

RESOLUTION AGREEMENT

Oklahoma City Public Schools
OCR Docket Number 07141086

The Oklahoma City Public Schools (District), Oklahoma City, Oklahoma, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the allegations of discrimination based on disability and race against the District in this complaint, and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504) at 29 U.S.C. § 794, Title II of the Americans with Disabilities Act of 1990 (Title II) at 42 U.S.C. § 12131, and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000(d), and the implementing regulations of these federal laws.

The District is resolving this complaint during OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*.¹ Therefore, OCR has not made any findings of fact or law, or issued a final determination with respect to this complaint. The District agrees to take the following actions, but nothing contained in this Agreement shall be construed to constitute an admission on the part of the District to any of the allegations in this complaint:

NOTICE OF NONDISCRIMINATION

- 1) By **August 22, 2014**, the District will revise the District's combined notice of nondiscrimination as follows:
 - a) include the email address in the contact information for each designated compliance coordinator; and
 - b) ensure the notice reflects that a complainant can file a complaint directly with the designated compliance coordinator, rather than requiring a complaint to be filed with the school first, and then appeal to the compliance coordinator.

The District shall provide OCR with a copy of the draft, revised notice for review and approval **prior** to dissemination.

- 2) Within three (3) weeks of receiving OCR's approval, the District will publish and prominently display its revised combined notice of nondiscrimination 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) bulletins; c) catalogs; d) student and employee application forms; e) board policies and grievance procedures for discrimination complaints; f) student, parent and staff handbooks and student codes of conduct; g) recruitment materials; h) employee handbooks or materials; and i) general publications. For publications such as student, parent, and staff handbooks, the notice

¹ OCR's *Case Processing Manual* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrepm.html>.

should be placed at the beginning of each handbook in a section entitled *Notice of Nondiscrimination* or a similar title.²

- 3) Within three (3) weeks of receiving OCR's approval, the District will post the revised notice of nondiscrimination in at least two prominent locations at each District school and the District's administrative office, and prominently display the notice on the home webpage and in each section of the District's website, and on the home webpage of each District school website. The online notice of nondiscrimination shall be entitled *Notice of Nondiscrimination* or a similar title and contain a link to the District's revised anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures, including policies and grievance procedures to address discrimination based on disability and race.

REPORTING REQUIREMENT: By **September 5, 2014**, the District will provide to OCR a copy of its revised notice of nondiscrimination as well as a list of online (including links) and hard-copy publications which contain the revised notice of nondiscrimination. If a hard-copy publication is not published on the District's website, please include the hard-copy publication with the list.

POLICIES AND PROCEDURES

- 4) By **September 30, 2014**, the District will revise and submit to OCR for its review and approval the District's Section 504 and Title II procedures to comply with Section 504 and Title II, including the Americans with Disabilities Act Amendments Act of 2008 (ADA Amendments Act),³ and the applicable federal regulations, including Section 504 regulations at 34 C.F.R. §§ 104.4 (anti-discrimination prohibitions), and 34 C.F.R. §§ 104.31 through 104.35 (identification, evaluation, and educational placement of students who, because of a disability, need or are believed to need special education or related services).
- 5) By **September 30, 2014**, the District will revise and submit to OCR for its review and approval the District's anti-discrimination policies, including anti-harassment and anti-retaliation policies, and grievance (or complaint) procedures to provide for the prompt and equitable investigation and resolution of discrimination complaints based on disability and race,⁴ including the addition or revision of language to:

² The District will immediately revise the online publications and will revise the hard-copy publications prior to the 2015-16 academic year.

³ The definition of a qualified individual with a disability was amended by the ADA Amendments Act, which became effective on January 1, 2009. This Act also amended Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. § 705).

⁴ OCR recommends a combined policy and grievance procedure for complaints of discrimination based on race, color, national origin, sex, disability, and age, although Title VI does not require a grievance procedure.

- a) include all the protected bases; race, color, national origin, sex, disability, and age (for example, the District’s G-02-R1 regulation only addresses disability and sex and the student grievant definition omits age, and the District’s G-04 policy omits color and age);
- b) include a designated compliance coordinator for the Age Act and Title VI in the coordinator definition section of the District’s G-02-R1 regulation;⁵
- c) include each designated compliance coordinator’s name or title, address, email address, and telephone number (including any TTY or TDD number) in the applicable policies, procedures, and discrimination complaint form;
- d) include language indicating District employees, supervisors, or administrators must immediately report any complaints, reports, observations, or other information of alleged discrimination, including harassment and retaliation, to the designated coordinator, even if that District employee is investigating the alleged discrimination as part of the District’s student or employee disciplinary process, and provide the complainant with information for filing a complaint of discrimination, including a complaint form if requested, and contact information for the District’s designated coordinator. If the District uses its disciplinary procedures to investigate and resolve an alleged discrimination complaint, those disciplinary procedures will comply with the District’s standards for a prompt and equitable grievance procedure;
- e) include the opportunity for both parties to present witnesses and provide evidence as part of the District’s investigative process;
- f) include language requiring a review of the evidence using a preponderance of the evidence standard (for instance, based on the evidence, is it more likely than not that discrimination, harassment, or retaliation occurred);
- g) include a summary of the facts and an analysis of the appropriate legal standards applied to the specific facts in the investigative report;
- h) change 180 days to “30 days, unless extenuating circumstances exist. Extenuating circumstances may include the unavailability of witnesses due to illness or incapacitation, or additional time needed because of the complexity of the investigation, the need for outside experts to evaluate the evidence (such as forensic evidence), or multiple complainants or victims. Extenuating circumstances do not include summer vacation, and if a designated compliance coordinator or

⁵ OCR recommends a designated compliance coordinator for Title VI, although it is not required under Title VI.

investigator is unavailable, another coordinator or trained employee will be designated to conduct the investigation. If extenuating circumstances exist, the extended timeframe to complete the investigation will **not exceed ten (10) additional working days**, without the consent of the complainant. Periodic status updates will be given to the parties, if necessary.” (see *General Provisions* section of the District’s G-02-R1 regulation and any other applicable policies or procedures);

- i) include an expanded list of designated compliance coordinator duties;
 - j) replace high school principal with school administrator or supervisor or similar language and insert if appropriate at the end of the sentence in the *Pre-Filing Procedures* section of the District’s G-02-R1 regulation; and
 - k) change harassment to discrimination in the *Appeal Procedure* section of the District’s G-02-R1 regulation and any other applicable policies or procedures.
- 6) The District will include the OCR-approved revised anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures in the District’s publications, including any summaries in the District’s *Student Parent Handbook*, and ensure they are consistent in all of the publications.

REPORTING REQUIREMENT: By **October 30, 2014**, the District will provide to OCR copies of the approved revised Section 504 and Title II procedures and its revised anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures. The District will also provide copies of the online publications identified in item 6 that include the OCR-approved anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures. The District will provide OCR the revised hard-copy publications prior to the 2015-16 academic year.

COMMUNICATION OF POLICIES AND PROCEDURES

- 7) By **November 14, 2014**, the District will communicate its revised anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures, and the Section 504 and Title II procedures, to all District administrators, board members, officials, and employees by:
- a) disseminating those policies and procedures via the District’s electronic communications (email) system;
 - b) including those policies and procedures on the District’s website, with an embedded link to those policies and procedures in the online notice of nondiscrimination; and

- c) including those policies and grievance procedures in the online student, parent, and staff handbooks in a section entitled *Nondiscrimination* or a similar title.
- 8) The District’s coordinator will maintain a current list of hard-copy and online publications that contain the revised notice and the anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures. The coordinator also will review and evaluate, in a timely and ongoing manner, complaints and allegations of discrimination and take appropriate actions, as necessary, to prevent discrimination, harassment, and retaliation, including the provision of information and training to students, staff, and the public.

INDIVIDUAL RELIEF

- 9) X---paragraph redacted---X
- 10) X---paragraph redacted---X
- 11) X---paragraph redacted---X

REPORTING REQUIREMENT: X---paragraph redacted---X

TRAINING

- 12) By **November 14, 2014**, the District will provide training on the subject of Section 504 and Title II compliance, and the anti-discrimination, anti-harassment, and anti-retaliation requirements of those laws, to District officials and staff, including administrators, teachers, substitute teachers, paraprofessionals, counselors, the designated Section 504 compliance coordinator(s) and investigator(s), and other District staff who teach, supervise, or provide services to District students. The training will be conducted by an individual(s) knowledgeable about the laws and issues pertaining to race and disability discrimination, including Section 504 and Title II compliance. The training will include:
 - a) A discussion and distribution to trainees of the District’s revised notice of nondiscrimination and revised anti-discrimination, anti-harassment, and anti-retaliation policies and procedures, including:
 - i) an explanation of what constitutes harassment, including race-based and disability-based harassment, and specific examples of harassment;
 - ii) an explanation of what constitutes retaliation and specific examples of retaliation; and

- iii) a statement that the District does not tolerate discrimination, including race-based and disability-based harassment or retaliation.
 - b) A step-by-step explanation of the District’s grievance procedure for handling complaints of discrimination, harassment, and retaliation, including complaints based on race and disability, along with the applicable compliance coordinator’s name, contact information, and duties. The training will include:
 - i) a thorough review of the District’s grievance procedure for handling complaints of discrimination, harassment, and retaliation;
 - ii) an explanation that complaints can be made verbally or in writing to a District staff member or official;
 - iii) the responsibility of District staff to immediately refer verbal or written complaints of discrimination, harassment, or retaliation to the District’s applicable compliance coordinator;
 - iv) the District’s responsibility to promptly investigate all complaints of discrimination, including harassment and retaliation, in accordance with the District’s revised policies and procedures;
 - v) identification of the individuals who are responsible for investigating those complaints;
 - vi) a detailed discussion of the specific investigative steps, timeframes, preponderance of the evidence standard, and investigative reports and findings; and
 - vii) the obligation to take timely, effective action to address discrimination, harassment, and retaliation, and to prevent its recurrence.
 - c) A presentation about the confidentiality requirements pertaining to students with disabilities or students receiving special education, accommodations, and services, and the prohibition of identifying students with disabilities in front of other students.
- 13) The District’s designated compliance coordinator(s) will ensure training occurs for District officials and employees, including new employees, at the beginning of each academic year and in a timely manner if new employees begin employment during the academic year. The designated compliance coordinator(s) will maintain documentation of each training, including training during new employee orientations, in a centralized file in the District’s administrative office.

REPORTING REQUIREMENT: By **December 5, 2014**, the District will provide to OCR documentation showing it has completed the training required in the training provisions of this Agreement, above. The documentation must identify:

- a) the date, time, and location of the training;
- b) the topics addressed at the training (the District may provide OCR an outline of the training and 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 employee who attended the training (a sign-in sheet with the attendees' names, signatures, and titles, is sufficient).

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 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 60 (sixty) calendar days to cure the alleged breach.

The person(s) signing for the District represents that he or she is authorized to bind the District to this Agreement.

For the District:

/s/ Robert Neu
Robert Neu, Superintendent

8/18/14
Date