

Resolution Agreement

Glendale Elementary School District #40 OCR case number 08-14-1271 [Don Mensendick Elementary School]

In order to resolve the allegations in OCR case number 08-14-1271, filed against Glendale Elementary School District #40 (“ District”) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504) and its implementing regulation at 34 C. F. R. part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, the District agrees to implement the following Resolution Agreement.

During the course of OCR’s investigation, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR’s *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations. The District’s decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

1. The District will evaluate the accessibility of and identify any barriers to access for individuals with mobility disabilities relative to each of the following at Don Mensendick Elementary School:
 - a. Playgrounds and
 - b. Outdoor seating areas.

Specifically, the District will evaluate, at a minimum:

- a. Accessible routes leading to and through all playgrounds, and outdoor seating areas;
- b. Accessible route(s) leading to the PE field;
- c. Play components and ground surfaces at each playground; and
- d. Seating locations for people with mobility disabilities at all outdoor seating areas.

The regulations implementing Section 504 and Title II contain two standards for determining whether a District’s programs, activities, and services are accessible to individuals with disabilities. One standard applies to existing facilities, the other covers new construction and alterations. Which standard applies depends upon the date of

construction or alteration of the facility. In conducting its evaluation, the District will apply the appropriate accessibility requirements to its facilities:

Program Access Elements. For those District facilities constructed or altered prior to the effective date of Section 504 and Title II, the District will ensure that its programs, when considered in their entirety, are accessible to and usable by people with disabilities. 34 C.F.R. § 104.22; 28 C.F.R. § 35.150. In choosing among available methods for achieving program access, the District will give priority to those methods that serve people with disabilities in the most integrated setting appropriate.

New Construction Elements. For those District facilities constructed or altered after the effective date of Section 504 and Title II, the District will ensure that its facilities are readily accessible to and usable by persons with disabilities. C.F.R. § 104.23; 28 C.F.R. § 35.151. Depending on the date of construction, the District will evaluate whether its facilities comply with the applicable new construction/alteration standard:

- American National Standards Institute (ANSI) Standards A117.1-1961 (re-issued 1971);
- Uniform Federal Accessibility Standards (UFAS);
- Americans with Disabilities Act Accessibility Guidelines (1991 Standards); or
- 2010 ADA Standards for Accessible Design (2010 Standards).

After completing its evaluation the District will develop a written remediation plan addressing each barrier to access identified through its evaluation and submit it for OCR approval. For each barrier, the District may: (1) remove it in a way that complies with the 2010 ADA Standards, (2) propose a timeframe for barrier removal for OCR's consideration, or (3) propose a timeframe for alternate means of providing equivalent facilitation (for new construction or alterations) or program access (for existing facilities).

REPORTING REQUIREMENT: By **May 1, 2015**, the District will provide OCR with:

- a. The results of the District's accessibility evaluation including copies of all checklists and detailed photographs showing the measurements taken which were used by the District during its evaluation; and
 - b. A copy of the District's remediation plan identifying each barrier to access found through the evaluation, describing how it will address each barrier to access and the date by which each barrier to access will be removed.
2. Within 30 days of receiving OCR's written approval of its remediation plan, the District will implement the plan, taking steps necessary to address each identified barrier to access in accordance with the approved plan.

REPORTING REQUIREMENT: No later than six (6) months after receiving OCR's

written approval of the District’s remediation plan, the District will submit a written report to OCR summarizing the actions the District has taken to implement the approved remediation plan for OCR review and approval. The District will submit written reports every six (6) months thereafter until OCR determines that the District has fully implemented the approved remediation plan. Reports will include documentation satisfactory to OCR showing those actions. Such documentation will include, for example, detailed photographs showing the relevant measurements of any alterations or renovations, architectural plans, work orders, purchase orders, invoices and proof of efforts to secure funding/assistance for structural renovations or equipment.

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 the Agreement, if necessary, OCR may visit the District, interview District employees 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, at 34 C.F.R. § 104.22 and 104.23 and Title II, at 28 C.F.R. § 35.150 and 35.151, which were at issue in 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 regulation implementing Section 504, at 34 C.F.R. § 104.22 and 104.23 and Title II, at 28 C.F.R. § 35.150 and 35.151.

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.

For Glendale Elementary School District #40:

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| | 2/18/15 |
| Joe Quintana | Date |
| Superintendent | |