

Resolution Agreement
Bakersfield City School District
OCR Case No. 09-19-1166

In order to resolve the concerns identified with respect to the above-referenced complaint to the U.S. Department of Education, Office for Civil Rights (OCR) under Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act of 1990, as amended (Title II), the Bakersfield City School District (District) agrees to take the actions outlined in this Resolution Agreement (Agreement).

I. Determination of Services for the Student

- A. Within 30 days of the date of this Agreement, the District will take all reasonable steps to schedule and convene an IEP team meeting for the Student (including the parent). The IEP team will make a determination as to whether the Student should have received special education or related services prior to the date the Student's initial IEP was put in place in February 2019. Specifically, the IEP team will consider whether the fact that the District did not create a Section 504 plan for the Student when the School initially received notice of the Student's disability in February 2017 resulted in a meaningful loss of special education, or related services that Student should have received. The IEP team will also consider whether compensatory services are appropriate and, if so, will develop a plan for providing those compensatory services to the Student within a reasonable time.

II. Staff Training

- A. The District will provide training to all relevant staff at XXX XXXXXX Elementary School (the School), including any site administrators, special education teachers, school psychologists, and general education teachers, concerning the District's responsibility to ensure the provision of a free appropriate public education (FAPE) to students with disabilities under Section 504 and IDEA. The training will include a focus on staff's responsibilities for ensuring that all students who may have a disability and need services under Section 504 and IDEA are located, identified, and evaluated for special education and disability-related services in a timely manner. The training will include examples of when a Section 504 plan would be appropriate and for when an evaluation is appropriate based on a parent request.

III. Monitoring and Reporting

- A. By June 30, 2019 the District will provide to OCR, for OCR's review and approval, documentation that the IEP team meeting and determination described in Section I have been completed. If the Student's IEP team determines that compensatory services for the Student are appropriate, the District will provide OCR with documentation of the provision of those services once those services have been provided within the reasonable timeline agreed to by and between the District and the parent.

- B. By April 1, 2019 the District will provide a draft of the proposed training materials described in Section II to OCR for OCR's review and approval. After OCR review and approval of the training materials, the District will provide the training at the School by June 1, 2019. Within 30 days of conducting the training, the District will provide documentation to OCR (e.g., a sign-in sheet or other evidence) showing training attendance by name and title of attendees, a list of any required staff that have not yet been trained, a copy of the materials distributed at the training, the name and title of the trainer(s), and the date of 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, 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 Section 504 and Title II and their implementing regulations, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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/_____

Timothy Fulenwider, Ed. D.
Director, Instructional Support Services Division
Bakersfield City School District

_____03/22/2019_____

Date