

BENTON HARBOR CHARTER SCHOOL
Resolution Agreement
OCR Docket #15-21-1274

Benton Harbor Charter School (the School) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of resolving the above-referenced complaint and ensuring compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulations at 34 C.F.R. §§ 104.33 and 104.35, 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. This Agreement is being entered into voluntarily by the Academy before the completion of OCR's investigation and any issuance of any findings and does not constitute an admission that the Academy violated Section 504 and Title II and those statutes' implementing regulations.

The School agrees to take the following actions:

1. By **January 31, 2022**, the School will convene an educational benefits review team (the Team), consisting of persons knowledgeable about the Student, including the Student's parent (the parent), to determine what, if any, compensatory education and/or remedial services the Student requires to address the period of time from XXXXX XXXXX XXXXX to XXXXX XXXXX XXXXX. The Team will develop a written plan for providing the Student with compensatory education and/or remedial services deemed necessary. The plan will identify the nature and amount of the services to be provided at no cost to the parent, by whom, and when. The School may communicate with the parent using the most effective manner in addition to sending all correspondence (including a written invitation to the meeting) in writing to the parent's last known address. In the event that the parent is unable to attend, the School will provide the parent with a meaningful opportunity to provide input.
2. By **February 4, 2022**, the School will provide the parent with written notification of the Team's decisions regarding compensatory education and/or remedial services. The School will also notify the parent in writing of XXXXX procedural safeguards, including the right to challenge any decisions regarding the compensatory education and/or remedial services through requesting an impartial due process hearing.

Reporting Requirements: By **February 11, 2022**, the School will provide OCR with documentation to demonstrate its implementation of Items 1 and 2 above, including: copies of correspondence with the parent and the Team's report from the educational benefits review meeting showing when the Team met, who was present, what was discussed, the Team's decisions, and the bases for those decisions, a copy of the compensatory services plan developed for the Student, if determined necessary, documentation of any input provided by the Student's parent and showing that procedural safeguards were provided. Should the School determine that no compensatory education or other remedial services are necessary, the School 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 School 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.

Within 5 days following the date that compensatory education or remedial services for the Student conclude as determined in the written plan required by Item 1, the School 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) and title(s) of the service provider(s).

3. By **January 31, 2022**, the School shall revise its written policy containing “Timelines for Evaluation” to include language indicating that in addition to periodic reevaluation, pursuant to 34 C.F.R. § 104.35 a reevaluation should occur before any significant change in placement or whenever circumstances warrant. Where the School has reason to believe the student may need modifications to the placement or additional special education or related services to ensure the provision of a free appropriate public education (FAPE), the School will convene an IEP Team meeting or Section 504 Team meeting, as appropriate, to determine what, if any, revisions to the student’s IEP (or Section 504 Plan) may need to be made as well as any appropriate next steps which could include the need to conduct a re-evaluation of the student. The group conducting the evaluation must be knowledgeable about the child, the evaluation data, and the placement options. Should the School determine that a re-evaluation is necessary, the School will consider whether there is also a need to consider additional or different disabilities.

Reporting Requirements: By **February 4, 2022**, the School will submit to OCR the revised policy developed pursuant to Item 3. Within 30 calendar days of OCR’s approval of the revised policy, the School will submit to OCR documentation sufficient to demonstrate the adoption of the revised policy and notification of students, parents and guardians and staff of the revised policy, including copies of the notices issued to students, parents, guardians and staff and the link to the policies and procedures on the School’s website.

4. Within 30 calendar days of the Board’s adoption of the OCR-approved revised policy, the School will propose training materials with the name and qualifications of a proposed trainer. The training materials will address the School’s obligation to provide qualified students with disabilities with a free appropriate public education (FAPE) under 34 C.F.R. § 104.33. The training will specifically address the School’s obligation under 34 C.F.R. § 104.35 to conduct reevaluations for students with disabilities before a significant change in placement or whenever circumstances warrant. The training will also specifically address that, where the School has reason to believe that the student may need modifications to the placement or additional special education and related services to ensure the provision of a FAPE, the School will convene an IEP Team meeting or Section 504 Team meeting, as appropriate, to determine what, if any, revisions to the student’s IEP (or Section 504 Plan) may need be to be made as well as any appropriate next steps which could include the need to conduct a re-evaluation of the student.

Reporting Requirement: Within 30 calendar days of the Board’s adoption of the OCR-approved revised policy, the School will submit to OCR for review and approval its proposed training materials for implementation of Item 4 with the name and qualifications of the proposed trainer.

5. After OCR’s approval of the training materials submitted under Item 4 and no later than 30 school days after the School’s receipt of notice of OCR’s approval of the revised policy, the School will provide training by a competent authority specified in Item 4 to the School’s certified teachers, instructional assistants, building administrators, and special education administrators.

Reporting Requirement: Within 5 calendar days of the training identified in Item 5 above, the School will submit information to OCR documenting implementation of Item 5 above, including: the date(s) of the training(s); a copy of the training agenda; copies of training materials used; the name and qualifications of the person(s) who provided the training; and sign-in sheets or acknowledgements showing the names and job titles of all persons who received the training verifying that the set of staff who should have received the training actually did so.

General Requirements

The School 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 the Agreement. Further, the School understands that during the monitoring of this Agreement, if necessary, OCR may visit the School, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the School has fulfilled the terms and obligations of the Agreement. Upon the School’s satisfaction of the terms and obligations of the Agreement, OCR will close the case.

The School understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the School written notice of the alleged breach and 60 calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the School’s representative below.

/s/

11/23/2021

Principal or Designee

Date