

RESOLUTION AGREEMENT
Stockton Unified School District
OCR Case Number 09-14-1216

In order to resolve the compliance concerns raised and the findings of non-compliance made by the U.S. Department of Education, Office for Civil Rights (OCR) under Section 504 of the Rehabilitation of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990, as amended (Title II), the Stockton Unified School District (District) agrees to implement this Resolution Agreement (Agreement).

I. Individual Student Remedy

A. Meeting of the Student's Individualized Educational Program (IEP) Team and Compensatory Services

By December 15, 2016, the district will provide OCR a chronological narrative of the IEPs since August XX, 2013 showing that the district has:

- 1) ensured that the Student's IEP specifies placement and services necessary to provide the Student a Free Appropriate Public Education (FAPE). The team(s) have reviewed whether the placement, services, accommodations and modifications currently in place for the Student are appropriate and sufficient to meet his individual needs.
- 2) determined whether the Student needs compensatory and/or remedial services as a result of the District's denial of educational benefit, and loss of academic instruction and speech therapy that were related to the Student's 30 days disciplinary exclusion from August XX, 2013 through November XX, 2013 and developed a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond December 15, 2016. The District provided the Student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

B. Reporting Requirements

1. By December 15, 2016, the District will provide OCR with a narrative summary showing appropriate IEPs have been conducted in a timely manner, with parent input, agreement and consent. District will provide OCR copies of each IEP that has occurred between the dates of August XX, 2013 and December 15, 2016 demonstrating appropriate programs, services and supports have been afforded the student with parent input, agreement and consent, including any agreed upon compensatory services. OCR will, prior to approving the District's plan for providing the proposed compensatory

services, review the documentation to ensure that the District met the requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, and, as applicable, Title II, at 28 C.F.R. 35.160, in making these determinations.

2. By December 15, 2016, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

II. Systemic Remedies

A. School Climate Director, Expert Consultant(s), and Equity Committee

1. District Positive School Climate Director

- a. By December 15, 2016 the District will designate the Director of Student Support Services as a Positive School Climate Director (Director) who will have day-to-day oversight responsibility for implementation of this Agreement and serve as a liaison with OCR during OCR's monitoring of this Agreement. The Director will be supported by the recently created Assistant Superintendent of Educational Support Services and be assisted by the Student Assistant Plan (SAP) Department Chairpersons, of which two new Chairs have been newly added for a total of four administrators.
- b. The Director will be tasked with ensuring that the District's policies and practices are fair and equitable and do not discriminate against students on the basis of disability. The Director will have experience regarding creating and sustaining a positive school climate and educational achievement for all students, and particularly for students with disabilities. The Director will also be responsible for addressing complaints regarding implementation of the District's policies concerning the discipline of students with disabilities.
- c. The District will publish the Director's name and/or title, office address, email address and telephone number on its website, in all school publications, and in all relevant the notices to parents, including an annual notice.

2. Expert Consultants

By December 15, 2016 the District will identify and retain an expert(s) in nondiscriminatory¹ practices, data analysis and research-based strategies to prevent discrimination against students with disabilities with respect to the use of school discipline. The expert(s) will provide consultation to the District on strategies for meeting the District's goals of ensuring that discipline is appropriately and equitably applied to students with disabilities and in a manner consistent with their right to a free appropriate public education (FAPE), implementing this Agreement, monitoring and evaluating behavior intervention and student discipline practices, and stakeholder involvement.

3. Stakeholder Equity Committee

- a. By December 15, 2016 the District will establish a Stakeholder Equity Committee (Committee) of appropriate stakeholders representative of the community. Such stakeholders shall include school site representatives, teachers, administrators, counselors, District administrators, special education staff or administrators, students and parents/guardians, including students with disabilities and parents/guardians of students with disabilities.
- b. The Committee will meet once per year at a minimum, and by December 15, 2016 and by the same date annually thereafter for the term of this Agreement, to review the District's student discipline data by disability for the prior semester, as well as other relevant data and information to evaluate the District's progress in ensuring a positive school climate and nondiscrimination in discipline. The Committee may invite the District's experts to attend and participate in its meetings, consult with District experts as necessary, and will make recommendations to the District regarding the effectiveness of the District's discipline policies, practices, and procedures. The Director will coordinate Committee meetings and work.
- c. Based on each annual review, the Committee will provide a written summary of findings and recommendations (report), and will submit its report to the District by January 30th, 2017 and by the same date annually thereafter. The District Superintendent and Board will review the report in coordination with its review of the Positive Behavior Action Plan

¹ "Nondiscriminatory discipline practices" and "nondiscrimination in school discipline" is the administration of discipline in such a manner as to ensure that any disparities in disciplinary referrals and/or sanctions are not the result of discrimination prohibited by Section 504, Title II and its implementing regulations.

discussed below and determine how to implement the Committee's recommendations.

4. Reporting Requirements

- a. By December 15, 2016, the District will submit to OCR for its review and approval, the name, contact information, and resume of its preferred Director candidate. Within ten days of receiving OCR approval the Director of Student Support Services will assume these duties formally.
- b. By January 30th 2017, and by the same date annually thereafter for the term of this Agreement, the District will provide OCR with a copy of all complaints of disability discrimination, as well as a copy of the District's findings and resolutions of each such complaint.
- c. By December 15, 2016, the District will inform OCR of all expert consultants selected and their qualifications for OCR review and approval, and will provide proposed contracts to provide the services required by this Agreement. District will also provide a list of experts, consultants, conferences/workshops/staff development, etc. used to address these issues since August XXXX, 2013, as well as a list of attendees/participants, where possible.
- d. By January 30th 2017 and by the same date annually thereafter, the District will provide documentation to OCR that the Committee required by this item has been established; the names, titles, or positions of the Committee members; the date of the coming year's meeting and any other activities. By January 30th 2017, and by the same date annually thereafter for the term of this Agreement, the District will provide OCR with copies of the Committee reports and any documentation showing the responsive steps taken.

B. Discipline of Students with Disabilities

1. Review and Revision of School Discipline Policies and Procedures

By December 15, 2016, the District will review its student discipline policies, practices and procedures, and make revisions, as necessary, consistent with the provisions of this section, Section 504, Title II, IDEA and their regulations. The District will conduct this review in consultation with the District's expert consultant(s), and will also consider the recommendations made by the Committee described in II.A.3 and in accordance with the Plan described in II.B.2.

The District will ensure that its student discipline policies, practices, and procedures, include the following:

- a. a requirement that disciplinary authorities consider and document alternatives to expulsion, suspension,² or other sanctions that result in removal from the education setting in all cases except those where it can be documented that the safety of students and/or staff is threatened or, except as otherwise provided by state law, the behavior in question is such that the disruption to the educational environment can only be remedied by such a referral;
- b. disciplinary referral standards that eliminate redundancies and provide clear and consistent definitions, categories and procedures for staff to follow;
- c. disciplinary referral requirements that ensure that all removals for a portion of full school day are properly documented and considered in determining whether for a student with a disability or suspected disability a significant change in placement has occurred and clear requirements regarding manifestation determination meetings and evaluation and reevaluation requirements;
- d. elimination of vague, subjective or redundant offense categories, including categories that allow for a high degree of subjectivity and individual discretion in enforcement (e.g., willful defiance or disruptive behavior). To the extent the District retains such categories, the District will provide specific examples of conduct constituting each category so that staff understands the circumstances under which such categories can be used to impose discipline and the distinctions between such categories;
- e. a list of minor misbehaviors for which suspension or expulsion should never be used, and a list of minor misbehaviors that warrant interventions other than discipline;
- f. definitions of misconduct that are clear and objective to the maximum extent possible and that clearly distinguish between similar acts, (e.g., fighting and physical aggression); such definitions must include clearly defined, uniform criteria for all offense categories;

² This includes classroom suspensions, in-school suspensions and out of school suspensions.

- g. the range of penalties that may be imposed for each infraction, and penalties that are proportionate to the type of misconduct;
- h. uniform criteria for staff to use when selecting a particular discipline sanction within the range of possible penalties;
- i. a clear explanation of how any progressive disciplinary policies, practices and procedures will be implemented consistently at the school sites, including criteria or guidelines for discipline sanctions on first offenders and repeat offenders;
- j. appropriate due process standards for all students disciplined under the District's student discipline policies, practices and procedures, including a description of the key elements of the discipline process (appeals, alternative dispositions, timelines, provisions for hearings, etc.); and
- k. a program that seeks to successfully reintegrate students within the school community who have been suspended, expelled, transferred, or excluded, or who return from alternative disciplinary placements, including counseling, tutoring or other additional educational services to permit the student to make up lost classroom time.
- l. a process to identify the predominant languages spoken by the District's Limited English Proficient (LEP) parents/guardians and English language learners (ELLs), for which translation of the District's discipline policies, practices and procedures, as well as discipline notices and other documents is appropriate, and to offer oral interpretation of these documents upon request for LEP parents/guardians and ELLs who speak other less common languages.

2. Positive Behavior Action Plan

The District will, in consultation with the Director, expert(s), and Committee, develop a Positive Behavior Action Plan (Plan) to coordinate, monitor, and evaluate the District's ongoing efforts to ensure that all District schools adopt and implement student discipline policies and procedures that are: 1) appropriate and equitable, 2) incorporate research-based alternatives to exclusion, 3) use exclusionary discipline only as a last resort, and 4) ensure that Students with disabilities receive the evaluations, accommodations, services, modifications and placements that they need to address any behavioral, social, or emotional needs impacting access to education.

The District may, in satisfaction of the terms of this Agreement, in addition to ensuring appropriate and legally compliant creation and implementation of

IEPs and Section 504 plans and positive Behavior Intervention Plans (BIPs), utilize school-wide Positive Behavioral Interventions and Supports (PBIS), restorative justice and/or a social emotional program or curriculum that is aligned with a response to intervention (RTI)³ framework. The plan will include the following:

- a. a description of how the District will use one or more research-based district-wide approaches, such as PBIS, restorative justice, and/or social emotional learning aligned with a behavioral RTI framework to reduce the disproportionate discipline of students with disabilities;
- b. a description of how the District will ensure staff have sufficient training to evaluate students with disabilities who have behavioral, social and emotional needs impacting their ability to access their education and will ensure appropriate IEPs and Section 504 plans and BIPs (as needed) are developed consistent with the procedures required by law and regulation and in place and that staff are trained and consistently implementing such plans;
- c. identification of the staffing and training resources necessary to support individual site implementation of the Plan and the actions the District has taken or will take to secure and allocate adequate funding to provide school sites with the resources they need to implement the Plan with fidelity;
- d. a protocol for monitoring the fidelity with which school sites implement the Plan, such as developing a PBIS rubric for the District's instructional audits;
- e. a framework and schedule for school sites to review their discipline data and identify student and teacher needs for support;
- f. a process for identifying, acknowledging and utilizing site administrators and teachers with demonstrated best practices to provide support, professional development and/or serve as coaches to their peers;

³Response to intervention is an approach to academic and behavioral intervention to provide early, systematic, and appropriately intensive assistance to children who are at risk for or already underperforming as compared to appropriate grade- or age-level standards. RTI seeks to prevent academic and behavioral failure through universal screening, early intervention, frequent progress monitoring, and increasingly intensive research-based instruction or interventions for children who continue to have difficulty.

- g. a description of how the District will evaluate the effectiveness of the Plan in ensuring that discipline is appropriately and equitably applied to students with disabilities at all school sites and how the District will identify and secure resources to fund the implementation of the Plan's effectiveness evaluation tools;
- h. a description of how the District will use self-monitoring and evaluation data to improve and revise the implementation of the Plan and other behavior intervention programs in use in the District;
- i. a schedule for training on best practices for use of alternative interventions, classroom management and reviewing and utilizing data and mechanism for facilitating staff participation; and
- j. a process for ensuring that when students, including students with disabilities are suspended or expelled, they still receive academic services and consistent with law and regulations, implementation of their IEP and/or Section 504 plan.

3. Ongoing Review of Plan Implementation

By January 30th, 2017 and at the conclusion of each school year thereafter, the District will consider whether changes to its student discipline policies, practices, and procedures, as developed under the Plan, are warranted based on its evaluation of student discipline data detailed in section C, the meetings with administrators and staff, climate surveys discussed below, and findings made by and recommendations of the Committee. The District's review will include:

- a. a framework and schedule for a centralized review of school-level and District-wide discipline data to measure progress towards the goal of ensuring that discipline is appropriate and equitable and to inform recommendations for changes to programs and strategies for achieving this goal;
- b. a framework for providing targeted school-wide and classroom interventions and support to school sites where data indicates the school's failure to demonstrate progress; and
- c. targeted best practices for ensuring that discipline is appropriate and equitable.

4. Reporting Requirements

- a. By December 15, 2016 the District will submit to OCR for review and approval draft revised policies and procedures. Within 60 days of OCR's approval the District will take the necessary steps to finalize the draft policies and procedures. Within 90 days of OCR's approval, the District will provide documentation to OCR that it has implemented the revised policies and procedures, and disseminated them to all District staff, students, and parents/guardians. Throughout the course of this Agreement, the District will submit for OCR review and approval any changes to the policies and procedures as approved by OCR prior to their implementation.
- b. By January 30th, 2017 the District will provide OCR with a draft of the Plan described in this section for review and approval. Within 30 days of receiving OCR's approval, the District will take the necessary steps to finalize the draft Plan. Beginning January 30th, 2017 and annually thereafter during the course of OCR's monitoring of this Agreement, the District will submit reports to OCR of its progress in implementing the Plan.

C. Discipline Data Collection and Analysis

1. District-wide Discipline Data Collection

By January 30th, 2017, the District will demonstrate to OCR that it is accurately collecting and regularly evaluating data regarding behavior interventions and all referrals for student discipline, including warnings and non-exclusionary discipline consequences, as well as any exclusionary discipline consequences, including short-term removals from class to the office or another room, suspensions (in school and out), expulsions, disciplinary transfers, and referrals to law enforcement, citations, and arrests. The data collected will include, but not be limited to, the following:

- a. the name, identification number, race, ethnicity, sex, age, grade level and as applicable, disability and English Language Learner (ELL) status of each student referred for discipline;
- b. for each referral, the name, identification number, race, ethnicity, sex, age, grade level, and as applicable disability and ELL status of all other students involved in the incident (when possible), whether or not they were referred for discipline;
- c. a detailed description of the misconduct;

- d. a description of all behavioral interventions and other approaches that were attempted in order to address the behavior at issue prior to referral for discipline;
- e. the date of the referral;
- f. the specific discipline code violation for which the referral was made;
- g. the referring staff member (by staff identification/employee number);
- h. the school and type of class from which the referral was made or other specific settings (e.g. bus referral, hallway referral);
- i. the outcome of the manifestation hearing determination, if applicable;
- j. the date the penalty/sanction was imposed;
- k. the length of the penalty/sanction (in number of days);
- l. the staff member who assigned the penalty/sanction (by staff identification/employee number);
- m. whether the student was transferred to the alternative school or to a different school site;
- n. whether school-based or local law enforcement were involved (e.g. law enforcement was notified of the offense);
- o. whether the student was given access to appropriate due process procedures in connection with the penalty/sanction, including but not limited to being given the opportunity to present his or her version of events and/or an explanation for their conduct prior to the imposition of sanctions, and whether, when, and how their parents were contacted in connection with each referral incident.

2. Discipline Data Analysis at XXXX XXXXXXXX XXXXXXXXXXXX School (School)

Starting with the 2016-2017 school year, the District will evaluate on an ongoing basis (but at least at the end of each year) the data referenced in section C.1., to assess whether the District is implementing its student discipline policies, practices and procedures in a nondiscriminatory manner, at the School. The School Principal will meet at the conclusion of each semester with the administrators, teachers, and other relevant staff at the School to discuss the data gathered and analyzed pursuant to C.1 relevant to the school site and the Plan. The district-wide evaluation of the data may be

conducted as part of the Committee, or separately, and will include the following review of:

- a. discipline referrals and sanctions to examine whether students with disabilities receive more referrals or sanctions than students without any documented disability, whether manifestation determination meetings have been and are being provided consistent with law and regulation, and whether the unique needs of any students require evaluation, reevaluation, including a Functional Behavior Assessment, and/or changes to IEP or Section 504 plans and attached Behavior Intervention Plans to provide different or additional accommodations, modifications, services, and whether staff have appropriate training and support to implement such plans effectively;
- b. discipline consequences given, to determine whether students with disabilities receive exclusionary sanctions, such as suspensions, or harsher sanctions, such as longer suspensions or referrals to law enforcement than students without any documented disability;
- c. types of offenses leading to discipline sanctions to determine whether students with disabilities receive referrals, or exclusionary discipline sanctions for certain types of offenses, such as subjective or objective offenses than students without any documented disability;
- d. student referrals for disciplinary transfers and expulsions to examine whether students with disabilities receive more discipline transfers and/or expulsions than students without any documented disability;
- e. whether certain teachers and administrators refer students with disabilities for discipline at a higher rate than students without a documented disability, and whether certain teachers and administrators impose disciplinary sanctions that include exclusion from the educational program for students with disabilities at a higher rate than students with no documented disability;
- f. whether students with disabilities are disproportionately referred for subjective offenses compared to students with no documented disability;
- g. whether school-based or local law enforcement cite, or arrest students with disabilities more than students with no documented disability;
- h. whether all students are consistently referred for similar misbehaviors without regard to disability status;

- i. whether penalties imposed are consistent with the penalties specified in the District's discipline policies and procedures, and where exceptions are made, whether they are justified by legitimate, non-discriminatory reasons;
- j. whether with respect to the categories of discipline specified in section C, students with disabilities receive more or harsher discipline than students without disabilities and/or for disability-related reasons;
- k. If the data shows such higher rates of discipline and/or law enforcement contacts for students with disabilities, the meeting will explore possible causes for the higher rates and consider and determine steps needed to ensure nondiscrimination in discipline, including but not limited to further evaluations/re-evaluations, including Functional Behavioral Assessment, meetings of the IEP or Section 504 team, development of positive Behavior Intervention Plans, and training of staff and support for parents/guardians; and
- l. If the data shows a particular teacher refers students at a higher rate than other teachers, the principal will meet with that teacher to discuss the data, explore the reasons for the disproportion, and examine potential solutions. If the information suggests that the teacher is failing to adhere to the District's student discipline policies, practices and procedures, failing to implement IEP or Section 504 plans or otherwise needs assistance in doing so, or is engaging in discrimination, the principal will take appropriate action, which may include but is not limited to training, professional development and coaching, mentoring, reassignment, and/or disciplinary action.

The District will compile a written summary of findings which will include the data gathered, the District's analysis of the data, and information summarizing school site meetings held to discuss the data.

3. Climate Survey

By June 30th, 2017, the District will develop and administer an annual school climate survey(s) to students (grades K-12), certificated staff, classified staff, school security officers (SSOs), school site administrators, parents and community stakeholders. The survey will be administered to each of these groups and measure perceptions of relationships among the school community members (teacher-student, teacher-parent, and student relationships), school safety, and fairness and clarity of rules and behavioral expectations. The aggregate survey results will be shared as specified in this

Agreement and with the participating groups (e.g., students/parents) to help further improve school climate.

4. Reporting Requirements

- a. By January 30th, 2017 the District will provide OCR with documentation that it has implemented a system for collecting discipline data, as described in this section. The documentation will include a narrative description of the data collection system(s) and screen shots of the data fields described in this section.
- b. By January 30th, 2017, and annually thereafter during the course of OCR's monitoring of this Agreement, the District will provide to OCR the data analysis and a summary of findings as discussed in section C.2.
- c. By January 30th, 2017, the District will provide draft climate survey(s) and a description of how it will administer the survey(s) to OCR for review and approval. Within 60 days of approval by OCR, the District will begin administering the survey(s).
- d. By June 30th, 2017 and annually thereafter during the course of OCR's monitoring of this Agreement, the District will provide a summary report of the substance of the responses to the survey described in this section and the response rate of each group to OCR.
- e. By January 30th, 2017 the District will notify OCR of its chosen method for sharing the report publically, particularly with the participating groups.

D. Training and Written Guidance

1. Training-Professional Development

By January 30th, 2017, and by the same date annually thereafter for the term of this Agreement, the District will provide annual professional development and training to District and school site administrators on their responsibilities regarding the implementation of the Plan, including the outside agency referral guidance described in D.2 below. The training for will include the following:

- a. a detailed explanations of the discipline policies and procedures, as revised and approved by OCR;
- b. the definitions of offense categories;

- c. the specific manner in which progressive disciplinary consequences will be employed, if applicable;
- d. the circumstances under which deviations from established policies may be justified;
- e. the documentation that must be used by all District staff who make disciplinary referrals or impose disciplinary sanctions;
- f. evidence-based techniques on classroom management and de-escalation approaches;
- g. information on how to administer discipline fairly and equitably;
- h. resources that are available to staff who are having difficulty with classroom management;
- i. resources that are available to students to assist them in developing self-management skills;
- j. the value of recognizing and reinforcing positive student behavior;
- k. the importance of ensuring to the maximum extent possible that misbehavior is addressed in a manner that does not require removal from the educational program, or inappropriate discipline of students with disabilities; and
- l. evaluation, including Functional Behavior Assessment and other social emotional evaluation, and appropriate positive behavior interventions and supports and tiered positive interventions for students with disabilities.

2. Outside Agency Referral Guidance

The District will develop and circulate administrative guidance on the circumstances under which it is appropriate to refer a student with a disability to the Department of Mental Health (DMH), law enforcement, or any other outside agency, including when it is appropriate to refer a student with a disability for an emergency mental health crisis. The guidance will include a protocol for ensuring that all schools implement a range of appropriate interventions (including but not limited to the proper implementation of the student's 504 plan or IEP) and have personnel trained in de-escalation and other appropriate techniques in place before referring a student with a disability: 1) for a psychiatric hold through either DMH and/or

law enforcement; or 2) to law enforcement for conduct that is a manifestation of the Student's disability.

3. Reporting Requirements

- a. By January 30th, 2017 the District will provide OCR with draft training materials and the qualifications of the individuals providing the training described in this section for OCR review and approval. Within 30 days of OCR's approval, the District will provide a schedule of the training, which was during the 2015-2016 school year and has been/will be offered in the 2016-2017 school year.
- b. By January 30th, during the duration of OCR's monitoring of this agreement, the District will provide documentation that shows it conducted the trainings. The documentation will include sign-in sheets which provides the name and date of the training and the participants' names, job titles, and school site; PowerPoint presentations, handouts, and information about the trainer(s).
- c. By January 30th, 2017 the District will provide OCR with a draft of the administrative guidance described in this section for OCR review and approval. Within 30 days of receiving OCR's approval, the District will circulate the administrative guidance to all schools and provide OCR with documentation showing that the guidance was distributed.

III. Monitoring

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 in compliance with Section 504 and Title II and their implementing regulations, 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 Section 504 and Title II and their implementing regulations, 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 60 calendar days to cure the alleged breach.

_____/s/_____
Superintendent
Stockton Unified School District

11/04/2016

Date