

**Resolution Agreement**  
**Boulder Valley School District**  
**OCR Case No. 08-17-1172**

In order to resolve the allegations in Case Number 08-17-1172, filed against Boulder Valley School District (District), the District voluntarily agrees to implement this Resolution Agreement. This case was initiated pursuant to Section 504 of the Rehabilitation Act of 1973 (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.

During the course of OCR's investigation of the complaint, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

The District agrees to take the following actions:

1. **Training.** By December 31, 2017, the District will provide training to all staff who routinely participate in the creation of Individualized Education Programs (IEPs) or Section 504 Plans at Nevin Platt Middle School (School) to ensure the staff fully understand the requirements set forth by the Section 504 implementing regulations, found at 34 C.F.R. § 104.33-37. This training will emphasize the following topics, at a minimum:
  - a. That students with disabilities cannot be denied the opportunity to participate in or benefit from an aid, benefit, or service equal to that afforded to their non-disabled peers;
  - b. That placement decisions must be based primarily on an individual student's needs, not the availability of support staff; and
  - c. That students may not be excluded on the basis of disability from participating in extracurricular activities and nonacademic services such as physical education, special interest groups, recreational athletics, recreational activities, or counseling services.

**Reporting Requirement 1:** By November 15, 2017, the District will submit to OCR a draft of the training materials the District intends to use for OCR's review and approval.

**Reporting Requirement 2:** By December 31, 2017, the District will provide to OCR documentation describing the trainings it has provided to staff, including sign-in sheets, agendas, and all materials distributed.

2. **Review of Peer Tutors.** The District will review the School's use of peer tutors to ensure their use is consistent with the requirements of Section 504 and Title II and their implementing regulations. Specifically, the District will review the use of peer tutors to ensure that students with disabilities are not denied the opportunity to participate in or benefit

from an aid, benefit, or service equal to that afforded to their non-disabled peers as a result of the peer tutoring program.

**Reporting Requirement 1:** By October 31, 2017, the District will report the results of its review of the School's use of peer tutors; specifically, the District will report to OCR whether the School's use of peer tutors is consistent with the requirements of Section 504 and Title II. If the District determines that the School's use of peer tutors is consistent with the requirements of Section 504 and Title II, the District will provide a written explanation for its determination, including a description of the information it considered and all documentation supporting the determination.

**Reporting Requirement 2:** If the District determines that the School's use of peer tutors is not consistent with the requirements of Section 504 and Title II, the District will provide to OCR, within 30 days of the completion of its review, and in addition to the documentation described above, documentation demonstrating that it has developed a plan to resolve the conflict with Section 504 and Title II. The District will consider OCR's feedback regarding the plan, and provide documentation demonstrating that it has fully implemented the plan by no later than January 1, 2018.

3. **Review of Scheduling Practices.** In consultation with OCR, the District will review the School's policies, procedures, and practices for scheduling core and elective classes for students with and without disabilities to ensure that the practice is consistent with the requirements of Section 504 and Title II and their implementing regulations. Specifically, the District will review the School's policies, procedures, and practices for scheduling classes to ensure that they do not have a disparate impact on students in the ILC.

**Reporting Requirement 1:** By October 31, 2017, the District will report the results of its review of the School's policies, procedures, and practices for scheduling core and elective classes for students; specifically, the District will report to OCR whether the School's policies, procedures, or practices are consistent with the requirements of Section 504 and Title II. If the District determines that the School's scheduling practice is consistent with the requirements of Section 504, the District will provide a written explanation for its determination, including a description of the information that it considered and all documentation supporting the determination.

**Reporting Requirement 2:** If the District determines that the School's scheduling policies, procedures, and practices are not consistent with the requirements of Section 504 and Title II, the District will provide to OCR, within 30 days of the completion of its review, and in addition to the documentation described above, documentation demonstrating that it has developed a plan to revise the School's scheduling policies, procedures, and practices to bring them into compliance with Section 504. The District will consider OCR's feedback regarding the plan, and provide documentation demonstrating that it has fully implemented the plan by no later than January 1, 2018.

4. **Individual Remedial Actions.** The District will send the parents/guardians of all students who participated in the Integrated Learning Center (ILC) at the School during the 2016-2017 academic year a letter explaining that the District is actively undergoing a review of the School's policies, procedures, and practices with respect to the use of peer tutors and the

scheduling of core and elective classes to ensure that they are consistent with the requirements of Section 504 and Title II and their implementing regulations, which prohibit discrimination on the basis of disability. The letter will also include an assurance that the School will revise its policies, procedures, and practices as necessary to ensure compliance with Section 504 and Title II; and an invitation for parents to raise concerns at their student's next IEP meeting if they feel that their student was in any way limited by past policies, procedures, or practices.

**Reporting Requirement 1:** By September 30, 2017, the District will provide OCR with a draft of the letter for OCR's review and approval.

**Reporting Requirement 2:** Within 14 calendar days of OCR's approval of the letter, the District will provide OCR with documentation demonstrating that it has timely completed Agreement Item 4.

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. 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 and is in compliance with the regulations implementing Section 504 and Title II.

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 at 34 C.F.R. §§ 104.33-37, and Title II, which were at issue in 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.

/s/

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For Boulder Valley School District

August 7, 2017

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Date