

**Berkley School District  
Resolution Agreement  
OCR Docket #15-16-1205**

Berkley School District (the District) 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 alleging violation 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. 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.

“Accessible,” as used in this Agreement, means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use. A person with a disability must be able to obtain the information as fully, equally, and independently as a person without a disability. Although this might not result in identical ease of use compared to that of persons without disabilities, it still must ensure equal opportunity to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology.

The District agrees to take the following actions:

1. By **November 30, 2016**, the District will draft and submit to OCR for review and approval a policy and/or procedures to ensure information provided through the District's website(s) (online content) is accessible to students, prospective students, employees, guests, and visitors with disabilities, particularly those with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access information (Web Accessibility Policy). The Web Accessibility Policy will, at minimum, accomplish the following:
  - a. identify and adopt the specific technical standard(s) the District will use to determine whether online content is accessible (e.g., W3C's Web Content Accessibility Guidelines (WCAG), Web Accessibility Initiative - Accessible Rich Internet Applications Suite (WAI-ARIA), or other standard or combination of standards that will render online content accessible);<sup>1</sup>

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<sup>1</sup> By entering into this Agreement, the District agrees that, unless and until the federal regulations and the law relative to the applicable standards for web accessibility change, the District will follow the existing standards, identified above, for web accessibility. The District will ensure that its online content is in compliance with and meets the standards articulated in the “Web Accessibility Policy”. In the event that the standards or laws and regulations change, the District agrees that it will conform its policies and procedures and online content to meet the change in the standards or laws and/or regulations.

- b. designate at least one individual (Web Accessibility Coordinator) and provide that individual with sufficient resources and authority to coordinate and implement the Web Accessibility Policy, and all other commitments relating to accessibility within this Agreement; provide a procedure to ensure that online content and information obtained through online content provided or developed by third parties on behalf of the District or at the District's direction is accessible, except where doing so would impose a fundamental alteration or undue financial and administrative burdens. The District makes no assurances to any content or open source software that is posted, hosted, or offered on the District's website by an individual or entity outside of the control of the District. The District will take all steps reasonably calculated to prevent an individual or entity outside of the control of the District from posting on the District's website, and agrees to promptly remove any inaccessible content once the District becomes aware of such content. This procedure should direct administrators and staff to ensure that any District acquisition or use of online content provided or developed by third parties (e.g. vendors, video-sharing websites such as YouTube, or other open sources) that the District chooses to make available on its website will be accessible, except where doing so would impose a fundamental alteration or undue financial and administrative burdens. When fundamental alteration or undue financial and administrative burdens defenses apply, the District will provide equally effective alternative access. In providing equally effective alternate access, the District will take any actions that do not result in a fundamental alteration or undue financial and administrative burdens, but nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the same benefits or services as their nondisabled peers. To provide equally effective alternate access, alternatives are not required to produce the identical result, but must afford persons with disabilities equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

For any technology-related requirement in this Agreement for which the District asserts undue financial and administrative burdens or a fundamental alteration defense, such assertion may only be made by the Superintendent or by an individual designated by the Superintendent who has budgetary authority after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion, including the cost of meeting the requirement and the available funding and other resources. The written statement will be certified by the determining official. If such a determination is made, the certifying official will describe in the written statement how it will provide equally effective alternate access, *i.e.*, other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the same benefits or services provided by the District as their nondisabled peers.

- c. annual training for any staff (e.g. administrators, faculty, support staff) responsible for creating or posting online content to the District's website on the Web Accessibility Policy. The training will be facilitated, in whole or in part, by an individual with sufficient knowledge, skill, and experience to understand and employ the technical

standard(s) adopted by the District or through an online training program vetted by said individual;

- d. an accessibility audit (Audit) to be completed at regular intervals under the direction of the Web Accessibility Coordinator, during which information provided by the District through its online content is measured against the technical standard(s) adopted in the Web Accessibility Policy. All problems identified through the Audit will be documented, evaluated, and, if necessary, remediated within a reasonable period of time; and
- e. inform students, prospective students, employees, guests, and visitors that they may report violations of the technical standard(s) used by the District, file a formal complaint through its Section 504 and Title II grievance procedure, and/or contact the Web Accessibility Coordinator with any accessibility concerns. The Web Accessibility Policy will include the name and/or title, office address and telephone number, and email address of the Web Accessibility Coordinator.

**Reporting Requirement:** By **November 30, 2016**, the District will provide for OCR’s review and approval the Web Accessibility Policy drafted consistent with Item 1.

2. Within 60 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will post the Web Accessibility Policy in a readily identifiable location on its website and will provide notification to students, prospective students, employees, guests, and visitors. The notification will occur by website notification and will further provide information on where the Web Accessibility Policy is located on the District’s website and, alternatively, where individuals may request or obtain a copy of such document.

**Reporting Requirement:** Within 60 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will provide documentation to OCR verifying its implementation of Item 2, including the URL (web address[es]) for the location of its Web Accessibility Policy.

3. Within 180 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will complete an initial Audit to examine whether information provided through online content on the District’s website is currently accessible, as measured against the technical standard(s) adopted by the Web Accessibility Policy. The District will document the results of the Audit. If the District’s audit reveals that online content on the District’s website is not accessible, as measured against the technical standards identified in the Web Accessibility Policy, the District will develop a corrective action strategy based on the audit findings that includes relevant timeframes for completion of the corrective action strategy.

**Reporting Requirement:** Within 180 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will provide to OCR for review and approval a copy of its Audit report and corrective action strategy, if necessary, including the timeline for implementation of the corrective action strategy. The District will also submit to OCR the credentials of the third-party web accessibility consultant or employee of the District with sufficient knowledge, skill, and experience to understand and employ the technical

standard(s) adopted by the District that will be certifying (pursuant to Item 4 below) that the District’s online content on the District’s website meets the technical requirements adopted in the Web Accessibility Policy.

4. Within 60 calendar days of OCR’s approval of the corrective action strategy, including the timeline for implementation of the corrective action strategy and the credentials of the District’s consultant or responsible employee described above, the District will begin implementation of the corrective action strategy to make its online content accessible to individuals with disabilities.

**Reporting Requirements:** Within 180 calendar days of OCR’s approval of the corrective action strategy, the District will submit documentation to OCR confirming implementation of the corrective action strategy consistent with established timeframes, including certification to OCR that its online content meets the technical requirements adopted in the Web Accessibility Policy. The District will also provide to OCR the bases for this certification including copies of any accessibility evaluation or report, dates of correction actions, and copies of any reports from interim audits conducted pursuant to the Web Accessibility Policy.

5. Within 180 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will develop and provide training on how to ensure accessibility in web design and implementation. The training will be provided by qualified personnel, or through an online training program vetted by said qualified personnel, to all staff responsible for creating or posting online content to the District’s website. The training will include, at a minimum, training on the Web Accessibility Policy.

**Reporting Requirement:** Within 180 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will provide to OCR the name(s) and credentials of the individual(s) who conducted the training; a list of individuals, by name and title, who attended the training; and a copy of any training materials (e.g., pamphlets, presentation materials).

## **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 and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.4, and Title II and its implementing regulation at 28 C.F.R. §§ 35.130 and 35.160, which were at issue in this complaint.

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 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 and its implementing regulation at 34 C.F.R. § 104.4, and Title II and its implementing regulation at 28 C.F.R. §§ 35.130 and 35.160.

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/

09/26/2016

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Superintendent or Designee

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Date