

**Resolution Agreement
Birmingham Public Schools
OCR Docket # 15-17-1560**

Birmingham Public Schools (the District) voluntarily enters into this agreement (Agreement) to resolve the allegations in the above-referenced complaint filed with the U.S. Department of Education's Office for Civil Rights (OCR), and to ensure the District's compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 (Title II), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of federal financial assistance and public entities, respectively. The District voluntarily submitted this Agreement under Section 302 of OCR's Case Processing Manual and before the completion of OCR's investigation and any issuance of findings. Entering into this agreement is not an admission of wrongdoing by the District or an acknowledgement that it did not comply with Section 504 or Title II and those statutes' implementing regulations.

The District agrees to take the following actions:

A. Individual Remedy

1. Within ten (10) days of signing this agreement, the District will send the Student's parent a certified letter notifying the parent that, should he wish to re-enroll the Student in the District for the XXXX school year, the District will reconvene an Individual Education Program (Team) – consisting of persons selected by the District who are knowledgeable about the Student, including the parent – to determine whether additional evaluations are necessary to determine the nature of the Student's disabilities and the services necessary to meet the individual needs of the Student to ensure a Free Appropriate Public Education (FAPE). Should the Student return to the District, the IEP Team will evaluate the Student and make determinations regarding the provision of FAPE prior to the Student resuming his attendance with the District.

The District's letter will advise the Student's parent of the right to have a meaningful opportunity to provide input into these determinations and will include procedural safeguards. The letter will state that the Student may re-enroll and seek an evaluation at the District at any point during the XXXX school year.

As the District is not an open enrollment district and does not participate in Schools of Choice, the Student may return to the District either as a tuition student or, if his parents move into the District, as a resident student. If the Student returns as a tuition student, the District reserves the right to comply with its Board Policy regarding tuition students. See Board Policy 5118 – Tuition Enrollment. However, the District will not deny the initial enrollment of Student should he enroll as a tuition student during the XXXX school year.

REPORTING REQUIREMENT: By **February 21, 2022**, the District will submit to OCR a copy of the letter sent to the Student's parent. The documentation submitted shall include a copy

of the communication with the parent. If the Student’s parent does not re-enroll the Student in the District within 60 days of the District’s certified letter sent pursuant to Paragraph A.1 above, the District will provide OCR with a statement to that effect and with a copy of the certified letter by April 21, 2022, and no further action in connection with paragraph A will be required.¹

B. District-wide Remedy

1. By **March 15, 2022**, the District will provide training by a competent authority on Section 504 on the District’s obligations to students with disabilities under Section 504 and on the District’s Section 504 procedures to all District administrators, teachers, and staff at the District’s Pembroke Elementary School. The training should include, but not be limited to, the requirements of: (1) the District to implement supplementary aids and services as outlined in student’s Individual Education Program and/or Behavior Intervention Plan or similar plans; and (2) the District to comply with the procedural requirements of Section 504 relating to the individual placement of students, specifically that all placement decisions should be based on the individual needs of the student.

REPORTING REQUIREMENT: By **March 15, 2022**, the District will provide OCR with the date(s) of the training(s); a copy of the training agenda and 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, by signing this Agreement, it agrees to provide the foregoing 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 its 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. Upon the District’s satisfaction of the commitments made under this Agreement, OCR will close this complaint.

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.

This Agreement will become effective immediately upon the signature of the District’s representative below.

_____/s/_____
Superintendent or Designee

_____/2/7/22_____
Date

¹ OCR notes that if the Student enrolls in the District at any subsequent time, the District’s obligation to evaluate the Student and provide the appropriate special education or regular education and related aids and services remains.