

RESOLUTION AGREEMENT
Benton Harbor Area Schools
OCR Docket #15-16-1478

Benton Harbor Area Schools (the District) submits the following agreement to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced complaint and 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 (Section 504), and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35 (Title II). This Agreement is voluntarily submitted by the District before the completion of OCR's investigation and any issuance of findings and does not constitute an admission that the District violated Section 504 and Title II and those statutes' implementing regulations. The District agrees to take the following actions:

Action Steps

1. By January 16, 2017, the District will convene a Section 504 team (the Team), consisting of persons knowledgeable about the Student, including the parent(s), and complete its evaluation of the Student to determine whether the Student is eligible for a Section 504 plan to ensure that the Student receives a free appropriate public education (FAPE) under Section 504. If the Student is found to have a disability under Section 504, the Team will determine whether the Student needs regular or special education to be provided under a Section 504 plan, related aids and services, or supplementary aids and services because of the disability, and in what setting the Student should receive them..
2. By January 16, 2017, the Team will also determine whether the Student requires compensatory education and/or remedial services, from XXXXXX XX, XXXX to present, when the complaint states that the District failed to appropriately identify and evaluate the Student under Section 504. The Team will develop a written plan for providing the Student with compensatory education and/or remedial services, if deemed necessary. Any such 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.
3. By January 30, 2017, the District will provide the Student's parent(s) with written notification of the Team's decisions regarding a Section 504 plan for the Student and compensatory education and/or remedial services. The District will also notify the Student's parent(s) in writing of her procedural safeguards, including the right to challenge any decisions regarding the evaluation, placement, and compensatory education and/or remedial services through requesting an impartial due process hearing.
4. By February 28, 2017, the District will provide training to its administrators, staff person(s) responsible for the District's compliance with Section 504 and Title II, and staff person(s) responsible for responding to requests for Section 504 evaluations, regarding the District's policies and procedures, in accordance with Section 504, pertaining to procedural safeguards and the District's obligations upon receiving a request for a

Section 504 evaluation by a parent, guardian, teacher, other certified school employee, the student if 18 years of age or older, or other individual.

REPORTING REQUIREMENTS

By January 30, 2017, the District will provide OCR with documentation to demonstrate its implementation of Action Steps 1 through 3 above, including: the Team's report from the Section 504 meeting showing when the Team met, who was present, what was discussed, the Team's decisions, and the bases for those decisions.

By August 31, 2017, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

By March 7, 2017, the District will provide OCR with documentation to demonstrate its implementation of Action Steps 4 above, including: date(s) of the training; a copy of the training agenda; copies of training materials used; the name, title, and qualification(s) of the person(s) who provided the training; 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 in compliance with Section 504 and its implementing regulation at 34 C.F.R. §104.33, which was at issue in this investigation.

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, 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 fulfilled the terms of this agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.33.

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/

12/19/2016

Benton Harbor Area Schools
Authorized Representative

Date