the student’s parent/guardian, asking them to accept the offer within 21 calendar days.

**Reporting Requirement:**

1. **By January 5, 2024**, the District will provide to OCR a copy of all documentation of its assessment of the bullying incidents reported during the [Redacted content] school years at [Redacted content] School, in accordance with Action Steps IV.1 and IV.2. The documentation will include: the identified reports of bullying, the District’s investigation of each, including investigative reports, interview notes, and final determinations, and any supportive measures or other remedies offered.

**V. Climate Assessment**

1. The District will administer a school climate survey at [Redacted content] School for students in grades [Redacted content] during the second quarter of the 2023-2024 school year. The survey will, at a minimum, address:
  - a. The prevalence of disability-based harassment in the School;
  - b. The willingness to report incidents of disability-based harassment to District personnel;

- c. The perception of the District’s handling of reports and complaints of harassment; and
- d. Suggestions for reducing incidents of harassment in the school and improvement of the District’s response to reports and complaints of harassment.

After the School climate survey is completed, the District will review the results to assess whether any additional student or other training is needed to further improve the school climate.

**Reporting Requirement:**

1. **At least 45 calendar days** before the scheduled climate survey administration date, the District will provide OCR with a copy of the proposed survey for OCR’s review and approval. The District will promptly and fully address OCR’s feedback, if any, until the District receives OCR’s final approval of the survey, and notice from OCR that no further reporting is required for this item.
2. **Within 30 calendar days** of OCR approval of the climate survey, the District will administer the climate survey. Within 30 calendar days after the climate survey is conducted, the District will provide OCR a copy of the final survey along with a report summarizing the results of the survey, and a description of further activities, if any, the District plans to implement in response to the survey results. The District will promptly and fully address OCR’s feedback, if any, until the District receives notice from OCR that no further reporting is required for this item.

The District understands that by signing this resolution agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirement 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 and obligations of this Agreement.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. Part 104, and Title II and its implementing regulation at 28 C.F.R. Part 35, which were at issue in this complaint.

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 sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the District's representative below.

By:   /s/\_\_\_\_\_        Date: September 19, 2023  
Name:  
Title: