

VOLUNTARY RESOLUTION AGREEMENT
Bloomfield Township School District
Case No. 02-22-1382

To resolve Case No. 02-22-1382, the Bloomfield Township School District (the District) assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973, (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1: Individual Remedies for the Student

- A. By January 31, 2023, after providing proper notice to the Student's parent(s)/guardian(s), the District will convene a group of persons knowledgeable about the Student, such as the Section 504 committee, to conduct a manifestation determination review(s) (MDR) regarding the disciplinary incidents that led to the Student's suspensions/removals from school for 10 or more consecutive school days and/or a series of removals from class or school that together totaled more than 10 school days during school year 2021-2022. The group of knowledgeable persons will determine if the Student's behaviors were related to his disability for each relevant incident. If the District determines that the Student's behaviors were related to his disability or that the District's failure to implement his Section 504 plan resulted in the Student's behaviors, the District will expunge all records pertaining to the discipline it imposed on the Student for each relevant incident; and determine, whether the Student requires remedial and/or compensatory services as a result of his exclusion(s) from school. If the group of knowledgeable persons determines that the Student requires remedial and/or compensatory services, the group will develop a plan for providing such services, with a completion date for providing the services not to extend beyond June 30, 2023.
- B. By January 31, 2023, the District will also review all disciplinary incidents for which the Student received a sanction during school year 2021-2022, and determine on a case by case basis whether the sanction the District imposed was consistent with (1) its Code of Conduct and (2) the sanctions the District imposed on other students for the same offense. If the District determines that the Student received a harsher consequence than set forth in its Code of Conduct or than other students who engaged in similar behavior, the District will take remedial action including expunging the records regarding each incident and providing the Complainant with written notification of the change to the Student's records.

Reporting Requirements:

1. By January 31, 2023, the District will submit to OCR a copy of the meeting minutes or similar documentation from the meeting held consistent with Action Item 1 above demonstrating it has conducted an MDR(s). The documentation should include, at a minimum, the names and job titles of the participants in the meeting; the information considered; an explanation for decisions made; and if remedial and/or compensatory

services are offered to the Student, a description of and schedule for such services. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34 and 104.35, in making its determinations. If applicable, the District will also provide documentation confirming that the District expunged any disciplinary incidents that were a manifestation of the Student's identified disabilities from the Student's record.

2. By January 31, 2023, the District will submit to OCR a report regarding its review of the Student's disciplinary records, including its determination regarding each disciplinary sanction and whether it has expunged or revised the Student's disciplinary records. If the District determines that the Student's disciplinary sanction was consistent with its policies/practices and the treatment of similarly-situated students for any of the incidents, it will provide a full explanation to OCR including copies of all documents it relied upon in making the determination for each incident.
3. By July 15, 2023, the District will provide documentation to OCR of any compensatory and/or remedial services the District provided to the Student consistent with the plan(s) developed in accordance with Action Item 1 above, including the dates, times, and locations of the services, description of the services and the names(s) of the service provider(s).

Action Item 2: Individual Remedies for Other Students

- A. By March 15, 2023, the District shall review the disciplinary files of all students with disabilities eligible under Section 504 enrolled at Bloomfield Middle School who received suspensions of 10 or more consecutive days and/or a series of removals from class or school that together total more than 10 school days during school year 2021-2022, to determine if the District conducted an MDR for the student, in accordance with Section 504.
- B. By April 15, 2023, following the review described in Action Item 2A above, where appropriate, the District will convene a group of persons knowledgeable (such as the Section 504 committee) about each student with a disability eligible under Section 504 for whom the District did not hold an MDR, to determine whether the student requires any compensatory and/or remedial services as a result of the District's not conducting an MDR(s). If the group of knowledgeable persons determines that a student requires compensatory and/or remedial services, the group of knowledgeable persons will develop a plan for providing such services, with a completion date for providing the services not to extend beyond August 30, 2023.
- C. By April 15, 2023, if the group of knowledgeable persons determines during the meeting referenced in Action Item 2B above that the student received exclusionary discipline during school year 2021-2022, as a result of behavior that was, at that time, a manifestation of the student's identified disabilities, the District will expunge the discipline record(s) of those infractions that were determined to be a manifestation of the student's disabilities.

Reporting Requirements:

1. By March 31, 2023, the District will submit documentation to OCR demonstrating that the District conducted the reviews described in Action Item 2A above, including the total list of students with disabilities who received suspensions of 10 or more consecutive days or a series of removals from class or school that together total more than 10 school days, identifying those students for whom the District did not conduct required MDRs.
2. By April 30, 2023, the District will submit documentation to OCR substantiating that it held meeting(s) consistent with Action Item 2B above. At a minimum, the documentation should include the names and titles of the participants in the meetings; the information considered; an explanation for decisions made; if it offered remedial and/or compensatory services to the student(s), a description of and schedule for such services; and, if applicable, documentation confirming that consistent with Action Item 2C above, it expunged from the student’s record any disciplinary incidents that were a manifestation of the student’s identified disabilities.
3. By September 15, 2023, the District will provide documentation to OCR of the dates, times, and locations that any compensatory and/or remedial services that it provided to the student(s) consistent with the plan(s) developed in accordance with Action Item 2B above, including the dates, times, and locations of the services, description of the services, and the names(s) of the service provider(s).

Action Item 3: Manifestation Determination Procedures

By June 30, 2022, the District shall develop policies and procedures for conducting manifestation determinations for students with disabilities who have Section 504 plans consistent with the requirements of Section 504 including appropriate considerations for determining whether a student’s behavior is caused by or substantially related to their disability.

Reporting Requirements:

1. By September 15, 2023, the District will submit its draft policies and procedures to OCR for review and approval.
2. By October 15, 2023, or within 60 days after receiving written notification from OCR that the revised procedures comply with the requirements of Section 504, whichever is later, the District will make appropriate revisions to the student, faculty, and staff handbooks, the District’s website, and/or any other place where the District publishes its procedures with regard to manifestation determinations; and provide written notice of the procedure to students, parents/guardians, faculty, and staff by posting it on the District’s website, by providing written notice in all regularly issued District newsletters and other publications, and by any other effective means the District elects.
3. Within 30 days of publishing the revised procedures, the District will provide to OCR documentation including a copy of the notification placed on the District’s website along

with the web address for the notification; a copy of the student and staff handbook revisions or inserts; and a list of every location where the District publishes its procedures regarding manifestation determinations.

Action Item 4: Training for District Administrators and Staff

By June 30, 2023, the District will provide training regarding the requirements of Section 504 as they pertain to disciplining students with disabilities to all District administrators and District staff members who are responsible for imposing discipline on students and providing special education and related aids and services. At a minimum, the training will advise staff regarding what actions may amount to a significant change in the educational placement of a student with a disability and inform staff that prior to taking any action that would result in a significant change in such a placement, the District must conduct a reevaluation of the student in accordance with 34 C.F.R. § 104.35. The training will also staff that as a first step in any such reevaluation, the District must determine whether the misconduct was a manifestation of the student’s disability, using appropriate evaluation procedures that conform to the regulation implementing Section 504; and that if it determines that the misconduct was a manifestation of the student’s disability, the District cannot implement a disciplinary sanction that would result in a significant change in the student’s placement (such as an out-of-school suspension) and must determine whether the student’s current educational placement is appropriate.

Reporting Requirement:

By July 15, 2023, the District will submit documentation to OCR demonstrating that the District provided training in accordance with Action Item 4. This documentation will include the name(s) and credentials of the individual(s) who conducted the training(s); the agenda and/or a summary of the materials covered; the date(s) of the training; copies of all training materials distributed; and a list of the individuals who attended the training and their job titles.

OCR Monitoring

The District understands that by signing this resolution agreement (the 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.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and is in compliance with Section 504 and its implementing regulations, at 34 C.F.R. Part 104, and Title II and its implementing regulations at 28 C.F.R. Part 35, which were at issue in this 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 will provide the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

Date: January 4, 2023

Signed: _____/s/_____
Authorized Representative
Bloomfield Township School District