Birmingham Public Schools
Resolution Agreement
OCR Docket #15-18-1143

The U.S. Department of Education, Office for Civil Rights (OCR) initiated an investigation of Birmingham Public Schools (the District) in this matter. Prior to the completion of the investigation, the District has agreed to resolve the matter pursuant to Section 302 of OCR's Case Processing Manual. OCR agrees to discontinue its investigation of the Complaint based upon the District's commitment to complete the actions specified in this Resolution Agreement (Agreement). When fully implemented, these actions will resolve the issues of the Complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C., Section 794, and its implementing regulations at 34 C.F.R Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 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 agrees to take the following actions:

Action Step

1. By XXXXXX 2019, the District will reconvene the Student's[1] Individualized Education Program (IEP) team (the Team), consisting of persons knowledgeable about the Student, including the Student's parent(s), to make the determinations identified below in Action Step 1(a)-(b). The District will provide the Student's parent(s) a meaningful opportunity to provide input into the Team's determinations, written notice of the determinations made, and notice of the procedural safeguards available to them under the Section 504 implementing regulation at 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing.

   Specifically, the Team will:

   a. Determine what disability related aids and services the Student requires, and develop an IEP that clearly explains each disability-related aid and service to be provided, who shall provide them, when they shall be provided, and how they shall be provided (e.g., provide a clear explanation if the provision of a particular disability-related aid or service is contingent upon other factors).

   b. Determine whether any compensatory education and/or other remedial services for the Student are necessary due to the District's failure to fully implement the Student's IEP during the 2017-2018 school year. The Team will develop a written plan for providing the Student with the compensatory education and/or other remedial services deemed necessary. Any such plan will identify the nature

[1] The student identified in OCR Docket #15-18-1143.

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 IEP. Should the Team determine no compensatory education or other remedial services are necessary, it shall provide OCR for its review a written explanation for this decision and 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.

Reporting Requirements: By XXXXXXXX 2019, the District shall provide OCR with documentation that it implemented Action Step 1 above, including the names and titles of the individuals who attended the IEP meeting, a copy of any meeting minutes, a copy of the Student's IEP, a copy of any plan for compensatory education and/or other remedial services developed for the Student, documentation of any input provided by the Student's parent(s), documentation showing that the Student's parent(s) were provided notice of their procedural safeguards, and any other documentation relevant to the determinations reached in accordance with Action Step 1 above.

By XXXXXXX 2020, the District will provide OCR with documentation 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).

2. Within X calendar days of the IEP meeting, the District will provide the Student's parent(s) with a copy of the IEP, a copy of any written plan for providing the Student with compensatory education and/or remedial services, and written notification of the Team's decisions with regard to Action Step 1 above.

Reporting Requirement: By XXXXXXXXX 2019, the District will provide OCR with documentation showing its implementation of Action Step 2 above, including a copy of any notification sent to the Student's parent(s) pursuant to Action Step 2 above.

3. Within X calendar days of the IEP meeting, the District will provide a copy of the Student's IEP to: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX [XXX sentence redacted XXX] [XXX sentence redacted XXX] The District will obtain signatures from all District personnel acknowledging receipt of the Student's IEP, or pertinent portions thereof.

Reporting Requirement: By XXXXXXXX 2019, the District will provide OCR with documentation showing implementation of Action Step 3 above XXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

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