

**Resolution Agreement
Marysville Public Schools
OCR Docket #15-15-1223**

The Marysville Public Schools (the District) submits this Resolution Agreement to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced complaint and ensure compliance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. The District agrees to take the following actions:

ACTION STEPS –Individual Remedies

1. By **February 1, 2016**, the District will reconvene the Student’s Section 504 team to determine whether the Student requires compensatory education or other remedial services as a result of: the District sending the Student xxxx xxxxx from school on certain occasions during the 2014-2015 school year; the District’s failure to provide the Student with class instruction from xxxxxxxx xxxxx xxxxx xx xxxx; the District’s failure to provide the Student with instruction from a xxxxxxxxxx xxxxxxxx from xxxxxx xx xxxxxxxx xxxx xx xxxx; and the District’s improper placement of the Student on xxxxxxxxxxxx xxxxxxxxxxxxxx from xxx x xxxx, through the remainder of the 2014-2015 school year without ensuring that a reevaluation was conducted and without ensuring the placement decision was made by a group of knowledgeable persons, and without consideration as to whether the new placement provided for the education of the Student with persons without disabilities to the maximum extent appropriate to his needs. The team will also consider whether the Student’s receipt of education services was affected by the xxx incidents of harassment he experienced by school staff during the 2014-2015 school year, and what if any compensatory education or other remedial services are necessary to remedy those effects. The Student’s parent will be invited to participate in the team meeting, and in the event that the Student’s parent(s) is unable to attend the meeting, the District will provide the Student’s parent with a meaningful opportunity to provide input into the decision regarding whether compensatory education and other remedial services are necessary. If the Section 504 team determines that such services are necessary, it will develop a written plan that lists each service that will be provided, the date(s) each service will be provided, and the title and qualifications of the individual who will provide each service. The Student’s parent will be provided with written notice of any determinations made, a copy of any plan to provide services, and notice of the procedural safeguards available to her under 34 C.F.R. § 104.36, including her right to challenge the determination through an impartial due process hearing.

REPORTING REQUIREMENT: By **February 1, 2016**, the District will provide OCR with documentation demonstrating its compliance with Action Step 1 above, including the names and titles of those who attended the Section 504 team meeting; documentation regarding whether the Student was found to require compensatory education or other remedial services; a copy of the written plan to provide those services, if applicable; and documentation or information demonstrating that the Student’s parent was provided with a meaningful opportunity to provide input into the decision regarding services. Should the

Section 504 team determine that compensatory education or other remedial services are not necessary, the District will provide a written explanation of the reasons for this determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making this determination. The District shall also provide documentation that it notified the Student's parent in writing of the Section 504 team's determination, provided her with notice of her procedural safeguards, and if applicable, provided her with a copy of the plan to provide services.

By **April 1, 2016**, the District will provide OCR with documentation verifying that compensatory education services and/or other remedial actions, if determined necessary, were provided to the Student, including the dates, times, and locations that the compensatory education or other remedial services were provided to the Student, and the name(s) and title(s) of the service provider(s). Should the services be rejected by the Student's parent, the District will provide OCR with documentation of such rejection from the Student's parent(s).

2. By **February 1, 2016**, the District will send the Student's parent a letter offering to provide counseling services through a state certified counselor or psychologist at the District's expense to address the xxx incidents of disability-based harassment the Student experienced by District staff during the 2014-2015 school year. The letter shall state that the counselor shall be selected by the District, but that the Student's parent will be provided an opportunity to provide input into which counselor is selected. The letter shall give the Student's parent a minimum of 15 days to accept the counseling services. The counseling shall begin no later than 30 days after the Student's parent accepts the offer. The letter shall also state that the amount and duration of the counseling shall be determined by the counselor based on what is necessary to address the two incidents of harassment in consultation with the Student's parent. If the Student's parent rejects the District's offer to provide counseling, fails to respond to the offer of counseling within the time allotted, or if the Student fails to attend three or more consecutive counseling sessions without rescheduling, the District is no longer obligated to pay for counseling services.

REPORTING REQUIREMENT: By **February 1, 2016**, the District shall provide OCR with a copy of the letter it sent to the Student's parent offering counseling services, along with information or documentation regarding whether the parent accepted, rejected or failed to respond to the counseling offer. If the offer was accepted, the District shall also provide OCR with the name, qualifications and contact information of the counselor selected, the dates of any scheduled counseling sessions, and documentation demonstrating that the District paid for or otherwise provided the counseling sessions without charge to the Student's parent.

ACTION STEPS –District-wide Remedies

3. By **March 15, 2016**, the District will provide mandatory Section 504 and Title II training to the District's superintendent, Section 504/ADA compliance officers, special education staff, and all staff at the District's middle school. The training shall be provided by a source with expertise in Section 504 and Title II and shall cover, at a minimum, Section 504 and Title II's prohibition against discrimination and different

treatment on the basis of disability and Section 504 and Title II's requirement that school districts provide students with disabilities with a free and appropriate public education (FAPE). The training will reference the requirement that educational services provided to students with disabilities be equal in quality to those provided to non-disabled students. As part of this training, District staff will be informed that it is generally inappropriate to send a student home early from school as a disability-related service or as a tool for dealing with disability-related behaviors outside of the disciplinary process, and that if sending a student with a disability home early on a regular basis is necessary due to safety concerns, the District will consider providing tutoring or other education services to compensate for missed instructional time as needed to provide FAPE. The District will also provide its staff with training on Section 504 and Title II's prohibition against disability harassment, and shall provide information regarding what constitutes disability-based harassment and the obligation of all staff to refrain from harassing conduct against students with disabilities and to report any such harassment to the District's Section 504/ADA compliance officers. The training shall also cover the District's obligation to promptly investigate any allegations of bullying or harassment of a student with a disability, and if bullying or harassment is found to have occurred, to take immediate and appropriate steps to address the bullying or harassment, prevent it from reoccurring, and remedy its effects on the harassed individual and others as appropriate. The training shall also cover the obligation of the District to reconvene the Section 504 or Individualized Education Program (IEP) team of a student with a disability who has been subjected to bullying or harassment *on any basis* to determine if the bullying or harassment has affected the student's receipt of FAPE, and whether compensatory educational services or a change in placement is necessary to address any denial of FAPE.

REPORTING REQUIREMENT: By **March 15, 2016**, the District will provide OCR with documentation of its compliance with Action Step 3, including the date(s) of the training, the name, title and qualifications of the individual providing the training, a copy of any materials referenced or distributed during the training, and a sign in sheet with the names and titles of the individuals who attended the training.

General Requirements

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 and its implementing regulation at 34 C.F.R. §§ 104.4, 104.33, and 104.35, and Title II and its implementing regulation at 28 C.F.R. §§ 35.130, 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 its implementing regulation at 34 C.F.R. §§ 104.4, 104.33, and 104.35, and Title II and its implementing regulation at 28 C.F.R. §§ 35.130.

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 will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Superintendent or Designee

__12/16/2015_____
Date