

Resolution Agreement
XXXXX XXXX School District XXX
OCR Docket #05-14-1290

XXXXX XXXX School District XXX (District) submits the following agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), in resolution of OCR complaint 05-14-1290. The District submits this agreement to ensure its 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, 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

By entering into this Resolution Agreement, the District does not admit any violation of Section 504 of the Rehabilitation Act of 1973 or Title II of the American with Disabilities Act of 1990 with regard to the allegations in the complaint. Nothing contained in this Resolution Agreement shall be construed, or used as an admission of wrongdoing, liability, statutory or regulatory violation, or any other illegal or improper act, by the District.

The District agrees to complete the following as a means to amicably resolve the instant Complaint:

Policies and Procedures

1. Effective immediately, the District will take all steps necessary to ensure that students enrolled in the District are not subjected to a hostile environment on the basis of disability or any other protected class. By March 15, 2015, the District will review, and revise if necessary, its anti-harassment and bullying policies and complaint procedures to make certain such policies and procedures contain the necessary components to ensure that once the District is on notice of possible harassment of students, the District will take immediate and appropriate steps to investigate the harassment or otherwise determine what occurred, take prompt and effective steps reasonably calculated to end any harassment and prevent the harassment from occurring again, and take actions to eliminate a hostile environment if one has been created,. If the below provisions are not already included in the District's anti-harassment and bullying policies and procedures, such will be revised to include the following:
 - a. a prohibition of harassment with examples, including disability harassment;
 - b. a description of its grievance procedures and directions how to file a complaint, if appropriate;
 - c. a statement of the application of the policies and procedures to employees, students, or third parties and to incidents that occur on school grounds during and after school hours, at school sponsored events, or at events off school grounds that cause a hostile environment on school grounds;
 - d. a statement that the District will promptly and equitably investigate all incidents of harassment on the basis of disability using a preponderance of the evidence standard once on notice of such alleged harassment;

- e. a description of designated and prompt time frames for major stages of the investigation;
- f. a description of interim measures it may take for the person who is the target of the harassment;
- g. notice that it will provide both parties a written description of the outcome of the investigation;
- h. notice that it will take appropriate action against the individual(s) found to have engaged in harassing behavior, including discipline, counseling, or other actions as appropriate, and will provide an appropriate remedy to the person who is the target of the harassment including counseling and other resources; and
- i. notice of its prohibition against retaliation and intimidation.

REPORTING REQUIREMENT: By March 15, 2015, the District will submit any revised policies and procedures to OCR for review and approval.

2. By March 15, 2015, the District will review, and revise if necessary, its policies and procedures to make certain such policies and procedures contain the necessary components to ensure that, if the District has reason to believe a student may be a student with a disability, the District will, prior to taking any action that may constitute a significant change in placement (*i.e.*, an expulsion or a suspension from school for more than 10 consecutive school days), adhere to the identification, evaluation, placement and due process procedures in the regulation implementing Section 504 at 35 C.F.R §§ 104.35 and 104.36.

REPORTING REQUIREMENT: By March 15, 2015, the District will submit any revised policies and procedures to OCR for review and approval.

3. By March 15, 2015, the District will review, and revise if necessary, its Section 504 policies, anti-harassment and bullying policies, and its Uniform Grievance Procedure, to include the full contact information (name or title, address, telephone number and email address) of the individual(s) responsible for investigating complaints of discrimination, harassment and bullying.

REPORTING REQUIREMENT: By March 15, 2015, the District will submit any revised policies and procedures to OCR for review and approval.

4. Within 60 calendar days of written notification of OCR's approval of any revised policies and procedures developed in accordance with Items 1, 2, and 3, the District will adopt and implement the revised policies and procedures and will provide all administrators, teachers, and staff with written notice regarding the new policies and procedures. The revised policies and procedures will also be placed on the District's website and included in the Handbook for the 2015-2016 school year.

REPORTING REQUIREMENT: By July 1, 2015, the District will provide OCR with documentation that it has implemented Item 4, including copies of the written notices

issued to administrators, teachers, and staff and a link to the revised policies and procedures on its website.

Anti-Harassment Statement

5. At the start of the 2015-2016 school year, or on or before September 1, 2015, the Superintendent will issue a statement to all District students, parents and staff that will be published on the District's website, and posted in prominent locations in the District's school buildings, stating that the District does not tolerate acts of bullying and harassment on any prohibited basis, including acts of harassment based disability. The statement will encourage any person who believes he or she has been subjected to harassment or a hostile environment to report the harassment or hostile environment to the District and will note the District's commitment to conducting a prompt investigation. The statement will warn that persons found to have engaged in acts of harassment or other acts that create a hostile environment will be promptly disciplined in a manner consistent with the District's anti-harassment and bullying policies and the student code of conduct. The statement will include a link on the District's website to the District's revised anti-harassment and bullying policies and complaint procedures and will encourage students, parents, and District staff to work together to prevent acts of harassment of any kind.

REPORTING REQUIREMENT: By September 15, 2015, the District will provide OCR with documentation that it has implemented Item 5, including copies of the statement, locations of postings, and the link to statement placed on its website.

Staff Training

6. By June 1, 2015, the District will provide training to all administrators, teachers, and staff responsible for supervising students on the District's anti-harassment and bullying policies and procedures and the Uniform Grievance Procedure. The training will specifically address the responsibility of staff to report incidents of possible harassment or complaints of harassment of which they become aware and the procedures for doing so, and provide instruction on how to recognize, take steps reasonably designed to prevent and respond appropriately to harassment, including disability harassment.

REPORTING REQUIREMENT: By June 15, 2015, the District will provide OCR with documentation that it has provided all administrators, teachers, and staff responsible for supervising students with the training required in Item 6, including the dates of the training, the names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the staff who attended the training.

7. By June 1, 2015, the District will provide training to all staff directly involved in processing, investigating and/or resolving complaints of discrimination or reports of harassment and bullying. The training will specifically address the appropriate techniques for promptly responding to and investigating allegations of harassment including timelines, responsibilities, documentation, interviewing victims, the accused, and witnesses, analyzing the information obtained during investigations, making findings using the

preponderance of evidence standard, and responding to the complainant in writing with respect to its determination.

REPORTING REQUIREMENT: By June 15, 2015, the District will provide OCR with documentation that it has provided the training required in Item 7, including the dates of the training, the names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the staff who attended the training.

8. By June 1, 2015, the District will provide training to all administrators, teachers, and relevant staff responsible for the identification, evaluation, and placement of students with disabilities. The training will specifically address the District's policies and procedures regarding the evaluation of a student who the District has reason to believe may be a student with a disability under Section 504 prior to taking disciplinary action which amounts to a significant change in placement. The training will inform administrators, teachers and staff that, prior to taking any action that may constitute a significant change in placement, the District must adhere to the identification, evaluation, placement and due process procedures in the regulation implementing Section 504 at 35 C.F.R §§ 104.35 and 104.36.

REPORTING REQUIREMENT: By June 15, 2015, the District will provide OCR with documentation that it has provided the training required in Item 8, including the dates of the training, the names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the staff who attended the training.

Individual Remedies

9. By March 1, 2015, the District will offer to meet Student A and his parents to discuss their concerns about harassment and bullying, and will conduct an investigation of any specific instances, which also includes the names of the alleged perpetrators, reported to have occurred during the 2013-2014 school year in accordance with the District's anti-harassment and bullying policies and procedures developed pursuant to Item 1. If Student A and his parents elect not to meet with the District, the District will assure them that, XX XXXXXXXX X XXXX XXXX XX XXXXXXXXXXXX XX XXX XXXXXXXXXXXX, it will promptly respond to any future allegations of harassment or bullying in accordance with the District's anti-harassment and bullying policies and procedures.

REPORTING REQUIREMENT: By March 15, 2015, the District will provide OCR with a copy of the letter sent to Student A's parents regarding Item 9. If the District conducts an investigation of any specific incident of harassment in response to Item 9, the District will provide OCR with documentation of its investigations and findings, including the written notice provided to the parties, by June 15, 2015.

10. By March 1, 2015, the District will offer to conduct, with parental consent XXX XXXX XXXXXXXX XX XXXXXXXXXXXXXXXX XX XXX XXXXXXXXXXXX, an evaluation of Student

A to determine whether Student A was an individual with a disability under Section 504 at the time of the incident on XXXXXXXX XX, 2014 that gave rise to Student A's suspension and, if so, determine whether Student A's behavior was a manifestation of his disability, and the extent to which, if any, Student A is to be provided compensatory services for the period of time in which he was suspended beyond 10 school days. In its letter of offer, the District will assure Student A's parents that the team will consider all information provided by the parents that was available at the time of the incident on XXXXXXXX XX, 2014, including information from outside medical providers and counselors. If Student A's parents accept the offer, the evaluation will be conducted in accordance with District's Section 504 policies and procedures within 60 school days and compensatory services, if any, will in place by June 1, 2015. Student A's parent will be provided with procedural safeguards. If Student A's parents decline the offer of an evaluation and XXXXXXXXXXXX XX XXXX XXXX, the District will assure Student A and his parents that, XX XXXXXXXX X XXXX XXXX XX XXXXXXXXXXXX XX XXX XXXXXXXXXXXX, it would conduct, at Student A's parent's request, a reevaluation of Student A to determine whether student A is an individual with a disability under Section 504 in need of special education and related services, academic adjustments, or modifications.

REPORTING REQUIREMENT: By March 15, 2015, the District will provide OCR with a copy of the letter sent to Student A's parents regarding Item 10. If Student A's parents elect to pursue an evaluation XXX XXXXXXXXXXXXXXX, the District will provide OCR with documentation of the team's determination of whether Student A was an individual with a disability and, if applicable, whether Student A's behavior was a manifestation of his disability by June 15, 2015. If compensatory education services were determined to be needed for Student A, the District will provide OCR with documentation of the offer of services and, if applicable, the services provided, including the type, amount, and the name and title of the individual(s) who provided the services.

11. By March 1, 2015, the District will expunge all references to Student A's suspension beyond the 10-day suspension issued on XXXXXXXX XX, 2014 from all records in its possession.

REPORTING REQUIREMENT: By March 15, 2015, the District will provide OCR documentation that it has completed Item 11.

12. By March 1, 2015, the District will reimburse Student A's parents for the costs of two sessions with Student A's private counselor.

REPORTING REQUIREMENT: By March 15, 2015, the District will provide OCR documentation (e.g., copy of a cancelled check) that it reimbursed Student A's parents \$40 as required by Item 12.

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 employees 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 34 C.F.R. §§ 104.4, 104.35, 104.36, and 104.7, and Title II at 28 C.F.R §§ 35.104, 35.107, and 35.130, 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 District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4, 104.35, 104.36, and 104.7, and Title II at 28 C.F.R. §§ 35.104, 35.107, and 35.130, which were at issue in this case.

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.

Approved and agreed to on behalf of the XXXXX XXXX School District XXX:

Superintendent or Designee

Date