

**Resolution Agreement
Berkley School District
OCR Docket No. 15-13-1257**

Berkley School District (the District) submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to ensure compliance with Section 504 of the Rehabilitation Act of 1973, 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, 42 U.S.C. § 12131 et seq., and its implementing regulations at 28 C.F.R Part 35. This Agreement is being voluntarily submitted by the District under Section 302 of OCR's *Case Processing Manual* and before the completion of OCR's investigation and any issuance of findings.

The District learned that the OCR received a complaint against the District on xxxxx. The Complaint alleged that the District discriminated against a student with a disability (the Student) on the basis of disability. Specifically, the complaint alleged that the District failed to timely and appropriately evaluate the Student for a disability, resulting in the Student xxxxx school year.

The District does not admit any wrongdoing or violations in this case. However, in the interest of resolving the complaint without the need for further action by OCR, the District has agreed to take the following steps to resolve the complaint:

1. By xxxxxx, the District will issue a written reminder to all staff and administrators responsible for identification, evaluation, and placement of students who have a disability or are suspected of having a disability that, if the District determines, based on the facts and circumstances of the individual case, a xxxxx is necessary to complete an appropriate evaluation consistent with 34 C.F.R. § 104.35(a) and (b), the District must ensure that the student receives this xxxxx at no cost to the parents/guardians. If xxxxx. The written reminder will also advise staff and administrators that if the District does not believe the student has a disability and refuses to evaluate the Student, the District must inform the parents/guardian of their procedural safeguards under 34 C.F.R. § 104.36, including their right to challenge the District's determination that the student does not have a disability requiring an evaluation through requesting an impartial due process hearing, rather than require them to obtain and/or pay for the medical assessment in order for the evaluation process to proceed.
2. By xxxxx, the District will conduct a meeting with the appropriate staff knowledgeable about the Student and will invite the parent(s) to attend and or participate in that meeting, to:
 - a) determine whether compensatory education services are necessary to compensate the Student for the time period between xxxxx and xxxxx. If the Team determines that compensatory education services are necessary, the Team will then determine the amount and type of compensatory education services necessary to compensate the Student, as well as how the services will be provided. The compensatory education services will then be provided at no cost to the Student's parent by xxxxx.

- b) X—paragraph deleted--X
3. xxxxx. The District will invite the Student's parent to participate and provide input into the determinations under 2a) and b) above, and, in the event that the Student's parent is unable to attend the meeting, the District will provide the parent a meaningful opportunity to provide input prior to making any determinations.
 4. By xxxxx, the District will send notification to the Student's parent, in writing, of the Team's decisions regarding item 2 above. The notification should include a detailed description of the nature and amount of compensatory education or remedial services to be provided, if any, including what services will be provided, where and how often the services will be provided, who will provide them and a notice that no cost will be incurred by the Student's parent. The District will also notify the Student's parent, in writing, of the procedural safeguards afforded them under IDEA and Section 504, including the right to challenge the determinations regarding compensatory education services or the manifestation determination through requesting an impartial due process hearing should the Student's parent disagree.

REPORTING REQUIREMENTS

5. By xxxxx, the District will provide OCR with documentation regarding implementation of these changes, including the following:
 - a) a copy of the notice sent pursuant to item 1 above, including how the notice was transmitted to staff;
 - b) a copy of any documents created or revised at the meeting required by item 2 above;
 - c) a list of the names and titles of all individuals attending the meeting required above, including a copy of the invitation or notice sent to the parent inviting the parent to the meeting, a copy of any meeting minutes, documentation of any input provided by the Student's parent, a copy of the notice sent to the parent regarding the outcome of the meeting, including documentation showing that the procedural safeguards were provided to the parent, and any other documentation relevant to the determinations reached in accordance with item 2 above. Should the District determine that no compensatory education or other remedial services were necessary, pursuant to item 2(a) or 2(b) above, the District will provide a written explanation of the reasons for the determination(s), along with any supporting documentation. 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. §§ 104.34, 104.35 and 104.36, in making these determinations.

6. By xxxxx, the District will provide OCR with documentation demonstrating that any compensatory educational services deemed necessary pursuant to item 2 were provided to the Student.

GENERAL REQUIREMENTS

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 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 Section 504 of the Rehabilitation Act of 1973, 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, 42 U.S.C. § 12131 et seq., and its implementing regulations at 28 C.F.R Part 35, which were at issue in this case.

/s/

5/7/14

Superintendent or Designee

Date