

RESOLUTION AGREEMENT

Kerens Independent School District OCR Complaint No. 06141580

The Kerens Independent School District School District (KISD or District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. By this Agreement, the KISD commits to the following actions, consistent with the requirements of 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, Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation at 28 C.F.R. Part 35, and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §2000d, and its implementing regulation at 34 C.F.R. Part 100, with regard to the above-referenced complaint. This Agreement is not intended to constitute, nor shall it be construed to constitute, an admission by the KISD of any violation of Section 504, Title II, and Title VI.

DEFINITIONS

- Disability harassment 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 District's program. Harassing conduct may take many forms, including verbal acts and name-calling; as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating. Disability harassment may adversely affect an elementary or secondary school student's education and constitute a denial of a free appropriate public education (FAPE) under Section 504 and Title II.
- Racial harassment means conduct (e.g., physical, verbal, graphic, or written) that is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a recipient. Racial harassment includes harassment on the basis of actual or perceived shared ancestry or ethnic characteristics.

ACTION ITEM I: RESPONSES TO COMPLAINTS

The District agrees to take all reasonable steps to ensure that students enrolled in the District are not subject to harassment on the bases of race, color, national origin¹, or disability. To this end, the District will promptly respond to all complaints (both formal² and informal³) of harassment of students on the bases of race or disability, and all incidents which are known or reasonably should be known to the District. The District will take prompt and effective responsive action

¹ Hereinafter, references only to racial harassment include harassment based on color or national origin.

² Formal complaints are defined as those that are presented in written form.

³ Informal complaints include those that are reported verbally to a responsible employee; i.e., an employee who has the authority to take action to redress the harassment; who has been given the duty of reporting incidents of harassment or any other misconduct by students to an appropriate school designee; or whom a student could reasonably believe has this authority or duty.

reasonably designed to end the harassment; prevent its recurrence; and where appropriate, take steps to remedy the effects of the harassment on the student(s) and the larger school community.

REPORTING REQUIREMENT: By June 30, 2016 and 2017, the District will provide documentation to OCR of all informal and formal complaints of harassment on the bases of race or disability made during the preceding school year. This documentation will include copies of each complaint; a description of the complaint; the District's response; and the resolution, including the report of any investigation conducted and any disciplinary sanctions issued, remedial efforts offered or provided, and all interim and permanent action taken to prevent recurrence. If there have been no complaints, the District will certify in writing that no complaints on the bases of race or disability were made.

ACTION ITEM II: ANTI-HARASSMENT STATEMENT

By October 31, 2015, the Superintendent and School Board will issue a statement to all District students, parents and staff that will be printed in each school's and/or District's newsletter, and published on the District's website, stating that the District does not tolerate acts of harassment on the bases of race or disability. The statement will encourage any student who believes he or she has been subjected to harassment on the bases of race or disability to report the harassment to the District and note the District's commitment to conducting a prompt investigation. The statement will include the appropriate contact information for the designated staff member to whom students and parents may report allegations of harassment. The statement will indicate that support, including counseling and educational resources will be available to students who are harassed as well as to students found to have engaged in acts of harassment on the bases of race or disability. The District will also warn that harassers may be disciplined; including if circumstances warrant, with suspension or expulsion. The statement will encourage students, parents and District staff to work together to prevent harassment on the bases of race and disability; and reinforce that the District will not tolerate retaliation for reporting harassment and will take steps to protect those who wish to report harassment anonymously or confidentially.

REPORTING REQUIREMENT: By October 31, 2015, the District will submit a copy of the District's statement for OCR's review and approval. OCR will respond within 15 calendar days. Within 30 calendar days of receiving OCR's approval, the District will issue the statement and provide OCR with copies of all newsletters and webpages where the statement was published.

ACTION ITEM III: HARASSMENT POLICIES AND GRIEVANCE PROCEDURES

By November 30, 2015, the District will review and revise, as necessary, its harassment policies, bullying policies, and related grievance procedures to ensure that these adequately address and provide for the prompt and equitable resolution of complaints of harassment on the bases of race and disability. These procedures will include, at a minimum, the following:

- A statement setting forth the District's commitment to having a school environment free from all harassment on the bases of race and disability. The statement will explain that the

District prohibits harassment in the school environment, including all academic, extra-curricular and school sponsored activities. The statement will emphasize that staff (including teachers) must promptly report all incidents of harassment of which they become aware. Additionally, the statement will encourage students to immediately report incidents of harassment; and reinforce that the District will not tolerate retaliation for reporting harassment, and will take steps to protect those who wish to report harassment anonymously or confidentially. The statement will specify that the District will investigate formal and informal complaints of harassment.

- Definitions of what constitutes harassment on the bases of race and disability, including specific examples of prohibited conduct.
- Disciplinary sanctions that may be imposed upon the harasser.
- A statement that the prohibition regarding harassment on the bases of race and disability applies to conduct by employees, students, and third parties.
- A statement that because students often experience the continuing effects of off-campus harassment in the educational setting, the District will consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus.
- A requirement that staff (including teachers) who become aware of possible harassment based on race or disability must report the incident to the principal or assistant principal at the relevant school site, or the designated coordinators responsible for the categories of prohibited discrimination described in this Agreement, who will document the report consistent with the procedure for memorializing informal complaints developed pursuant to this Agreement; and an explanation that such reports shall be treated as complaints under the District's procedures.
- Instructions on how to initiate a complaint under the District's procedures (formally or informally).
- The name/title, office address, telephone number and email address of the individual(s) with whom to file a complaint.
- The various steps the District will take to conduct an adequate, reliable, and impartial investigation of all complaints; and the interim measures that the District may take to ensure the safety of the complainant and the larger school community during the investigation.
- Designated and reasonably prompt timeframes for major stages of the grievance process.
- An opportunity for parties to present witnesses and other evidence.
- Clarification that confidentiality only may be maintained to the extent it does not compromise the integrity of the equitable and impartial investigation.

- Clarification of when complaints will be handled at the school site level and when these will be handled at the District level; and clarification of the roles of school staff, including School Resource Officers, District staff, and law enforcement in the investigation.
- A statement that the District will ensure that complainants are aware of their rights and available resources.
- An assurance that the District will offer counseling and academic support services to any person found to have been subjected to harassment; and, where appropriate, to person(s) who committed the harassment.
- Written notice to the parties of the outcome.
- Notice of the opportunity for parties to appeal the findings; and, an assurance that the appeal will be conducted in an impartial manner by an impartial decision-maker.
- An assurance and the action steps the District will take to prevent recurrence of harassment and to correct its discriminatory effects, if appropriate.
- A statement that Title VI, Section 504, and Title II prohibit retaliation against any individual who files a complaint under those laws or participates in a complaint investigation; and, that the District will investigate all allegations of retaliation and take action against those found to have retaliated.

REPORTING REQUIREMENT: By November 30, 2015, the District will provide a draft of the harassment policy and grievance procedures to OCR for review and approval. OCR will respond within 30 calendar days. Within 30 calendar days of OCR's approval, the District provide documentation to OCR demonstrating that it has formally adopted the revised harassment policy and grievance procedures; updated its printed publications and on-line publications with the revised policy and procedures (inserts may be used pending reprinting of these publications); and electronically disseminated the revised policy and procedures to students, parents and District staff. This documentation will include at a minimum; (i) printouts or a link to all on-line publications containing the revised policy and procedures; (ii) evidence of the electronic dissemination of the revised policy and procedures to students, parents and staff; and, (iii) if not yet finalized, copies of inserts for printed publications.

ACTION ITEM IV: CLIMATE SURVEYS

By January 31, 2016, the District will develop a climate check survey process to be conducted annually to assess students' attitudes and knowledge regarding various types of harassment, including harassment on the bases of race and disability; gather information concerning students' experiences with harassment on the bases of race and disability; determine whether students know when and how to report complaints of harassment on the bases of race and disability; and the effectiveness of steps taken pursuant to this Agreement or otherwise by the District to ensure

that its schools are free of harassment on the bases of race and disability. The climate check survey process will be conducted through:

- Administration of a climate survey to its fourth grade through twelfth grade students, which may be accomplished through a written or electronic survey, provided that students receiving the survey also are notified of a contact person, such as a counselor, should they wish to discuss this issue in person. The District may utilize an existing climate survey for this purpose, provided it is customized to measure the specific information required by this item. The survey must be provided to OCR for review and approval prior to its use.

The District will analyze the results of the climate check survey process within sixty (60) calendar days of the date it is conducted each year. The analysis will include recommendations to address concerns or issues identified through the check.

REPORTING REQUIREMENTS:

1. By January 31, 2016, the District will provide the survey to OCR for review and approval. OCR will respond within 30 calendar days.
2. By May 31, 2016, and annually thereafter, the District will conduct a climate check survey. Within 60 days of completing its analysis of the climate check survey in May of 2016 and 2017, the District will provide for OCR's review and approval the results, any recommendations, and any responsive actions that it plans to take. Upon OCR's request, the District will provide OCR with the raw results of the survey and any related documentation. OCR will respond within 30 calendar days.

ACTION ITEM V: TASK FORCE

By December 31, 2015, the District will develop a task force that will include parents, community members, students, and District staff to make recommendations for improving school climate, implementing intervention and prevention strategies for preventing harassment, and ensuring that students and parents understand the right to be protected from harassment and retaliation and how to report incidents of harassment and retaliation. The task force may work in conjunction with safe schools initiatives or other anti-bullying and harassment programs currently in place or being implemented by the District, if appropriate. The task force will meet at least twice per school year and maintain documentation of the date and duration of each meeting, the topics addressed, as well as meeting minutes. At least once per school year, and more often if the task force recommends it, the superintendent or his/her designee will prepare a written report summarizing the task force's recommendations and suggestions.

REPORTING REQUIREMENTS:

- a) By December 31, 2015, the District will provide to OCR written confirmation that the task force has been created; with names of task force members and the date of the first meeting.

- b) By June 30, 2016 and 2017, the District will provide a report to OCR, for review and approval, summarizing the task force's recommendations and the District's responses to the recommendations; including whether and how these were implemented. OCR will respond within 30 calendar days.

ACTION ITEM VI: TRAINING FOR THE STAFF

By February 28, 2016 and September 30, 2016, the District will provide training to its staff designated to investigate allegations of discrimination and harassment (e.g., coordinators) that covers recognizing and appropriately responding to complaints and incidents of discrimination and harassment. The training will address how to conduct and document adequate, prompt, reliable, and impartial investigations; including conducting interviews of victims of harassment in a fair, non-biased, and objective manner. The training will also focus on the responsibility of such staff to regularly develop and participate in activities designed to raise awareness within the District regarding harassment and the District's harassment policy and grievance procedures.

By February 28, 2016 and September 30, 2016, the District will provide training to all District staff and School Resource/Police Officers, if applicable, regarding intervention and prevention strategies and responses to possible incidents of harassment on the bases of race and disability. The training will include, at a minimum:

- in-depth instruction on what types of conduct constitute harassment on the bases of race and disability, the root causes of such harassment, and the negative impact that such harassment has on the educational environment;
- available support services for students being harassed;
- the availability of anti-bullying programs;
- a focused review of the District's harassment policy and related grievance procedures; including the District's responsibility for responding to such harassment and how to respond to such harassment; and
- notice that failure to respond appropriately to notices of harassment on the bases of race or disability violates District policy and may result in the imposition of disciplinary sanctions.

REPORTING REQUIREMENT: By March 31, 2016 and October 31, 2016, the District will provide documentation demonstrating that the training referenced above was provided. This documentation will include, at a minimum, the date(s) of the training; the name and credentials of the trainer; copies of any training materials used, including handouts, guides or other materials; and proof of attendance by relevant staff.

ACTION ITEM VII: TRAINING FOR STUDENTS

By February 28, 2016 and September 30, 2016, the District will develop and provide annual age-appropriate student training districtwide regarding bullying and harassment, including cyberbullying. The training will be designed to increase awareness of what constitutes harassment based on race and disability; the District's prohibition against such harassment; how to recognize it; the importance of reporting it; how to report it; including methods for reporting incidents anonymously; the prohibition against retaliation for reporting incidents; how to report incidents of retaliation; and the consequences for subjecting individuals to harassment or retaliation. In creating the training, the District will take into consideration the recommendations of the task force referenced above. The training will also cover the District's harassment policy and related grievance procedures; provide the name of the person(s) students may contact, and remind students of the availability of counseling services.

REPORTING REQUIREMENT: By March 31, 2016 and October 31, 2016, the District will provide documentation to OCR demonstrating that the training referenced above was provided to all students. The documentation will include at a minimum: the date(s) of the training; the names and credentials of the presenters; copies of any materials used, including any handouts, guides or other materials; and a statement verifying attendance by students.

ACTION ITEM VIII: DOCUMENTING COMPLAINTS AND INCIDENTS, CONDUCTING INVESTIGATIONS, RECORD-KEEPING AND TRACKING

By November 30, 2015, the District will develop and implement a system for documenting, investigating, record-keeping and tracking complaints and incidents of harassment on the bases of race and disability (including reporting of incidents that do not result in the filing of a complaint). At a minimum, this system will include the following:

- A method for documenting all complaints of harassment.
- A method for documenting incidents of harassment of which responsible employees become aware but did not result in a complaint.
- A confidential procedure for instances in which the complaining party does not wish to identify her or himself to the alleged harasser.
- Assignment of school site administrators or staff with appropriate knowledge and experience of the procedures for conducting investigations.
- A requirement that the person designated to conduct the investigation will interview all relevant witnesses; including the alleged harasser, the student allegedly harassed, and others with knowledge of the incident.
- A method for documenting interviews and other information from all sources (including the parties involved; witnesses, teachers, counselors, and administrators) in one record-keeping system.

- A requirement that the person designated to conduct the investigation will determine, based on a preponderance of the evidence, whether the alleged harassment did or did not occur; the identity of the student who engaged in the conduct; and the harm to the student subjected to the harassment, if any.
- A method for the person designated to conduct the investigation to document the investigative findings, and the specific steps he or she took in conducting the investigation and reaching conclusions.
- A requirement that the person designated to conduct the investigation will maintain on-going contact with the individual allegedly harassed throughout the investigation and within a reasonable period of time following conclusion of the investigation, to assess whether there has been ongoing harassment or retaliation, and to determine whether additional supportive measures are needed.
- A process for the person designated to conduct the investigation to refer the matter to law enforcement authorities, where appropriate.
- A requirement that the person designated to conduct the investigation will follow the District's investigative procedures regardless of whether the alleged harassment is also being investigated by another agency, unless the fact finding process would impede a law enforcement investigation. In such cases, the District will implement appropriate interim steps to provide for the safety of the victim and the school community and the avoidance of retaliation; and, the District will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering portion of its proceeding.
- A requirement that the person designated to conduct the investigation will inform relevant members of the school community if the circumstances of an incident of harassment on the bases of race or disability suggests a threat to others. This may include, for example, notifying parents and employees if a student is assaulted on the way home from school, or notifying employees of areas where harassment occurs.
- A requirement that the person designated to conduct the investigation will maintain records of all complaints, investigations, interim measures, interview notes, findings (including records of any corrective action taken, including disciplinary action) and the basis for those findings.
- A requirement that should the person designated to document, investigate, keep records and track complaints and incidents of harassment delegate other person to engage or assist in these activities, the person to whom the activities are delegated will have the necessary skills, abilities, and training to conduct those activities and will regularly report on those activities to the person with the primary responsibility for these activities.

REPORTING REQUIREMENT: By November 30, 2015, the District will provide to OCR for review and approval a description of the system for documenting, investigating,

record-keeping, and tracking complaints and incidents of harassment on the bases of race and disability developed in accordance with this action item. OCR will respond within 30 calendar days. Within 30 calendar days of receiving OCR's approval, the District will provide confirmation that the system is operative.

ACTION ITEM IX: MONITORING AND SELF-ASSESSMENT OF PROGRAM EFFECTIVENESS

By January 31, 2016, the District will develop and implement a monitoring system to assess the effectiveness of its efforts to prevent and address harassment based on race and disability and to promote a non-discriminatory school climate. The assessment will include, at a minimum:

- A review of student climate surveys to determine where and when harassment on the bases of race and disability occurs; deficits in students' knowledge of what constitutes harassment on the bases of race and disability and where to report it; and recommendations for how the District can better encourage reporting of and improve its response to complaints;
- A review of all reports of harassment based on race and disability and the District's responses to such reports;
- A review of the Task Force Report(s);
- Evaluation and analysis of the data collected concerning reported incidents of harassment on the bases of race and disability; and,
- Evaluation of all measures designed to prevent or address harassment on the bases of race and disability.

REPORTING REQUIREMENTS:

- a) By January 31, 2016, the District will provide to OCR a description of the monitoring system for OCR's review and approval. OCR will respond within 30 calendar days.
- b) By June 30, 2016 and 2017, the District will provide a copy of its assessment to OCR.

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 Title VI, at 34 C.F.R. § 100.3; Section 504, at 34 C.F.R. § 104.4; and Title II, at 28 C.F.R. § 35.130, which were at issue in this complaint. The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this agreement, 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 complied with the terms of this Agreement and is in compliance with the regulations implementing Title VI, at 34 C.F.R. §

100.3; Section 504, at 34 C.F.R. § 104.4; and Title II, at 28 C.F.R. § 35.130, 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.

Signed:

Superintendent

Date