

**Resolution Agreement  
Rochester School Department  
Complaint No. 01-16-1071**

To resolve allegations in Complaint No. 01-16-1071 filed against the Rochester School Department (District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the District agrees to implement this Resolution Agreement to ensure compliance with Section 504 of the Rehabilitation Act (Section 504) and its implementing regulation at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35.

**Action Item 1: Interim Access Plan for School Year 2017-2018**

The District agrees to submit to OCR an interim access plan for the Magnet Program no later than 45 days after the full execution of this agreement, the purpose of which is to plan for the District's prompt and effective response should an already-enrolled student in the Magnet Program develop a mobility impairment and should a student with a pre-existing mobility impairment enroll in the Magnet Program.

**Reporting Requirements**

1. Within 45 days of the full execution of this agreement, the District will submit to OCR the interim access plan.

**Action Item 2: School Year 2018-2019**

Within 90 days of the full execution of this agreement, the District will notify OCR where its Magnet Program will be housed during the 2018-2019 school year, and will identify the standard of accessibility that will apply to the facility and any alterations.<sup>1</sup>

**Reporting Requirements If Magnet Program Remains in the Maple Street Facility:**

1. Within 120 days of the full execution of this agreement, the District will submit to OCR a physical access plan conducted by a professionally licensed architect with expertise in applying the 2010 Americans with Disabilities Act Standards for Accessible Design (2010 Standards). The plan will specify the renovations necessary to ensure accessibility as defined by 34 C.F.R. § 104.22, and in the case of any alterations, that the alterations comply with 34 C.F.R. § 104.23 and/or 28 C.F.R. § 35.151, including, but not limited to, parking, entrances to the building, specified classrooms, specified bathrooms, the cafeteria, the library, and all other services, programs, and activities, including accessible routes to such services, programs and activities. Any renovations deemed necessary will comply with the 2010 Standards.
2. Construction pursuant to the plan will commence no later than March 31, 2018. Within ten days of March 31, 2018, the District will provide documentation to OCR, such as

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<sup>1</sup> The District has informed OCR that it may discontinue the program if it poses an undue burden to sustain it.

photographs or a sworn affidavit from the Superintendent, sufficient to demonstrate that construction of the plan has commenced.

3. Once construction begins, the District will provide detailed monthly updates to OCR on the last day of each month (or, if the last day of the month falls on a weekend or federal holiday, the following business day) on the progress of the renovations, including providing a good faith estimate of the completion date of the construction.
4. Upon completion, the District will submit to OCR certification by a professionally licensed architect or engineer that the Maple Street facility as renovated ensures accessibility in conformance with the 2010 Standards. The District will also submit to OCR photographs documenting the completion of the renovations.

**Reporting Requirements If Magnet Program is housed in a Facility Other than the Maple Street Facility:**

1. Within 150 days of the full execution of this agreement, the District will notify OCR that it intends to relocate the Magnet Program to a different facility. The District will notify OCR of the date that the facility was constructed, and list any alterations to the facility (and the dates of the alterations) within the meaning of 34 C.F.R. § 104.23(b) or 28 C.F.R. § 35.151(b).
2. By January 29, 2018, the District will submit photographs to OCR of the proposed new site location and building, along with:
  - a. If the building is an existing facility constructed prior to June 3, 1977, a detailed explanation, including dates, of how program accessibility will be achieved in accordance with 34 C.F.R. § 104.22; or
  - b. If the building is an existing facility constructed prior to June 3, 1977 and has been altered as defined in 34 C.F.R. § 104.23, a detailed explanation, including dates, of how program accessibility will be achieved in accordance with 34 C.F.R. §§ 104.22 and 104.23; or
  - c. If the building qualifies as new construction under Section 504, or both Section 504 and Title II, certification by a professionally licensed architect that the facility is readily accessible to and usable by individuals with disabilities in accordance with 34 C.F.R. § 104.23, or both 34 C.F.R. § 104.23 and 28 C.F.R. § 35.151.
3. By July 30, 2018, the District will submit to OCR a detailed report documenting that its Magnet Program is free of access barriers for applicants and students with mobility impairments.

**Action Item 3: Magnet Program Enrollment Materials**

All Magnet Program application/enrollment materials applicable to enrollment for the 2018-2019 school year will include a statement that the school in which the Magnet Program is located affords program accessibility (or other applicable standard if the facility was constructed after June 3, 1977) and that the Magnet Program does not discriminate in enrollment based on disability.

**Reporting Requirements:**

1. By January 31, 2018, the District will provide to OCR all application/enrollment materials for the Magnet Program for the 2018-2019 school year, including but not limited to *Maple Street Magnet School Enrollment Procedures* and the handbook *Applying to the Magnet School* (or similarly published materials if the Magnet Program is relocated).

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, 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. Upon completion of the obligations under this agreement, OCR shall close this case.

The District also 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.

Executed this 24th day of July, 2017.

/s/ Michael L. Hopkins

Michael L. Hopkins  
Superintendent of Schools