

**Resolution Agreement
Tucson Unified School District
Case Number 08-10-1114**

The U.S. Department of Education, Office for Civil Rights ("OCR") received a complaint against the Tucson Unified School District alleging, in relevant part, that the District retaliated against her for advocating for students with disabilities when it acted to intimidate her by creating a hostile environment and did not continue her employment as a school psychologist. OCR investigated the allegations and found evidence to support a finding that the District retaliated against the complainant when it threatened her employment and then did not renew her employment contract. Additionally, OCR found evidence to support a finding that the District failed to respond to disability complaints filed with the District by the complainant.

OCR determined that the District actions violated Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. pt. 104, which provide that no program or activity receiving Federal financial assistance from the U.S. Department of Education may discriminate on the basis of disability; and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-65, and its implementing regulation at 28 C.F.R. pt 35, which prohibit discrimination on the basis of disability by public entities. Specifically, individuals filing a complaint, participating in an investigation, or asserting a right under Section 504 and Title II are protected from intimidation or retaliation by 34 C.F.R. § 104.61, which incorporates 34 C.F.R. § 100.7(e), and 28 C.F.R. § 35.134.

1. By August 31, 2012, the District shall provide the Complainant a check in the amount of (\$180,000.00).¹

REPORTING REQUIREMENT: By August 31, 2012, the District will provide OCR with documentation evidencing payment to the Complainant of \$180,000.

2. By August 31, 2012, the District will remove all 2009-2010 performance evaluations, the District's decision not to renew the complainant's employment with the District, and any other comments regarding the Complainant's conduct or performance during the 2009-2010 school year contained in the Complainant's personnel file. The Complainant's resignation from her employment with the District, effective June 30, 2010, will be placed in her personnel file together with a copy of OCR's resolution letter in this case.

REPORTING REQUIREMENT: By September 15, 2012 the District will provide OCR with a written verification demonstrating that the District has removed all items identified in Term #2, and placed the Complainant's resignation and a copy of OCR's resolution letter in this case in her personnel file.

3. By August 31, 2012, the District shall designate one individual administrator who the District has established to be the only person designated by the District to provide future

¹ This amount represents approximately two years back pay plus two years front pay. The Complainant has agreed to provide the District with a settlement and release agreement as a condition of receiving the compensation.

employers reference information concerning the Complainant. The District will provide OCR with any contact information for witnesses in this investigation.

REPORTING REQUIREMENT: By September 15, 2012 the District will provide OCR with written notification of the name and title of one individual administrator who the District has established to be the only person designated by the District to provide future employers reference information concerning the Complainant and the witness contact information per written request made by OCR.

4. Within 60 days of the effective date of this Agreement, the District shall redistribute its policy for complaints of retaliation (Governing Board Policies AC, AC-R and GBP) to staff and administrators. The policies may be distributed electronically. At a minimum, the District will advise its staff and administrators that TUSD in no way condones any retaliatory behavior. Retaliation for opposition to discrimination is prohibited by federal and state laws and TUSD Governing Board Policies. All TUSD employees are required to comply with these legal requirements. Additionally, the notice to staff will include the requirements pertaining to retaliation found in Section 504 of the Rehabilitation Act of 1973, and its implementing regulation found at 34 C.F.R. pt. 104.; and Title II of the Americans with Disabilities Act of 1990, and its implementing regulation at 28 C.F.R. pt 35.

REPORTING REQUIREMENT: By October 31, 2012 the District will provide OCR with a copy of the electronic notice made to all staff and administrators called for in #4.

5. Within 120 days of the effective date of this Agreement, the District will provide training about the District's Discrimination Grievance Procedure to all District personnel who may be involved in or need knowledge of the Procedure. At a minimum this training will be provided to all employees in the Exceptional Education Department and Equal Employment Opportunity Office, explaining the Procedure and how it will be followed.


REPORTING REQUIREMENT: Within 30 calendar days of the completion of #5 above, the District will provide OCR with documentation that it has provided appropriate District staff with the training referenced in item #5, including the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, and a sign-in sheet with the names and titles of the District's staff who attend the training.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. pt. 104; and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-65, and its implementing regulation at 28 C.F.R. pt 35, 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 a minimum 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 regulation implementing Section 504 and Title II, which were at issue in this case.



John J. Pedicone, Ph.D.
Superintendent

8-27-12
Date