

**RESOLUTION AGREEMENT**  
**Southern Berkshire Regional School District**  
***OCR Complaint No. 01-16-1335***

The Southern Berkshire Regional School District (District) has voluntarily entered into this agreement to resolve the allegation in the above-referenced complaint. The District assures that it will take the following actions.

The District agreed to resolve this complaint prior to the completion of OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*. 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 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), the 2010 Americans with Disabilities Act Standards for Accessible Design (the 2010 ADA Standards), or any other law enforced by OCR. This Voluntary Resolution Agreement is entered into by the District solely for the purpose of resolving the above-referenced complaint. Further, this Agreement may not be introduced in any other forum except to enforce the terms of this Agreement.

The District agrees to take the actions listed below in order to provide individuals with disabilities, in particular those with mobility impairments, access to the District's playgrounds at Undermountain Elementary School, New Marlborough Central School, and the South Egremont School (the Schools). Modifications made pursuant to this Agreement will be done in accordance with the 2010 ADA Standards.

**ACTION ITEM 1:**

The District will evaluate the accessibility of and identify any barriers to access to the playgrounds at the Schools for individuals with mobility disabilities, specifically focusing on: (a) the routes to and throughout the playgrounds; (b) accessible ground surfaces within the playgrounds; and (c) the types of play components.

After completing its evaluation, the District will develop a written remediation plan (the Remediation Plan) addressing each barrier to access identified through its evaluation and submit it for OCR review. For each barrier, the District may: (1) remove it in a way that complies with the 2010 ADA Standards, (2) propose a timeframe for barrier removal for OCR's consideration, or (3) propose a timeframe for alternate means of providing equivalent facilitation (for new construction or alterations) or program access (for existing facilities).

Further, the District will submit to the Southern Berkshire Regional School Committee for approval a Fiscal Year 2021 Budget that includes, as part of Capital Budget, sufficient funds to cover those costs associated with its Remediation Plan. The District will

recommend that the Southern Berkshire Regional School Committee approve full funding of this Capital Budget expenditure item.

To the extent that the District is unable, upon a good faith effort, to obtain full budgetary approval for the Remediation Plan by the necessary entities (including the School Committee, the five (5) member towns at the Town Meeting, and, as appropriate, the Massachusetts School Building Authority (“MSBA”)), the District shall revise the Remediation Plan to (i) propose a timeframe for barrier removal for OCR’s consideration or (ii) propose a timeframe for alternate means of providing equivalent facilitation (for new construction or alterations) or program access (for existing facilities).

### **REPORTING REQUIREMENT 1**

1(a). By March 1, 2020, the District will provide OCR with the results of the District's accessibility evaluation including copies of all checklists and detailed photographs showing the measurements taken which were used by the District during its evaluation. The District will also provide OCR with a copy of its Remediation Plan identifying each barrier to access found through the evaluation, describing how it will address each barrier to access as described above and the date by which each barrier to access will be removed. For each barrier, the District may: (1) remove it in a way that complies with the 2010 ADA Standards, (2) propose a timeframe for barrier removal for OCR's consideration, or (3) propose a timeframe for alternate means of providing equivalent facilitation (for new construction or alterations) or program access (for existing facilities).

1(b). By June 15, 2020, the District will provide OCR with a status update on the budgetary approval process and, if budgetary constraints require a revision of the Remediation Plan, the District will submit a revised Remediation Plan to OCR as described above.

1(c). Within thirty (30) days of receiving OCR's written approval of its Remediation Plan or revised Remediation Plan, the District will implement the Remediation Plan, taking the steps necessary to address each identified barrier to access in accordance with the approved Remediation Plan.

1(d). The District will complete its Remediation Plan within three months of beginning the implementation described in 1(c), unless the Remediation Plan approved by OCR requires more time for completion.

### **REPORTING REQUIREMENT 2**

Starting on July 1, the District will submit written reports to OCR every three (3) months after the date of OCR's approval of the District's Remediation Plan summarizing the actions the District has taken pursuant to this Agreement through the completion of the remediation. Reports will include documentation to OCR showing those actions. Such documentation will include, for example, detailed photographs showing the relevant measurements of any alterations or renovations, architectural plans, work orders,

purchase orders, invoices and proof of efforts to secure funding/assistance for structural renovations or equipment.

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 the 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 and obligations of this Agreement. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR shall give the Recipient 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: \_\_\_\_\_ Date: \_\_\_\_\_  
Beth Regulbuto  
Superintendent of Schools