

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Seaside School District 10 (District) enters into this voluntary resolution agreement (agreement) to resolve the allegations in three complaints (Reference Nos. 10151025, 10151033, and 10151124) filed with the U.S. Department of Education, Office for Civil Rights (OCR) under section 504 of the Rehabilitation Act of 1973 (Section 504) and title II of the Americans with Disabilities Act of 1990 (Title II).

II. GENERAL PROVISIONS

- A. This agreement resolves the allegations in OCR Reference Nos. 10151025, 10151033, and 10151124, and it does not constitute an admission by the District of any violation of Section 504, Title II, or any other law.
- B. OCR agrees to discontinue its investigation of OCR Reference Nos. 10151025, 10151033, and 10151124 based upon the District's commitment to take the actions specified in this agreement which, when fully implemented, will resolve the allegations in these complaints.
- C. The District understands and acknowledges that if it does not fully implement this agreement, then OCR will take appropriate measures within its authority to effect compliance and that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement or judicial proceedings (34 CFR 100.9-100.10 and 28 CFR 35.174) to enforce this agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.
- D. The District understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner. Further, the District understands that during the monitoring of this agreement, OCR may visit the District's schools, including Seaside High School (HS), Broadway Middle School (MS), and Seaside Heights Elementary School (ES), consult with staff, and request such additional reports or data related to the complaints 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 at 34 CFR 104.21-23; and 28 CFR 35.133, 35.149-151, and 35.163, which were at issue in these complaints.

- E. 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 at 34 CFR 104.21-23; and 28 CFR 35.133, 35.149-151, and 35.163, which were at issue in these complaints.

III. REMEDIAL PROVISIONS

A. Accessibility Plan

- (1) In consultation with OCR, the District will develop an accessibility plan to ensure that Seaside HS, Broadway MS, and Seaside Heights ES comply with the applicable Section 504 and Title II accessibility requirements, with respect to the accessibility concerns listed in Appendices 1-3. The plan will include but is not limited to the following components:
 - (a) By June 7, 2015, the District will determine the specific accessibility standards that apply to the facilities and elements referenced in Appendices 1-3.
 - (b) By October 7, 2015, the District will conduct an accessibility evaluation of the facilities and elements referenced in Appendices 1-3. The evaluation will be designed to accurately assess whether the facilities and elements comply with the applicable accessibility standards, with respect to the accessibility concerns identified in Appendices 1-3.
 - (c) By January 7, 2016, based on the results of the accessibility evaluation, the District will develop an action plan to address any facilities and elements that do not comply with the applicable accessibility standards. The plan will include, but is not limited to: identifying the District's chosen method for addressing the inaccessible facilities or elements; identifying the District employee(s) who will be responsible for implementing the District's action plan; a description and schedule of any planned structural changes and/or other non-structural methods of meeting the accessibility requirements; and a description of interim steps that the District will take in order to provide accessibility at the schools pending completion of the structural changes.
- (2) By November 7, 2017, the District will complete its implementation of the accessibility action plan.

- (3) The District will not be required to take actions that it can demonstrate fall within one of the exceptions identified in the Section 504 and/or Title II regulations, such as:
 - (a) Regarding existing facilities, the District is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burden.
 - (b) Regarding changes in new construction (i.e., alterations), the District is not required to take actions that it can demonstrate has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full compliance with the minimum requirements which are necessary to provide accessibility.
 - (c) For newly constructed facilities, the District is not required to take an action where it can demonstrate it is structurally impracticable to meet the accessibility requirements. This occurs when the unique characteristics of the terrain prevent the incorporation of accessibility features.
- (4) Pursuant to section III.A(1)(c) of this agreement, the District agrees to timely provide all interim steps pending completion of any structural changes in order to ensure that individuals with disabilities in the school community are not subject to discrimination under the District's services, programs, or activities because its facilities are not readily accessible to and usable by them.
- (5) If the District is unable to implement the accessibility plan by the agreed-upon date due to unforeseen circumstances (e.g., inclement weather, delays caused by the local authority's review process, etc.), the District may request an extension of time as permitted by OCR's Case Processing Manual.

B. Policies and Procedures

- (1) By November 7, 2015, in consultation with OCR, the District will review and revise, as necessary, the District's accessibility policies and procedures to ensure that they are consistent with the accessibility requirements of Section 504 and Title II, and ensure that individuals with

disabilities are not subject to discrimination in the District's services, programs, or activities because a District facility is inaccessible or unusable. This includes providing students, parents, employees, visitors, and other members of the school community who are disabled with access to school programs and activities offered in facilities with architectural barriers (e.g., music or art classrooms served by stairs; assembly areas and stages served by stairs; gymnasiums with fixed seating; play areas, etc.).

- (2) By November 7, 2015, the District will develop and adopt procedures that ensure that interested individuals with disabilities can obtain current and accurate information about the existence and location of accessible programs, services, and facilities at the District, including those at Seaside HS, Broadway MS, and Seaside Heights ES.

This will include but is not limited to: (a) designating at least one person who will be responsible for collecting, maintaining, and disseminating current information about the existence and location of accessible programs, services, and facilities at the District, and who will be responsible for addressing requests and questions about accessibility (hereinafter, the "designated person"); (b) in accordance with section III.C(1), issuing annual notice about accessibility; and (c) periodically reviewing its published materials regarding the District's accessible programs, services, and facilities, including the District's transition plans, to ensure they are accurate.

C. Notice

- (1) Annual Accessibility Notice

By November 7, 2015, and at least annually thereafter, the District will provide written assurance to students, parents, employees, and other interested individuals of the District's commitment to provide accessible programs, services, and facilities in compliance with Section 504 and Title II. The assurance will include an explanation of the District's procedures for obtaining information about its accessible programs and facilities and requesting accessibility assistance, and the name and contact information of the District's designated person.

- (2) Other Notice

By November 7, 2015, and as needed thereafter, the District will notify students, parents, employees, and other interested individuals at Seaside HS, Broadway MS, and Seaside Heights ES of: (a) the actions it is taking under this agreement to improve accessibility, including the provision of

any interim steps required under section III.A(4); (b) any substantive revisions made to the District's policies and procedures pursuant to section III.B, and where the policies and procedures can be found on the District's website; (c) the District's procedures for obtaining information about its accessible services and facilities and requesting accessibility assistance; and (d) the name and contact information for the District's designated person.

D. Training

By January 7, 2016, the District will provide training to the District employees who are primarily responsible for implementing the District's accessibility policies and procedures referenced in section III.B, including the designated person. The training will include but is not limited to a review of: the accessibility requirements of Section 504 and Title II; the major changes made to the District's accessibility policies and procedures; their responsibilities and duties under the policies and procedures; an explanation of the steps that the District plans to take under its accessibility plan; and the name and contact information of the District's designated person.

IV. REPORTING PROVISIONS

A. Accessibility Plan

(1) Accessibility Plan Components

- (a) By July 7, 2015, pursuant to section III.A(1)(a), the District will submit a report identifying the specific accessibility standards that apply to the facilities and elements referenced in Appendices 1-3 for OCR's review and approval. The report will include sufficient documentation and other information to support its determinations.
- (b) By November 7, 2015, pursuant to section III.A(1)(b), the District will submit a report regarding its accessibility evaluation for OCR's review and approval. The report will include but is not limited to: copies of checklists used as part of the assessment, measurements, photographs, and explanations of its determinations and analyses.
- (c) By February 7, 2016, the District will submit its proposed action plan, which it developed pursuant to section III.A(1)(c), for OCR's review and approval.

If the district believes that a proposed action is not required because it falls within one of the exceptions referenced in section III.A(4), the proposed action plan will include a detailed statement of the reasons for reaching that conclusion; documentation to support the conclusion; and a description of the actions the District intends to take to nevertheless ensure that to the maximum extent possible individuals with disabilities receive the benefits or services offered at the school facilities.

- (2) By August 7, 2016, and at least every 90 days thereafter until the approved accessibility action plan is completed, the District will provide OCR with a report detailing its progress to date towards implementing the accessibility action plan. Each report will provide sufficient information for OCR to determine whether the District is adhering to the plan and that the District's actions to date comply with the Section 504 and Title II accessibility standards and requirements. The report may include, but is not limited to: an explanation of the actions taken under the accessibility plan, including the interim steps being provided pending any structural changes; descriptions and documentation of the delivery of services at alternate accessible locations or other non-structural methods of providing accessibility; plans and drawings; descriptions, measurements, work orders, photographs, and as-built drawings of structural changes; funding allocations and invoices; and permitting documentation and communications with local building code officials.

B. Policies and Procedures

- (1) By September 7, 2015, the District will provide OCR a copy of its proposed policies and procedures, which it developed pursuant to section III.B of the agreement, for OCR's review and approval.
- (2) Within 30 days of receiving OCR's approval of the policies and procedures, the District will provide OCR with a report demonstrating its adoption of them. The report will include, but is not limited to: a copy of the final policies and procedures; and documentation showing the District's adoption of the policies and procedures, and its appointment of the designated person.
- (3) By November 7, 2017, the District will provide OCR with a report demonstrating its ongoing implementation of the policies and procedures. The report will include, but is not limited to: copies of any revised published materials regarding accessibility; and a description of the steps that the designated person has taken to carry out his/her responsibilities.

C. Notice

(1) Annual Accessibility Notice

- (a) By July 7, 2015, pursuant to section III.C(1), the District will submit its proposed annual notice of accessibility, which OCR will review and approve.
- (b) Within 30 days of OCR's approval, the District will submit a report showing its dissemination of the notice. The report will include, but is not limited to: a copy of the final notice, and a description of how and when the notice was disseminated and will be disseminated in the future.

(2) Other Notice

- (a) By July 7, 2015, the District will submit its initial notice pursuant to section III.C(2), which OCR will review and approve.
- (b) Within 30 days of OCR's approval, and every 90 days thereafter until the completion of the accessibility action plan, the District will submit a report showing its distribution of the initial and subsequent notices given to the students, parents, employees, and other interested individuals at Seaside HS, Broadway MS, and Seaside Heights ES.

D. Training

By February 7, 2015, the District will provide OCR a report regarding its training actions under section III.D. The report will include, but is not limited to: the date(s) of the training; a copy of the training agenda and any training materials; the name and position title of the presenter; and the names and position titles of school District personnel who attended the training.

Signed:

_____/ x /_____
Dr. Douglas C. Dougherty
Superintendent
Seaside School District 10

May 21, 2015
Date

Appendix 1 – List of Accessibility Concerns at Seaside High School

Regarding OCR Reference No. 10151025:

1. The east entrances to the main building, which are closest to the accessible parking spaces in the back parking lot, require the use of stairs.
2. The routes to an art room, the music room, and the stage in the main building require the use of stairs.
3. The doors to the boys' and girls' locker rooms, and the boys' and girls' restrooms on the north and south ends of the main building are too narrow.
4. The toilet stalls in the boys' and girls' locker rooms, and the boys' and girls' restrooms on the north and south ends of the main building are too narrow and lack grab bars.
5. The sinks in the boys' and girls' locker rooms, and the boys' and girls' restrooms on the north and south ends of the main building require the use of a foot pedal; are too high; and are out of reach.
6. The paper towel dispensers in the boys' and girls' locker rooms, and the boys' and girls' restrooms on the north and south ends of the main building are mounted too high.
7. The soap dispensers in the boys' and girls' restrooms on the north and south ends of the main building are out of reach range or do not have sufficient clear floor space.
8. The mirrors in the boys' and girls' restrooms on the north end of the main building are mounted too high.
9. The restroom door in the portable building has a door knob.
10. The doors to the restroom, the special education classroom, and the hallway within the portable building are too heavy to open and are too narrow.
11. A water heater next to the restroom door in the portable building limits the maneuvering clearance at the doorway.
12. The pipes under the sink in the portable building's restroom are not insulated.
13. The paper towel dispenser in the portable building's restroom is mounted too high.

14. A chair in the portable building's restroom reduces its clear floor space.
15. There are too few accessible parking spaces in the back and north parking lots.
16. The signs for the accessible parking spaces in the back parking lot are mounted too low, and an accessible parking space lacks signage.
17. The showering facilities in the boys' and girls' locker rooms have no seating or grab bars.
18. The toilet stalls in the boys' and girls' restrooms and locker rooms are too narrow.
19. A wall mounted paper towel dispenser/trash receptacle limits access to the adjacent toilet stall in the boys' and girls' restrooms and locker rooms.
20. The pipes under the sinks in the in the boys' and girls' restrooms and locker rooms are not insulated.

Regarding OCR Reference No. 10151124:

21. The two new accessible parallel spaces in the back parking lot, which is located east of the main building: lack sufficient space and overlap the adjacent parking and driveway; lack access aisles; and lack accessibility signage.
22. Vehicles parking in one of the new accessible parking spaces block the marked accessible route, which is located behind it.

Appendix 2 – List of Accessibility Concerns at Broadway Middle School

Regarding OCR Reference No. 10151025:

1. The bleachers in the gymnasium do not provide wheelchair seating.
2. The routes to the stage require the use of stairs.
3. The toilet stalls and the toilet stall doors in the boys' restroom near the northwest entrance are too narrow.
4. The sink in the boys' restroom near the northwest entrance requires the use of a foot pedal.
5. The paper towel dispenser and the soap dispenser in the boys' restroom near the northwest entrance are mounted too high.

Appendix 3 – List of Accessibility Concerns at Seaside Heights Elementary School

Regarding OCR Reference No. 10151033:

1. The routes to the stage require the use of stairs.
2. The school's play area does not have an accessible surface or accessible routes.
3. Play components in the play area are not accessible.
4. There is no van accessible parking at the school.
5. Some accessible parking spaces lack signage or have signage that is mounted too low.