

## **RESOLUTION AGREEMENT**

Southeast USD #247

OCR Docket Numbers 07141046 and 07141047

The Southeast U.S.D. # 247 (District), Cherokee, Kansas, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and the implementing regulations of these federal laws. Section 504 and Title II prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

The District agrees to take the following actions:

### **PROGRAM AND FACILITY ACCESSIBILITY**

- 1) Pursuant to the Title II regulation, which was amended on September 10, 2010, and became effective March 15, 2011, physical construction or alterations commenced after July 26, 1992, but prior to September 15, 2010, must comply with either the Uniform Federal Accessibility Standards (UFAS) or the 1991 Americans with Disabilities Act Accessibility Guidelines Standards (1991 Standards), except for the elevator exemption contained in the 1991 Standards. This Title II regulation allows for departures from particular requirements of either standard by the use of other methods when it is clearly evident that equivalent access to the facility or part of the facility is provided.
- 2) Construction of the Administration Office and alterations to the Cherokee and Weir Elementary Schools commenced prior to March 15, 2012. The District indicated that it utilized the 1991 Standards for new construction and alterations to the three buildings and OCR utilized the 1991 Standards for its accessibility survey of the District on May 14, 2014, and OCR cites these standards in the attached Compliance Concerns Chart, which is incorporated by reference into this Agreement.
- 3) The District will prepare a remedial plan which includes, at a minimum, the following information:
  - a) A description of the specific architectural changes or actions (action step) to be performed by the District to achieve compliance with the facility, area, space, or

element identified in the Compliance Concerns Chart. Unless specifically cited in the remedial plan, all action steps shall satisfy or exceed the requirements set out in the 2010 Standards for Accessible Design (2010 Standards);<sup>1</sup>

- b) Identification of the District employee or official responsible for implementation of each action step; and,
- c) The expected start and completion date for each action step required by the Compliance Concerns Chart. The District agrees to complete each action step within the timeframe required by each item's remediation code.

REPORTING REQUIREMENT: By 7-31-14 the District will submit the remedial plan to OCR for review. The District will not implement the remedial plan prior to receiving written notification of OCR's approval of the remedial plan.

- 4) The District will complete the action steps as set out in the remedial plan according to the Compliance Concerns Chart and requirements of the 2010 Standards. The District will provide OCR with four (4) status updates on progress implementing the remedial plan. Each status update will identify the action steps which have been completed since the date of the Agreement (first status update) or since the date of the previous status update (second, third and fourth status updates). These status updates will be submitted to OCR according to the following schedule:
  - a) First status update: 90 days from the date of the Agreement;
  - b) Second status update: 180 days from the date of the Agreement;
  - c) Third status update: 270 days from the date of the Agreement; and,
  - d) Fourth status update: one year from the date of the Agreement.

REPORTING REQUIREMENT: The District shall submit status updates as set out in item 4 above.

- 5) By 7-31-14, the District will propose to OCR for review and approval, a detailed plan describing how it will make the play areas at the Weir and Cherokee buildings (playground plan) accessible in conformance with the 2010 Standards. The playground plan will include a detailed description of the alterations, renovations, and/or new construction work to be performed, the expected start and projected completion dates, and an explanation as to how the playground plan will meet the compliance areas described in this paragraph. The District will provide an accessible route leading to and through the play area which is firm, stable, and slip resistant and shall provide a sufficient range of play structure activities within the play area that is accessible to and usable by

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<sup>1</sup> See, 28 C.F.R. § 35.151(b). The 2010 Standards are comprised of the 2004 ADAAG standards (appendices B & D to 36 C.F.R. § 1191) and the amended Title II regulation at 28 C.F.R. § 35.151. The 2010 Standards may be accessed at [http://www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm).

students with disabilities. The play area shall provide for an accessible surface beneath accessible play equipment or features that is firm, stable, slip resistant, and resilient. Additionally, the play areas shall provide a range of activities in the play area/facility for students with disabilities equivalent to the range offered to students without disabilities. Not every component or element of a playground structure need be accessible. However, where components provide different types of play experiences, such as rocking, swinging, climbing, spinning, or sliding, at least one of each type of activity must be accessible to students with disabilities.

The District's playground plan may include stages for completion of the various modifications and alterations needed in order to ensure the play areas comport with the 2010 Standards. OCR is available to provide technical assistance upon request.<sup>2</sup>

## **ACCESSIBILITY NOTICE**

- 6) The District will adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities, in accordance with 34 C.F.R. § 104.22(f) and 28 C.F.R. § 35.163. These procedures will include protocols for relocating programs, or activities to accessible locations to provide program access. In addition, these procedures will be published online and in student, parent and staff handbooks. The District will provide OCR with a copy of the draft, revised accessibility notice prior to adoption or dissemination.

**REPORTING REQUIREMENT:** By 7-31-14, the District will provide OCR with a draft version of the procedures required by item 6 for review and approval.

- 7) Upon receiving approval from OCR of the procedures required by item 6, the District will publish and prominently display the procedures in an easily visible location, in student and employee hard-copy and online publications, including, but not limited to, the following publications: a) announcements; b) catalogs; c) student and employee application forms; d) policies and grievance procedures for discrimination complaints; e) student and staff handbooks; f) employee handbooks or materials; and g) any other major general publications.

**REPORTING REQUIREMENT:** By 9-30-14, the District will provide OCR with copies and links to the information (if it is available on the District's website) of the major publications identified above evidencing its dissemination of the procedures required by item 6.

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<sup>2</sup> A *Summary of Accessibility Guidelines for Play Areas* may be accessed on the United States Access Board website at <http://www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/play-areas>.

**OTHER PROVISIONS**

The District understands that OCR will not close the monitoring of this Agreement until OCR determines 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 this case.

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 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 and Title II, 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.

/s/ Dr. Glenn Fortmayer

6-5-14

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Dr. Glenn Fortmayer, Superintendent

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Date