

RESOLUTION AGREEMENT

St. Louis City School District
OCR Docket Number 07131196

The St. Louis City School District (District), St. Louis, Missouri, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), in order to resolve the allegations against the District in OCR Docket No. 07131196, and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 104, and 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. Prior to the completion of OCR's investigation, the District agreed to resolve the allegations in this complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to ensure compliance with Section 504/Title II and/or its implementing regulations and to resolve the allegations of this complaint and any other issues identified by OCR during the course of its investigation of this complaint, the District voluntarily agrees to take the following actions:

I. GENERAL PROVISIONS

This Agreement resolves the allegations in OCR Docket No. 07131196 and does not constitute an admission by the District of any violation of Section 504, Title II, or any other law.

This Agreement shall become effective upon the District's receipt of a letter from OCR advising the District that this Agreement resolves the allegations made in OCR Docket No. 07131196.

OCR agrees to discontinue its investigation of OCR Docket No. 07131196 based upon the District's commitment to take the actions specified in this Agreement which, when fully implemented, will resolve the allegations in this case and any other issues identified by OCR during the course of its investigation.

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 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 and Title II; provided that any contact with or request of the District by OCR be communicated through the District's attorneys assigned to 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 and Title II, which were at issue in these cases. OCR will consider the District to have fulfilled the terms of this Agreement and to be in compliance with the regulations implementing Section 504 and Title II upon OCR's determination that the District has completed the three Reporting Requirements listed below in Section II.

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.

II. RESOLUTION PROVISIONS

A. Individual Remedy

1. Within sixty (60) calendar days from the date this agreement is executed, the District will initiate an evaluation and convene a multidisciplinary team (including the complainant) to determine whether the complainant's daughter (hereinafter, "the Student") is a qualified individual with a disability as defined by the regulation implementing Section 504 at 34 C.F.R. § 104.3(j) and (l). If the District determines the Student is a qualified individual with a disability under Section 504, the District will make an evaluative determination as to what regular or special education and related aids and services, if any, the Student requires to receive a free appropriate public education, as defined by 34 C.F.R. § 104.33. The multidisciplinary team will also consider whether it is appropriate under Section 504 for the student to receive compensatory services and, if so, which type of services should be provided. The District's determinations will be made in accordance with the procedural requirements of the regulation implementing Section 504 at 34 C.F.R. § 104.35; specifically, in interpreting evaluation data and making placement decisions, the District shall: a) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; b) ensure that the information obtained from all such sources is documented and carefully considered; and c) ensure that the placement decisions are made by a group of persons, including persons knowledgeable about the Student, the meaning of the evaluation data, and the placement options. In addition, the District will provide notice of its decisions and notice of Section 504 procedural safeguards/due process rights pursuant to 34 C.F.R. § 104.36 (notice, an opportunity to examine relevant records, an impartial hearing with opportunity for participation by the parents/guardians and representation by counsel, and a review procedure) to the Student's parents.

REPORTING REQUIREMENT: Within ninety (90) calendar days from the date this Agreement is executed, the District will provide OCR documentation indicating completion of the requirements in Paragraph 1 above. Documentation acceptable to OCR includes: a) the date, time, and place of the meeting; b) the names and titles of the individuals involved in the decision(s); c) a listing or description of all determinations/ decisions made as a result of the evaluative process; d) the information on which the determinations/decisions were based (please provide OCR copies of all documents that were part of this information); e) copies of any notes maintained by the Student's multidisciplinary team; f) a copy of the Section 504 Plan developed for the Student reflecting the regular or special education and related aids and services to be provided (if applicable); g) the results of the consideration of compensatory services under Section 504 for the Student; and h) documentation indicating the District provided the Student's parents notice of its evaluation decision(s) and notice of procedural safeguards/due process rights.

2. Within fifteen (15) calendar days from the date this Agreement is executed, the District, in consultation with the complainant, will identify a contact person at the Student's school, such as a counselor, who can receive reports of incidents of harassment, answer questions regarding parental communication and assist the complainant and her daughter with any other concerns regarding her daughter at the Student's school. The District will ensure that the individual identified to be the contact person pursuant to this paragraph is knowledgeable on the District's obligation to appropriately address harassment. By letter or email, the District will notify the complainant of the contact person's name, telephone number and email address.

REPORTING REQUIREMENT: Within fifteen (15) calendar days from the date this Agreement is executed the District will provide OCR documentation showing it has provided the complainant a contact person and provided the contact information described above.

B. Training

3. Within ninety (90) calendar days from the date this agreement is executed, the District will provide training on the subject of Section 504 and Title II compliance to District officials and staff, including but not limited to, administrators or officials, teachers, paraprofessionals, counselors, process coordinators, nurses and any other individuals who may be involved in the identification, evaluation, and placement of students suspected of having disabilities at Gateway Middle School and the Student's current school. The training will be conducted by an individual(s) knowledgeable about the laws and issues pertaining to Section 504 and Title II. The District's training will include the following topics and activities:

- a) Information regarding the District's Section 504 and Title II policies, procedures, manuals, and forms.
- b) The District's requirement, pursuant to the Section 504 regulation at 34 C.F.R. § 104.33(a) to provide a FAPE to all qualified students with a disability in its jurisdiction and that the provision of a FAPE is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of disabled students as adequately as the needs of non-disabled students are met; and (ii) are based upon adherence to procedures that satisfy the requirements of 34 C.F.R. §§ 104.34, 104.35, and 104.36.
- c) The District's requirement pursuant to Section 504 at 34 C.F.R. § 104.37 to provide non-academic and extracurricular services, including athletics, transportation, recreational activities and non-curriculum field trips in such a manner as is necessary to afford all students with disabilities an equal opportunity for participation.
- d) The Section 504 regulation at 34 C.F.R. § 104.3(j)(1)(i) definition of a qualified individual with a disability as any person who has a physical or mental impairment which substantially limits one or more major life activities or has a record of or is regarded as having such an impairment. Examples of physical and mental impairments shall be discussed.
- e) The eligibility criteria under Section 504 and Title II (including information on the ADA Amendments Act that requires a determination of whether an impairment substantially limits a major life activity to be made without regard to the ameliorative effects of mitigating measures), including examples of the circumstances and situations that obligate the District to conduct an evaluation under Section 504. The examples should include scenarios that demonstrate the coordination sometimes required between District/school departments to implement services.
- f) The District's obligation pursuant to 34 C.F.R. § 104.3 (and under 28 C.F.R. § 35.104), to consider the full range of major life activities (including, but which are not limited to, academic performance and/or educational impact) of a qualified individual with a disability, when identifying and evaluating a student who needs or is believed to need regular or special education and related aids and services due to a disability under Section 504.
- g) The District's Section 504 referral and evaluation process and how it interfaces with student referrals and evaluations conducted pursuant to the Individuals with Disabilities in Education Act. The training will also include an explanation of the legal rights and responsibilities afforded students under

Section 504 versus any school obligations that may exist to students receiving services under an individualized education plan.

- h) The District's system of procedural safeguards under Section 504, including what it includes, and when and how the system of procedural safeguards is implemented, including when the District's procedural safeguards document should be provided to parents/guardians.
- i) Information regarding disability discrimination and disability harassment, including a description of the District's nondiscrimination policies and procedures, the identification of the District's Section 504/Title II compliance Coordinator, and how and to whom to report incidents of disability discrimination or harassment.

REPORTING REQUIREMENT: By June 1, 2014, the District will provide OCR documentation showing it has completed the training described above for the 2013-14 school year. The documentation must identify: a) the date(s) and time(s) of the training; b) the topics addressed at the training(s) (the District may provide OCR an outline of the training and a copy of the materials disseminated at the training); c) the name(s), title(s), and credentials of the individual(s) who conducted the training; and d) the name and title of each District administrator or employee who attended the training (a sign-in sheet with the attendees' names and titles is sufficient). OCR may be available to provide technical assistance and training to the District upon request.

The District commits to provide training to employees regarding Section 504 and Title II on an annual basis; provided that any such annual training shall not be considered a part of this Agreement, shall not be subject to continued monitoring by OCR, and shall not be interpreted as an obligation or term of this Agreement to be fulfilled by the District prior to OCR's closing of OCR Docket No. 07131196.

/s/ Kelvin Adams
Dr. Kelvin R. Adams, Superintendent
St. Louis City School District
St. Louis, Missouri

1/24/2014
Date