

**Resolution Agreement**  
**Standing Rock Community Grant School**  
**OCR Docket # 05-16-1301**

Standing Rock Community Grant School (School) voluntarily enters into this Resolution Agreement (Agreement) 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, with respect to the allegations of disability discrimination and retaliation raised in the above-referenced complaint. Specifically, the School has voluntarily agreed to resolve the allegations that it subjected Student A, an xxxxxxxx xxxxxxxxxxx xxxxxxxxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxxx xx to discrimination based on his disabilities (xxxxxxxx xxxxxx xxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxx) during the 2015-16 school year when (1) it denied Student A a free appropriate public education (FAPE) when it failed to implement provisions of his individualized education plan (IEP); (2) it altered Student A's placement when it repeatedly disciplined him for misconduct without regard for whether his behavior was a manifestation of his disabilities; (3) other students harassed Student A based on his disabilities and the School was aware of the harassment but failed to respond appropriately; and when (4) it retaliated against Student A when it repeatedly disciplined him because the Complainant advocated for the School to better serve students with disabilities, including Student A. By entering into this Agreement, the School does not admit any violation of Section 504 or that it discriminated or retaliated against Student A.

**Review of Policies, Practices, and Procedures**

1. *Policies and Procedures Related to the Identification and Evaluation of Students with Disabilities, Including Due Process Procedures and Procedural Safeguards (504 Policies).* The School will review and revise, as necessary, its 504 Policies to include the following:

- a) a statement setting forth the School's commitment to providing a free appropriate public education (FAPE) to all qualified individuals enrolled in the School consistent with the requirements of 34 C.F.R. § 104.33;
- b) an explanation of the procedures under which staff, parent(s), and guardian(s) may make an initial request for an evaluation, including a narrative description of all steps necessary to make the request, identification of the person(s) at the School to whom a request may be made, the information that must be provided in making a request, and a description of any assistance the School provides to parent(s) and guardian(s) in making such requests;
- c) an explanation of the procedures governing the School's response to staff, parent(s) and guardian(s) requests for evaluation, including a narrative description of the steps the School takes to record and process such requests, the timeframe in which the School will respond to the request, and the notice provided to parent(s) and guardian(s) about the School's response to a request for an evaluation; and

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- d) publication of the School's procedural safeguards, which shall provide an opportunity for the parents/guardians of students:
  - i) to examine relevant records;
  - ii) to obtain an impartial hearing with opportunity for participation by the parents/guardians or their counsel; and
  - iii) to seek a review procedure.

**REPORTING REQUIREMENT:** By December 15, 2016, the School will provide OCR with a proposed draft of its revised 504 policies, which OCR shall review and the School shall publish pursuant to item #5 of this Agreement.

*2. Adoption and Publication.* Within 30 days after OCR's approval of the proposed changes to the School's revised policies referenced in item #1, the School will publish and widely disseminate them.

**REPORTING REQUIREMENT:** Within 30 days after OCR's approval of the proposed changes to the School's policies, the School will provide OCR with documentation demonstrating implementation of item #5, including a copy of the policies, the URL for the policies' inclusion on the School website, a description of all places in which the policies are posted or printed, and description of how the policies were distributed to students, parents/guardians, and employees.

### Training

*3. Training:* Following OCR's approval of the School's revised policies referenced in item #1 of the Agreement, the School will retain an impartial third party subject to OCR approval, to provide training to all School teachers, administrators, and school aides, and any other School personnel charged with supervising School students, on the Section 504 regulation at 34 C.F.R. §§ 104.4(a), 104.33, 104.34, 104.35, and 104.61 which prohibit disability discrimination and retaliation, require the School to provide a FAPE, and govern the educational setting and the evaluation and placement procedures, in particular the aspect of the Section 504 regulation that requires a recipient to conduct a reevaluation before taking any action with respect to any subsequent, significant change in placement for a student with a disability who receives special education and/or related services. The training will also cover the School's revised policies referenced in items ##1. In addition, the School shall evaluate its staff's understanding of the training information and materials with a formal assessment.

**REPORTING REQUIREMENTS:** By December 15, 2016, the School will submit draft training materials developed for Agreement Term #3 (e.g., handouts, outlines, power point slides) to OCR for review and approval. The School will also identify the proposed trainer and describe the trainer's qualifications to deliver the required training. The School will respond to any feedback OCR provides regarding the training materials and the qualifications of the trainer until OCR approves them.

**REPORTING REQUIREMENTS:** Within 30 days, after OCR has approved the training materials and the trainer, the School will provide the training to School staff. Within ten calendar days of the provision of training to School staff, the School will provide OCR documentation of the completed training, including sign-in sheets with participants' names and positions, agendas, all materials distributed, a copy of the assessment instrument, and a narrative summary of the results of the evaluation.

#### **Individual Remedies**

4. *FAPE.* After providing proper written notice to Student A's legal guardian (at least ten business days before the proposed meeting), the School will convene a group of knowledgeable persons to determine whether Student A was denied a FAPE during the 2015-16 school year as the result of any failure to implement Student A's IEPs or BIPs or as the result of any discipline imposed on Student A that resulted in a change of his placement. In addition, the group shall consider whether Student A was denied a FAPE during the 2015-16 school years as the result of any harassment and/or bullying found to have occurred pursuant to the School's investigation in item #5 below. If the group determines that Student A was denied a FAPE during the 2015-16 school year, it shall determine whether Student A is in need of compensatory and/or remedial services as a result of the School's denial of FAPE, including any changes to or modification of Student A's grades, disciplinary, and/or attendance records. In addition, the School will provide Student A's legal guardian with notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

**REPORTING REQUIREMENT:** By December 15, 2016, the School will report the results of the group's determination regarding the provision of any compensatory and/or remedial services for Student A. The School shall provide OCR with a copy of the notice provided to Student A's legal guardian, documentation showing the participants in the meeting, a narrative statement providing an explanation for the group's decisions, a description of the information that the group considered, a description of and, if applicable, a schedule for providing any compensatory and/or remedial services to Student A, and documentation that the School provided the procedural safeguards to Student A's legal guardian. Prior to approving the proposed services, OCR will review the documentation to ensure that the group met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making its determination.

5. *Other Student Remedies.* By November 30, 2016, the School will invite Student A and the Complainant to a meeting with a designated School Administrator to discuss disability-based harassment and/or bullying experienced by Student A during the 2015-16 school year, including its impact on Student A, and the School's responses to the harassment and/or bullying. In its letter inviting Student A and the Complainant to the meeting, the School shall ask Student A and the Complainant to identify in writing specific incidents of disability-based harassment and/or bullying experienced by Student A during the 2015-16 school year for which an investigation is requested to look into the actions the School took in response to the harassment and bullying and to describe the

steps it will take in the future to prevent recurrence, including the disciplining of other students. The School will also remind Student A of his right to report and/or file a complaint of harassment and/or bullying at any time, and will advise Student A of the procedures he should follow if he wishes to do so. By December 15, 2016, the School will take all steps necessary to investigate and address the harassment and/or bullying identified by the Complainant in connection with item #5 of this Agreement, and remedy any harm caused to Student A, consistent with the Complainant's request. Possible steps may include the imposition of discipline on the students responsible for harassing and/or bullying Student A. The School will provide written notice to the Complainant and Student A of the results of its actions under this item of the Agreement. The School will also provide written notice to the School Board.

**REPORTING REQUIREMENT:** By December 15, 2016, the School shall provide documentation confirming that it sent the letters described in item #5 above to each parent/guardian. In addition, where applicable, the School will provide a narrative statement describing the meeting held pursuant to this item and the investigatory and disciplinary steps taken, if any, as a result of that meeting.

#### **Retaliation**

6. After the meeting described in item #4 of the Agreement, the School's 504 Coordinator shall investigate whether any denial of FAPE or discipline of Student A was in retaliation for the Complainant's advocacy of Student A's rights under Section 504. If the 504 Coordinator determines that any denial of FAPE or discipline of Student A was retaliatory then the 504 Coordinator shall determine what discipline is appropriate for any School staff found to have retaliated.

**REPORTING REQUIREMENT:** By January 15, 2017, the School shall provide documentation confirming that the School's 504 Coordinator conducted the investigation described in item #6 above. The School shall provide a narrative summary of the Section 504 Coordinator's investigation, finding, and, if applicable, any discipline imposed. In addition, the School shall provide documentation to support the 504 Coordinator's finding, including but not limited to any interview notes, memoranda, and documentation. Finally, if applicable, the School shall provide documentation confirming any discipline imposed upon staff the 504 Coordinator determined to have retaliated.

The School 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 School understands that during the monitoring of this agreement, if necessary, 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 regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a), 104.33, 104.34, 104.35, which were at issue in this case.

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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 regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a), 104.33, 104.34, 104.35, and 104.61, which were 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 sixty (60) calendar days to cure the alleged breach.

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For the School

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Date