

**Agreement to Resolve
Garden Grove Unified School District
OCR Case No. 09-15-1300**

The Garden Grove Unified School District agrees, without admitting to any violation of law, to implement this Agreement to resolve the issues opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1975 (Section 504) and Title II of the Americans with Disabilities Act (ADA) in the above-referenced OCR complaint. "Student" refers to the complainant's daughter.

A. Student's Participation in Cheerleading.

1. FAPE and Written Notice. In the event the District determines that cheerleading is not a necessary part of the Student's free appropriate public education (FAPE) under the Individuals with Disabilities Education Act, the District shall document said decision in a prior written notice that complies with Title 34 Code of Federal Regulations (CFR) Section 300.503 and shall instead offer to convene a multi-disciplinary team, that consists of persons knowledgeable about the Student, the meaning of relevant evaluation data, and placement options. This multi-disciplinary team may meet as a Section 504 team in lieu of an IEP team. If the IEP team or Section 504 team determines participation in cheerleading is necessary as a matter of FAPE, the Student's IEP or Section 504 plan will so indicate, along with any disability-related supplemental aids, supports, modifications, or services that the IEP or Section 504 team determines appropriate to support participation and allow prompt implementation after parental written consent to implement has been provided. If the IEP or Section 504 team determines the Student's participation in cheerleading is not necessary as a matter of FAPE, the District will document the basis for the determination in the IEP or Section 504 plan and provide the complainant with notice of applicable procedural safeguards.
2. Equal Opportunity. If the Student's participation in cheerleading is not required for FAPE, the District, in consultation with the complainant, will develop a written plan to address the Student's participation in cheerleading. The plan will list any supplemental aids, supports, modifications, or services necessary for the Student to have an equal opportunity to participate, and any limitations on the Student's participation. If the District proposes to limit the Student's participation, the District must first consider whether, with accommodations, the Student may participate without limitations. The determination must be individualized, and will not rely on generalizations, assumptions, prejudices, or stereotypes about disability generally, or the Student's specific disabilities. The District will provide the plan to the complainant and ensure it is fully implemented. The District will notify the complainant of the complaint procedure available if she disagrees with the plan.

By October 31, 2015, the District will provide OCR with notes of the multidisciplinary team meeting and any resulting IEP amendment or Section 504 plan and, if required, the written plan described in Item A.2.

- B. Designated Administrator. The District will designate a school-level administrator to whom the cheerleading advisor and coaches, and the complainant, will report if they have questions about implementation of the applicable supplemental aids, supports, modifications, services, or limitations.

By October 31, 2015, the District will inform OCR of the identity of the Designated Administrator.

- C. Instruction for Cheerleading Advisor and Coaches. The District will have a trainer with appropriate expertise provide instruction to the cheerleading advisor and coaches on how to integrate students with disabilities, including autism, into the cheerleading program. The District will inform the advisor and coaches of the District's non-discrimination obligations, including to ensure students with disabilities are not subject to a hostile environment. The District will review with the advisor and coaches the applicable supplemental aids, supports, modifications, services, and/or limitations, how to implement them, and to contact the Designated Administrator if they have questions.

By October 31, 2015, the District will confirm to OCR that it provided the required instruction, including: the name and qualifications of the trainer with expertise on integrating students with disabilities, a description of the instruction provided on integrating students with disabilities, the names and titles of the District representatives who provided instruction on the District's non-discrimination obligations and the Student's plan, and the dates the instructions were provided.

- D. Administrator Investigative Training. District will provide training by a person with appropriate expertise to District and school site level administrators and others with responsibility for investigating and responding to allegations of disability-based discrimination. The instruction will cover, for example, what constitutes disability-based different treatment, harassment, and retaliation, and the obligation to respond to notice of such conduct, including how to identify complaints, conduct thorough investigations, evaluate evidence, reach conclusions, and implement remedies. OCR is available to provide this training at no cost upon request.

By October 31, 2015, the District will provide a written description of the proposed trainings, including the names and qualifications of the proposed trainers, to OCR for review and approval. By January 29, 2016, the District will confirm to OCR that it provided the trainings, including a sign-up sheet or other evidence of attendance by name.

- E. Investigative Report; Investigation. The District will draft a written response to allegations that the Student was subject to a disability-based hostile environment made by the complainant during the 2014-15 school year. The response will memorialize the complainant's allegations, the steps the District took to investigate them, the District's factual findings, and the District's conclusions as to each allegation. The District will provide the draft to OCR for review. If either the District or OCR determines additional investigation is necessary to resolve the complainant's allegations, then the District will conduct that investigation and memorialize it in the written response. If the District concludes the Student was subject to a disability-based hostile environment, the District will determine the appropriate steps to remedy the hostile environment and prevent recurrence of harassing behavior; these remedial steps will also be memorialized in the written response. Upon OCR's approval, the District will issue the response to the complainant.

By November 16, 2015, the District will provide OCR with a draft of its written report. If OCR notifies the District that additional investigation is required, the District will complete that investigation, revise the report, and provide the revised report to OCR within 15 working days of notice. Within 5 working days of OCR's approval of the report, the District will issue it to the complainant. If the District determines remedial action is required, the District will report to OCR on implementation of the remedial action by the last day of each semester until the actions are complete.

- F. Extra-Curricular Activities Procedure. The District will adopt a procedure describing the process for ensuring that students with disabilities have an equal opportunity to participate in extra-curricular activities (Procedure). The principal at each school site will review the Procedure with relevant site staff. The Procedure will provide that:
- qualified students with disabilities are entitled to participate in extra-curricular activities to the same extent as non-disabled students;
 - a school may deny an otherwise qualified student participation in an extra-curricular activity because of disability-related characteristics or behavior only if the District determines that the student cannot participate successfully with the provision of reasonable accommodations;
 - accommodations for qualified students with disabilities are required except where they would fundamentally alter the nature of the activity or constitute an undue burden on the District. While cost may be considered, the fact that providing a service to a disabled student would result in additional cost does not of itself constitute an undue burden;

- if a parent or guardian requests that participation in an extra-curricular activity be part of a student's FAPE as part of an IEP, the District, at its discretion, may address this request through a prior written notice that complies with Title 34 C.F.R. Section 300.503 (for students with IEPs) to determine whether or not the District agrees to discuss said request at an IEP team meeting. The outcome of this decision will either result in District agreement to convene an IEP team meeting or to reject the request to convene an IEP team meeting, but in either case, the District's response must comply with Title 34 C.F.R. Section 300.503.
- if parent or guardian requests that participation in an extra-curricular activity be part of a student's FAPE as part of a Section 504 plan the student's Section 504 team will determine whether participation in the activity is required as part of the student's FAPE.
- Separate and apart from any FAPE requirement, as a matter of equal opportunity to participate in an extra-curricular activity, the District may meet its obligations through such means as a non-Section 504, non-IEP multi-disciplinary team, informal meeting, or other District determined process that includes parent or legal guardian, and where appropriate, the student. In meeting this requirement, the District will need to provide reasonable modifications and aids and services that are necessary to ensure an equal opportunity to participate, unless the District can demonstrate that doing so would be a fundamental alteration to the program or activity. The District may use bona fide safety standards to determine whether an equal opportunity to participate can be attained through reasonable modifications or the provision of aids and services. Under no circumstances shall the District be prevented from requiring a level of skill or ability for participation in a competitive program or activity as equal opportunity does not mean that every student with a disability is guaranteed a spot on a competitive team or group for which other students must try out so long as the requirement of skill level or ability level is not discriminatory. If a modification is necessary, the District must first allow it unless doing so would result in a fundamental alteration of the activity or program. For example, modification might constitute a fundamental alteration if it alters such an essential aspect of the activity or game that it would be unacceptable even if it affected all competitors equally (such as adding or removing a base in baseball). Alternatively, a change that has only a peripheral impact on the activity or game itself might nevertheless give a particular player or participant with a disability an unfair advantage over other others and, for that reason, fundamentally alter the character of the competition, event or activity. Even if a specific modification would constitute a fundamental alteration, the District is still required to determine if other reasonable modifications could be implemented that would permit participation without a fundamental alteration occurring.

By December 18, 2015, the District will provide the draft Procedure to OCR for review and approval. Within 30 days of OCR's approval, the District will submit evidence to OCR that

the District adopted the Procedure, and specifically reviewed it with relevant staff at each school site.

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 Section 504, Title II, and their implementing regulations. The District understands that OCR will close the monitoring of this Agreement after the District has provided documentation that it has complied with the terms of this Agreement. 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 of sixty (60) calendar days to cure the alleged breach.

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.

This agreement is subject to final approval by the District's Board of Education.

GARDEN GROVE UNIFIED SCHOOL DISTRICT

By: _____/s/_____

Date: 10/07/2015