RESOLUTION AGREEMENT Braintree Public Schools OCR Complaint No. 01-16-1158

Braintree Public Schools (the District) has voluntarily entered into this agreement to resolve an allegation of disability discrimination in the above-referenced complaint.¹ The District assures that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II).

This Agreement shall not constitute an admission by the District that the District's actions, programs or services as they relate to the above-referenced complaint were noncompliant with Section 504, Title II or any other law enforced by OCR. This resolution agreement is entered into by the District solely for the purpose of resolving the remaining portion(s) of the above-referenced complaint.

The District has agreed to resolve this complaint prior to the completion of OCR's investigation, pursuant to Section 302 of OCR's Case Processing Manual.²

Action Item: Training

By October 1, 2018, the District will provide training to all District principals and Section 504 coordinators. The training will cover the District's legal obligations to comply with Section 504 and Title II, specifically the topics covered in Action Items A-D:

- A. The District's obligation to conduct an evaluation of any student who, because of a disability, needs or is believes to need special education or related services;
- B. General education interventions or other mitigating factors should not interfere with or delay the District's child find and referral obligations;
- C. Eligibility criteria under Section 504 and Title II, including the updates of the Americans with Disabilities Act Amendments Act of 2008, including but not limited to:
 - a. The expanded definitions of physical or mental impairment, consistent with 28 C.F.R. § 35.108;
 - b. The revised definition and considerations for "substantially limits," consistent with 28 C.F.R. § 35.108, including that evaluation teams must (1) consider students in their unmitigated state, without regard to the ameliorative effects of mitigating measures and (2) that " substantially limits does not mean unable to perform, nor severely restricted in performing;"

¹ OCR has issued a no-violation finding regarding an allegation of race discrimination raised in this complaint, pursuant to OCR's Case Processing Manual at Section 303(a).

² To the extent OCR notifies the District that interviews or file reviews are required for the monitoring of this Agreement, the District shall make itself available at mutually agreeable dates and times during normal business hours.

- c. That teams must consider all information provided to the team, including information relating to how an alleged disability impacts the time, manner or duration of a student' s performance of any major life activity; and,
- d. That a diagnosis is not required for a student to be evaluated under Section 504/Title II; and
- D. Examples of circumstances when a referral for an evaluation should occur, including examples of how the District can implement general education interventions along with satisfying its referral and evaluation obligations.
- E. In addition to the training topics of A-D above, the District also agrees to prepare written materials of key points that participants can retain after the training session.

<u>Reporting Requirement:</u>

By October 15, 2018, the District will submit to OCR documentation that the training was delivered in accordance with this agreement.

By this same date, the District will also submit to OCR information demonstrating that it provided the written materials referenced in subpart E above to all invitees, including those who missed the training.

* * *

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District to 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. The District understands that OCR will not close the monitoring of the Agreement until such time that OCR determines the District has fulfilled the terms of the Agreement and is in compliance with the statutes and regulations that were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close 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 sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the District's representative below.

By:

<u>Superintendent</u>

_____ Date: ___