

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Tumwater School District (the district) enters into this agreement to resolve the allegations in a complaint (OCR Reference No. 10161118) 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 No. 10161118 and does not constitute an admission by the district of any violation of Section 504 or Title II or any other law.
- B. OCR agrees to discontinue its investigation of OCR Reference No. 10161118 based upon the district's commitment to take the actions specified in this agreement which, when fully implemented, will resolve the allegations in this case.
- C. The district understands and acknowledges that, if it does not fully implement this agreement, 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 (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 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, 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 regulation implementing Section 504 and Title II, at 34 C.F.R. 104.33, 34 C.F.R 104.37 (a), 34 C.F.R. 104.4(b)(1)(ii)-(iv), 34 C.F.R. 104.4(a), 28 C.F.R. 35.130(a), 28 C.F. R. 35.130(b) (ii)-(iv) which were at issue in this case.
- 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 the ADA at 34 C.F.R. 104.33, 34 C.F.R 104.37 (a) ,34 C.F.R. 104.4(b)(1)(ii)-(iv), 34 C.F.R. 104.4(a), 28 C.F.R. 35.130(a), 28 C.F. R. 35.130(b) (ii)-(iv) which were at issue in this case.

III. RESOLUTION PROVISIONS

A. Policies and Procedures

By October 31, 2016, in consultation with OCR as described in the reporting provisions below, the district will review and revise, as necessary, its policies and procedures to ensure that students with disabilities are not treated differently from non-disabled students with respect to the length of the school day, unless a shortened school day is determined as necessary to meet the individualized needs of a particular student with a disability, and such decisions are made by a group of persons knowledgeable about the student, the student's disability evaluation data, and the placement options. In particular, the district's policies and procedures will ensure that students with disabilities who receive specialized transportation will not arrive to class later, or leave class earlier, than the start and end of instructional time for the district's regular education program, due to transportation schedules for buses serving those students.

The district will also review and revise, as necessary, its policies and procedures to ensure that the implementation of students' Individual Education Programs (IEPs) and Section 504 plans. The policies and procedures will ensure that all relevant school staff, including teachers of general education courses, will receive notice of and implement all IEPs and Section 504 plans in accordance with the terms of the plans to ensure that students receive a free appropriate public education (FAPE).

B. Notice and Training

1. Within 30 days of receiving OCR's approval of the policies and procedures described in section III.A, above, the district will provide notice to all staff regarding the updated policies and procedures. The notice may be made electronically.
2. Within 60 days of receiving OCR's approval of the policies and procedures

described in section III.A, above, the district will provide training to all teachers, principals, vice principals, and any special education administrators at each school in the district, regarding the revised policies and procedures.

C. Compensatory Instructional Time

1. Consistent with the method described below, the district agrees to offer additional instructional time to any student with a disability who utilized specialized transportation during the 2015-2016 school year, and, because of transportation provided by the district, received less instructional time than the instructional time received by students attending general education classes at the same school, as reflected by each individual school's general bell schedule. The district will conduct an individual review for each student with a disability who utilized specialized transportation during the 2015-2016 school year to determine any missed instructional time. As part of the review, the district will gather the instructional start and end times for these students during this school year, and compare those times to the instructional start and end times for the general education program at the same school attended by each student with a disability who utilized specialized instruction. In determining the actual instructional start and end times for the students with disabilities who receive specialized transportation, the district will consider the bell schedule, the bus pick up/drop off times, information on early releases or late starts provided informally by the teachers, whether students have a different instructional time provided for in their IEPs, and other information the district believes will affect the instructional time for these students. The district will use the information from this review to determine the amount of instructional time that was missed for each student with a disability who receives specialized transportation and who as a result had a shortened instructional day as compared to students in general education classes. The district will then offer these students the appropriate amount of additional instructional time as described in the reporting provisions, below. The district may provide copies of IEPs or other information to OCR to show why individual students may be receiving or may have received appropriate instructional time that reflects a shorter school day than the general bell schedule for the school for each applicable student, and these students will not require compensatory instructional time if the students' IEPs demonstrate that the students' shortened school day was based on the individual needs of the students.

2. By October 15, 2016, the district will offer compensatory education to the student who was the subject of this complaint (the student) for the student's missed instructional time in his 6th period math class during the 2015-2016 school year, by sending a written offer to the student's parent to reimburse the parent for 7 hours of tutoring in mathematics, to be provided to the student in the student's new locale. The district shall similarly reimburse the parent for an additional 15 hours of private tutoring for English, Biology, World History, and Mathematics as compensatory education for any failure to implement the student's IEP during the 2015-2016 school year. The parent shall provide the district with copies of the tutoring invoices, and the district shall reimburse the parent within 20 days of receipt of these invoices. The district will not be responsible for reimbursement for tutoring that is not completed within one year of the date of this agreement. The district will not be obligated under this agreement to compensate the parent in an amount greater than \$5,000.

IV. REPORTING PROVISIONS

A. Policies and Procedures

1. By October 31, 2016, the district will provide OCR a copy of its draft revised policies and procedures, which it developed pursuant to section III.A of the agreement, for OCR's review and approval. By September 30, 2016, the district will also provide a chart that demonstrates that it is providing transportation for students with disabilities who receive specialized transportation such that those students are able to receive instructional time comparable to general education students. The information must clearly demonstrate that buses for these disabled students are arriving early enough so that the disabled students are not arriving at class later than general education students, and that those buses are also departing school grounds at a time that does not require disabled students who receive specialized transportation to leave class earlier than general education students. The chart should include class start and end times and the dismissal bell schedules for all district schools that have special transportation riders along with each special transportation route's respective pickup and drop-off times for these schools. OCR will review the chart, policies and procedures and notify the district if OCR approves the chart, policies and procedures, or whether OCR identifies any necessary revisions to the chart, policies and procedures. If OCR identifies revisions, the district will submit a revised chart and revised policies and procedures within 30 days of receiving OCR's notice. OCR and the district will repeat this procedure until OCR approves the chart, policies and procedures.

2. Within 30 days of receiving OCR's approval of the revised policies and procedures submitted pursuant to section III.A of the agreement, the district will provide OCR with documentation to substantiate that it has adopted the OCR approved policies and procedures.

B. Notice and Training

1. Within 45 days of receiving OCR's approval of the policies and procedures pursuant to section IV.A, above, the district will submit a report to OCR containing a copy of the notice sent to staff pursuant to section III.B.1, above.
2. Within 75 days of receiving OCR's approval of the policies and procedures pursuant to section IV.A, above, the district will submit a report to OCR describing the training provided pursuant to section III.B.2, above. The report will contain, at a minimum:
 - a. the date and time of the training;
 - b. the name and qualifications of the person providing the training;
 - c. a copy of the materials used to provide the training;
 - d. a list of staff with position titles who attended the training; and
 - e. for any required staff who were not able to attend the training, a description of the district's plan to provide them with the training.

C. Compensatory Instructional Time

1. By October 31, 2016, the district will provide OCR with the results of the review it conducted, and the plan it created, pursuant to section III.C.1, above. The report will contain sufficient information to demonstrate that the district considered each of the factors described in section III.C.1 when determining the instructional time received by students with disabilities who receive specialized transportation as compared to students in regular education classrooms. The plan will include the specific amount of additional instructional time the district plans to offer to each disabled student, including the proposed method to provide the additional instructional time with timelines. OCR will review the information and plan, and notify the district if the district's plan requires revision. If the plan requires revision, the district will submit a new plan for OCR's review within 21 days of receiving OCR's notice. The district and OCR will repeat this procedure until OCR approves the district's plan.

2. Within 14 days of receiving OCR's approval of the plan for additional instructional time under section III.C.1, the district will send a report to OCR containing the draft of a written notice to the parents/guardians of the students covered in the plan to offer the additional instructional time. The notice will allow the parents no less than 30 days to respond to the district as to whether the student will participate in the process for additional instructional time. Within 14 days of OCR's approval of the notice, the district will send the notice to the parents/guardians.
3. Within 14 days of the completion of providing the additional instruction time, the district will provide documentation to OCR of the dates, times and locations that additional instruction time was provided, a description of what was provided, and the name(s) and qualifications of the service provider(s). The report will also contain documentation of the response of the parents/guardians that did not accept the district's offer to provide additional instructional time, including their names and contact information.
4. By October 15, 2016, the district will provide a report to OCR with a copy of its written offer to the subject student's parents to reimburse them for tutoring as described in section III.C.2, above.
5. Within 14 days after the final reimbursement payment under section III.C.2, above, or by June 30, 2017, whichever is sooner, the district will provide a report to OCR detailing all reimbursement payments paid to the parent.

Signed:

_____/s/_____
John Bash
Superintendent
Tumwater School District

September 8, 2016
Date