

**Resolution Agreement
Battle Creek Public Schools
OCR Docket #15-13-1328**

The Battle Creek Public Schools (the District) submits this Resolution Agreement to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced complaint and 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 regulation at 28 C.F.R. Part 35, as amended by the ADA Amendments Act of 2008 (ADAAA). 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; accordingly, the District agrees to do the following:

ACTION STEPS – Individual Remedies

1. By April 18, 2014, the District will convene the Section 504 or Individualized Education Program (IEP) team (Team), including the Student's parents for the Student to determine whether, beginning on XXXXXXXX X, XXXX, the Student had a mental or physical impairment that substantially limited one or more major life activities, and whether, as a result of such mental or physical impairment, he was entitled to receive a free appropriate public education (FAPE) under Section 504. Should the Team determine that the Student would have been eligible for services under Section 504, the Team will then take the following actions:
 - a. Determine what compensatory education or other remedial services the Student requires for the time period from XXXXXXXX X, XXXX, to the present, when the District failed to evaluate the Student to determine whether he was a qualified individual with a disability under Section 504 and failed to provide him with FAPE.
 - b. Conduct a manifestation determination to determine whether the Student's conduct that resulted in his suspension(s) and expulsion after XXXXXXXX X, XXXX, were the result of behavior related to his disability and, if so, determine what compensatory education or other remedial services the Student requires as a result of the suspension(s) and expulsion.
 - c. Develop a written plan for providing the Student with the compensatory education or other remedial services deemed necessary pursuant to Items 1(a) and 1(b) above, which plan will identify the nature and amount of the services to be provided at no cost to the Student's parent(s), by whom, and when, and will become part of the Student's Section 504 plan [or IEP]. The District will invite the Student's parent(s) to participate in the Team meetings, and in the event that the Student's parent(s) is/are unable to attend, the District will provide the Student's parent(s) with a meaningful opportunity to provide input, written notice of any determinations made, and notice of the procedural safeguards available to

them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree.

- d. By April 25, 2014, the District will expunge from the Student's discipline records any suspension or expulsion he received since XXXXXXXX X, XXXX, for behaviors that were determined to be a manifestation of his disability.

REPORTING REQUIREMENTS: By April 25, 2014, the District will provide OCR with documentation to demonstrate its implementation of Action Step 1 above, including: including a documentation showing when the Team met, who was present, what was discussed, the Team's decisions, and the bases for those decisions, copies of any meeting minutes, a copy of any plan developed for the Student, documentation of any input provided by the Student's parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached in accordance with Action Item 1 above, as well as documentation that the District has expunged the disciplinary incidents from the Student's record for the specified period, as necessary, and a copy of the notification sent to the Student's parent(s). Should the District determine that either the Student was not eligible for services under Section 504 or that no compensatory education or other remedial services were necessary, the District will provide a written explanation of the reasons for those determinations, 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.

By June 30, 2015, the District will submit documentation to OCR verifying that it provided the Student with the compensatory education the Team determined to be necessary, including the dates, times, and locations that the compensatory education or other remedial services were provided to the Student, including the name(s) and title(s) of the service provider(s).

ACTION STEPS – District-wide Remedies

2. By September 30, 2014, the District will do the following:
 - a. Publish on its website the Section 504 policies and procedures adopted by the Board of Education on October 21, 2013, and notify students, parents, and guardians of the policies and procedures and where a copy may be obtained by means that are designed to reach each student, parent, and guardian. Such means could include placing a notification in any regularly issued District newsletters or bulletins or sending a notice or a copy of the policies and procedures home with each student.
 - b. Provide a copy of the Section 504 policies and procedures to all administrators (including Section 504 Coordinators, the Special Education Director, principals, and assistant principals), teachers and any other District staff responsible for the

identification, evaluation, and placement of students that have or are suspected of having a disability under Section 504, or who play any role in implementing students' Section 504 plans or IEPs; and

- c. Provide training by a competent authority on Section 504 on the District's obligations to students with disabilities under Section 504 and the revised District policies to all District administrators, teachers and staff (as included in #2(b) above).

REPORTING REQUIREMENTS: By September 30, 2014, the District will submit information to OCR documenting implementation of Action Step 2, including: a description of the means used to provide notice to students, parents, and guardians of the District's new policies and procedures and copies of any notices issued; the link to the policies and procedures on the District's website; documentation that copies of the policies and procedures were distributed to appropriate staff; the date(s) of the training(s); a copy of the training agenda; copies of training materials used; the name, title, and qualifications of the person(s) who provided the training(s); and sign-in sheets showing the names and job titles of all persons who attended the training.

General Requirements

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. Subpart D and Title II at 28 C.F.R. § 35.130(a), which were at issue in this case.

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 its implementing regulation at 34 C.F.R. Subpart D and Title II and its implementing regulation at 28 C.F.R. § 35.130(a).

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 a minimum of sixty (60) calendar days to cure the alleged breach.

/S/
Superintendent or Designee

3/14/14
Date