

Board Office Use: Legislative File Info.	
File ID Number	18-0527
Introduction Date	3/28/18
Enactment Number	18-0541
Enactment Date	3/28/18 <i>OR</i>



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Marion McWilliams, General Counsel
Andrea Epps, Staff Attorney

Board Meeting Date March 28, 2018

Subject **Resolution Agreement, Office for Civil Rights – Matter Number 09-17-1611**

Action Requested **Approval by the Board of Education of the Office for Civil Rights Resolution Agreement for Matter No. 09-17-1611.**

Background A complaint was filed with the Office for Civil Rights ("OCR") that alleged a special education student was repeatedly marked tardy as a result of delays in District-provided transportation. District met with OCR's attorneys to finalize a resolution agreement to resolve the matter.

Discussion Attached is the resolution agreement. The resolution agreement requires the District to: provide two (2) hours of compensatory education and insert a note in Student's Aeries files indicating that the tardies were due to District transportation being late not due to any fault of the Student or parent/guardian.

Recommendation **Approval by the Board of Education of Office for Civil Rights Resolution Agreement for Matter No. 09-17-1611.**

Fiscal Impact Approximately \$250.00 for the costs associated with two (2) hours of compensatory education.

Attachments

- **Resolution Agreement**

**RESOLUTION
OF THE
BOARD OF EDUCATION**

Resolution No. 1718-0038

**AGREEMENT TO RESOLVE UNITED STATES DEPARTMENT OF EDUCATION,
OFFICE FOR CIVIL RIGHTS MATTER NUMBER 09-17-1611**

Oakland Unified School District (District) agrees to implement Resolution No. (Agreement) in order to resolve the compliance concerns identified by the U.S. Department of Education, Office for Civil Rights (OCR) under Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 *et seq.* (Section 504) and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.* (Title II), and their implementing regulations in the above-referenced OCR case number.

WHEREAS, on or around September 6, 2017, under the authority of Section 504 of the Rehabilitation Act and the Individuals with Disabilities Education Act, the U.S. Department of Education, Office for Civil Rights ("OCR") initiated an investigation to determine whether the District failed to provide transportation consistent with an individualized education program ("IEP") for a student eligible for special education and related services under the Individuals with Disabilities Education Act (OCR Docket No 09-17-1611);

WHEREAS, pursuant to OCR's Case Processing Manual, OCR has the authority to resolve this compliance review by means of a resolution agreement before the conclusion of the investigation;

WHEREAS, without admitting to any violation of law, the District voluntarily agrees to the following terms:

I. Individual Remedies for the Student

- A. Within thirty (30) days of execution of this Agreement, the District will request in writing from Student's parent/guardian information regarding the type of compensatory education Student's parent/guardian would like to receive. The District shall provide two (2) hours of the type of compensatory education identified by Student's parent/guardian with a completion date not to extend beyond the end of the 2017-18 school year.
- B. Within fifteen (15) days of the date of this Agreement, the District will include in Student's Aeries notes field the following note "Tardy is due to District transportation being late and not due to any fault of the Student or parent/guardian" for all of the tardies that the Student received during first period for the 2016-2017 school year on his attendance records.

Reporting Requirements:

- A. Within fourteen days (14 days) of receipt of Student's parent/guardian's description of the type of compensatory education and/or remedial services that Student's parent/guardian deems appropriate, the District will submit to OCR for review and approval a copy of the parent/guardian's request, description of the identified compensatory/remedial services and a schedule for providing two (2) hours of compensatory and/or remedial services to the Student.
- B. By June 30, 2018, 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).
- C. Within thirty (30) days of the date of this agreement, the District will submit documentation to OCR that shows that the Student's Aeries notes includes the following note "Tardy is due to District transportation being late and not due to any fault of the Student or parent/guardian" for all of the tardies that the Student received during first period for the 2016-2017 school year.

II. Monitoring

- A. The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. 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 has fulfilled the terms of this Agreement and is in compliance with Section 504, Title II, and their implementing regulations, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.
- B. 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.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Education of the Oakland Unified School District does approve the agreement to resolve the U.S. Department of Education, Office for Civil Rights Docket No. 09-17-1611 by agreeing to enter into the Resolution Agreement which is attached hereto and incorporated by reference herein.

PASSED AND ADOPTED by the Governing Board of the Oakland Unified School District this day of March, 2018; by the following vote, to wit:

AYES:

NOES:

ABSTAINED:

ABSENT:

CERTIFICATION

We, Aimee Eng and Kyla Johnson-Trammell, President and Secretary of the Governing Board of the Oakland Unified School District, respectively, do hereby certify that the foregoing Resolution was duly approved and adopted by the Governing Board of said District at its Regular Meeting held on the day of March, 2018, with a copy of the Resolution being on file in the Office of the Board of Education of said District.

Aimee Eng
President, Governing Board

Kyla-Johnson-Trammell
Secretary, Governing Board

Resolution Agreement
Oakland Unified School District
Case No. 09-17-1611

Oakland Unified School District (District) agrees to implement this Resolution Agreement (Agreement) in order to resolve the compliance concerns identified by the U.S. Department of Education, Office for Civil Rights (OCR) under Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 *et seq.* (Section 504) and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.* (Title II), and their implementing regulations in the above-referenced OCR case number.

I. Individual Remedies for the Student

- A. Within thirty (30) days of execution of this Agreement, the District will request in writing from Student's parent/guardian information regarding the type of compensatory education Student's parent/guardian would like to receive. The District shall provide two (2) hours of the type of compensatory education identified by Student's parent/guardian with a completion date not to extend beyond the end of the 2017-18 school year. The District will provide the Student's parent/guardian notice of the procedural safeguards.
- B. Within fifteen (15) days of the date of this Agreement, the District will include in Student's Aeries notes field the following note "Tardy is due to District transportation being late and not due to any fault of the Student or parent/guardian" for all of the tardies that the Student received during first period for the 2016-2017 school year on his attendance records.

Reporting Requirements:

- A. Within fourteen days (14 days) of receipt of Student's parent/guardian's description of the type of compensatory education and/or remedial services that Student's parent/guardian deems appropriate, the District will submit to OCR for review and approval a copy of the parent/guardian's request, description of the identified compensatory/remedial services and a schedule for providing two (2) hours of compensatory and/or remedial services to the Student.
- B. By June 30, 2018, 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).
- C. Within thirty (30) days of the date of this agreement, the District will submit documentation to OCR that shows that the Student's Aeries notes includes the following note "Tardy is due to District transportation being late and not due to any fault of the Student or parent/guardian" for all of the tardies that the Student received during first period for the 2016-2017 school year.

II. Monitoring


- A. The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. 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 has fulfilled the terms of this Agreement and is in compliance with Section 504, Title II, and their implementing regulations, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

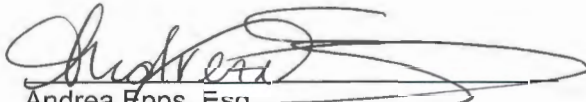
- B. The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.


Aimee Eng
President, Governing Board

3/29/18, 2018


Kyla Johnson-Trammell
Superintendent for the District and
Board Secretary

3/29/18, 2018


Andrea Epps, Esq.
Approved as to form

MARCH 6, 2018