

**RESOLUTION AGREEMENT**  
**Belmont Public Schools**  
***OCR Complaint No. 01-22-1443***

The Belmont Public School District (District) has entered into this agreement to resolve the allegation in the above-referenced complaint. The District assures OCR 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*.

**Action Item 1: Policies and Procedures**

The District will review and revise, as necessary, its Section 504/Title II policies and procedures, grievance procedures, and form documents used for the evaluation and placement of students under Section 504. The review will include the following areas:

- A. Policies and procedures for determining whether a student is eligible for special education and/or related aids and services, including form documents used for the identification and placement of students on Section 504 plans. The policies will specifically address:
  - (i) The District's obligation to evaluate any student who, because of disability, needs or is believed to need special education or related services to meet their individual educational needs as adequately as the needs of students without disabilities are met, regardless of whether those needs are characterized as academic, medical, or non-medical;
  - (ii) The appropriate criteria for determining whether a student is a qualified individual with a disability under Section 504 and Title II (including information from the Americans with Disabilities Act Amendments Act);
  - (iii) Procedures that ensure placement decisions will be made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;
  - (iv) Consideration of a student's needs outside of the classroom setting, such as on academic field trips or other relevant activities that are part of the District's educational curriculum and programming;
  - (v) That the District's use of health care plans (HCPs) or any other building or district plans must comply with the procedural requirements of Section 504 for any student who qualifies for a Section 504 Plan.
  - (vi) The name, office address, and telephone number for, the District's Section 504/Title II Coordinator(s) (including any school-level coordinator(s)).

- B. The District's policies and procedures for the use of HCPs, which must be consistent with the procedural requirements of Section 504. These procedures will specifically reference the District's Section 504 policies and procedures to ensure that the development and use of HCPs will be consistent with the procedural requirements of Section 504.
- C. The District's policies and procedures for determining reasonable accommodations, related aids, and services for students with disabilities to ensure an equal opportunity as non-disabled peers to participate in nonacademic and extracurricular activities that are not a part of the District's academic and educational curriculum. These procedures may be incorporated in the procedures referenced in Action Item 1-A, i.e., the Section 504 team process that includes a group of knowledgeable persons to determine reasonable modifications, aids, or services for students.
- D. Grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504, Title II, and their implementing regulations at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, otherwise known as the School's Section 504/Title II Grievance Procedures. The 504 policies and procedures should not state or suggest that parents or students must or should first utilize the Grievance Procedures before exercising their rights as explained in the notice of procedural safeguards.
- E. Specific to the [redacted content] School and [redacted content] School, Section 504 policies and procedures that clearly identify roles and responsibilities for individuals responsible for the placement and evaluation of students under Section 504.

**Reporting Requirements:**

- 1. By **November 30, 2023**, the District will submit its policies and procedures to OCR for its review and approval.
- 2. **Within fifteen (15) calendar days of OCR's approval**, the District will adopt, implement, and publish the revised policies and procedures, and it will eliminate conflicting information posted on its website. The District will make this information available through its website and any other additional means of notification the District deems effective to ensure that the information is disseminated, including but not limited to emailing all parents of students who (i) are on HCPs; (ii) are known to have Life Threatening Allergies (LTA); (iii) are known to have hearing loss. The District will provide OCR with documentation that it has completed this item, including copies of written notices to students, parents/guardians, administrators, and staff, and a copy of any publications and a link to any website containing the policies and procedures.

**Action Item 2: Systemic Corrective Action for Students on HCPs, or who have LTAs or Hearing Impairments**

- A. By November 30, 2023, the District will identify a person(s) who will oversee the corrective action described in this Action Item, and, if applicable, for each school in the District.
- B. By January 15, 2024, The District will ensure that the person(s) will be properly trained on District's Section 504 policies and procedures in Action Item I submitted for OCR approval, specifically the Section 504 identification, evaluation, identification, and placement process for students, and has the authority to coordinate with school and district-level administrators responsible for evaluating students for aides and services under a Section 504 Plan.
- C. By January 15, 2024, the District shall identify the students at each District school who are on HCPs, and/or who have LTAs or hearing impairments, who are already or may also be eligible for Section 504 plans or IEPs. By January 26, 2024, the District will provide notices to these students at each District school who are on HCPs, and/or who have LTAs or hearing impairments to student's parents or guardians to convene a Section 504 or IEP team meeting for each student pursuant to the procedural requirements of Section 504 to develop (if a Section 504 plan or IEP does not exist) or revise each student's Section 504 Plan or IEP. A group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options will also discuss the provision of accommodations and/or services on educational and non-academic programming outside of the general education classroom (e.g. non-academic field trips, extracurriculars, other school activities). In addition, the District will discuss at each team meeting whether the student is entitled to any compensatory services. The District will make an individualized determination regarding what compensatory education the student needs to return to the position the student would be in if the student received services that met his or her individual needs; state the factors the team considered in determining compensatory education; develop a plan for timely delivery of compensatory services; and provide the student's parents or guardians notice of the procedural safeguards, including the right to challenge the team's decision through an impartial hearing.
- D. For all students with hearing impairments who were at the [redacted content] during the [redacted content] school year who used a FM sound systems in the two classrooms identified in the District's response to the Massachusetts Department of Elementary and Secondary Education where Student's FM sound system malfunctioned during the school year, the District will convene a Section 504 or IEP team meeting and discuss at each team meeting whether the other students who used FM sound systems in the two identified classrooms experienced FM sound systems malfunctions and if so whether each student is entitled to any compensatory services as a result. The District will make an individualized determination regarding what compensatory education the student needs to return to the position the student would be in if the student received services that met his or her individual needs; state the factors the team considered in determining compensatory education; develop a plan for timely delivery of compensatory services; whether there are any concerns regarding the functionality of FM sound systems currently used for the student; and provide the student's parents or guardians notice of the

procedural safeguards, including the right to challenge the team’s decision through an impartial hearing.

- E. By November 30, 2023, the District will ensure that FM sound systems currently used at the [redacted content] School have been replaced or are currently functioning by emailing teachers or staff who use FM sound systems for students with hearing impairments to confirm whether there are any concerns about the functionality of the FM sound systems, and where teachers or staff report concerns regarding the functionality of an FM sound system, the District will promptly address any concerns by replacing and/or addressing the functionality of the FM sound system.

### **Reporting Requirements**

1. By November 30, the District shall provide OCR with the names and titles of the persons who will oversee the District’s compliance with this provision at each school in the District, as well as their qualifications and training.
2. By February 29, 2024, the District shall provide OCR with a spreadsheet of students currently at each District school who are (i) on HCPs; (ii) have LTAs; or (iii) have a hearing impairment. The spreadsheet will be reasonably organized by District school and type of disability, and include:
  - a. a brief statement for each student regarding how/whether the provisions of the HCP are addressed in the relevant Section 504 plan or IEP, including page citations.
  - b. Whether a notice was sent to the parents of the Student to convene a Section 504 or IEP team meeting.
  - c. For all team meetings that were convened, include documentation of:
    - 1) persons who participated in team meeting, including title (such as school nurse or hearing consultant);
    - 2) whether any evaluations or assessments were determined to be necessary by the team;
    - 3) A discussion, or separate team meeting notice and documentation for discussion, of provisions related to field trips and/or extra-curricular activities, if appropriate;
    - 4) an explanation of whether compensatory services were discussed at the meeting as a result of any known lapses in the 504 process or implementation of 504 plans affecting any student, and what, if any, compensatory services, were offered or agreed upon by the team.
    - 5) The provision of procedural safeguards to the student’s parents or guardians.
  - d. For those students with hearing impairments who used an FM sound system at the [redacted content] School in the classrooms identified under 2.D during the [redacted content] school year, also include in the spreadsheet a description of whether compensatory services were discussed as a result of malfunctioning FM sound system, the factors the

team considered in determining compensatory education, the team's decision regarding compensatory education, whether there are any concerns regarding the functionality of FM sound systems currently used for the student, and the plan for the timely delivery of compensatory education.

The District should retain any team meeting or other notes, including the names/titles of attendees and minutes of the meeting. OCR may request this documentation after reviewing the spreadsheet during the monitoring of this matter.

3. By January 31, 2024, the District will provide OCR with the email sent to teachers and staff at the [redacted content] School regarding the functionality of the FM systems in use, and provide a documentation or a narrative report outlining the responses and, where necessary, the District's actions in replacing or otherwise addressing the functionality of the FM sound system. The District will maintain all records, including email correspondence, notes, logs, receipts for equipment, and other documentation related to this reporting requirement. OCR may request this documentation after reviewing the District's report during the monitoring of this matter.

### **Action Item 3: Training**

The District will provide Section 504/Title II training to the District's Superintendent, Assistant Superintendent(s), Section 504 Coordinator(s), Principals, Guidance Counselors, and any staff directly involved in the Section 504 evaluation process. The training will include an overview of Section 504's procedural requirements, including the standard for determining whether an individual has a disability and Section 504 evaluation procedures. The training will specifically address the items set forth in Action Item 1 (Policies and Procedures) sent to OCR by the District for approval. The training should include hypothetical examples and discussions about when a Section 504 evaluation would be required by law, including examples of a student who reports having a life-threatening allergy, and a student who has hearing loss. The training will also discuss the District's revised Section 504/Title II Grievance Procedures. The District will also re-disseminate its Section 504 policy to all participants following the training.

### **Reporting Requirements**

1. By **January 31, 2024**, the District will provide to OCR:
  - a. A list of the individuals who attended the training and their positions;
  - b. The date(s) the training was conducted; and
  - c. Copies of any training materials disseminated.

### **Action Item 4: Individual Remedy for the Student**

- A. By October 19, 2023, the District will implement the provision of the Student's 504 plan requiring an assessment by an [redacted content] and the provision of Hearing Assistive Technology (HAT) through scheduled October 19, 2023 [redacted content] assessment through the [redacted content] for the Student.

- B. Within 10 school days of District's receipt of the [redacted content] report for Student District will provide proper written notice to the Complainant of the meeting invitation and a copy of the [redacted content] report and convene a team meeting to review the [redacted content] report and determine the appropriate aides and services for the Student, and to determine whether compensatory services are appropriate for the Student for potential improper HAT and/or missed services during the [redacted content] school years. A group of knowledgeable persons will also discuss appropriate accommodations for the Student to have equal access to all field trips and extra-curricular activities. The District will ensure that the team(s) includes a group of persons who are knowledgeable about the Student and his life-threatening allergy and hearing impairments, the meaning of Student's evaluation data, and appropriate HAT. The District will make reasonable efforts to include the Complainant, and the District will provide the Complainant with notice of the procedural safeguards, including the right to challenge the team's determination through an impartial due process hearing.

### **Reporting Requirements**

1. By October 20, 2023, the District shall provide OCR with documentation demonstrating that the assessment [redacted content] was completed.
2. Within 10 school days of District's team reconvene for Student described in Action Item 4(B), the District shall provide OCR with the following documentation as to Student:
  - a. Documentation demonstrating that the Student's HAT has been implemented, and that any systems used function properly;
  - b. Any team meeting or other notes, including the names/titles of attendees, minutes of the meeting specifically addressing provision of services on field trips and during extracurricular activities, and, if applicable, an explanation of the District's method for determining the type and amount of compensatory services deemed appropriate for the Student;
  - c. Documentation showing the Student received any compensatory services deemed appropriate by the team and/or a schedule for providing the Student with any remaining services;
  - d. A record of the Complainant's receipt of notice of procedural safeguards, including the right to challenge the team's determination through an impartial due process hearing.

By signing the Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. During the monitoring of the Agreement, 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.

The District understands that OCR will not close the monitoring of the agreement until such time as OCR determines that the District is in compliance with the terms of the agreement and the statute(s) and regulation(s) at issue in the case.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings in the event of breach. Before initiating such proceedings, OCR will give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

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

By: \_\_\_\_\_/s Dr. Jill Geiser \_\_\_\_\_ Date: \_\_\_\_\_  
Dr. Jill Geiser, Superintendent