

**Los Angeles Unified School District
Resolution Agreement
OCR Docket No. 09-21-5901**

The Los Angeles Unified School District (District) agrees to resolve the above-referenced directed investigation initiated by the U.S. Department of Education, Office for Civil Rights (OCR), by voluntarily entering into this Resolution Agreement (Agreement) to address the violations and concerns that OCR identified in the accompanying letter of resolution. In this directed investigation, OCR investigated whether the District provided a free appropriate public education (FAPE) to each qualified student with a disability as required by federal law and provided students with disabilities equal access to education under Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35.

This Agreement focuses on the development and implementation of the District's plan for compensatory education for students with disabilities impacted by remote learning during the COVID-19 pandemic. The District agrees to implement the plan for compensatory education as an addition to its existing processes¹ and resources for addressing and tracking issues arising from the delivery of a FAPE during the Pandemic Period. The Pandemic Period is defined as the time the District was either providing remote learning instruction and/or hybrid in-person and remote learning instruction, starting from March 17, 2020, through the end of the 2021-2022 school year² due to the COVID-19 pandemic.

I. Designated Administrator to Ensure Implementation of this Agreement and a Plan for Compensatory Education

- A. The District will designate the Office of the General Counsel's Deputy General Counsel as the Plan Administrator (Plan Administrator) who will oversee the creation and implementation of a plan for compensatory education³. The District will support the Plan Administrator with sufficient District-level staff to ensure effective implementation of the Plan.

B. Reporting requirements:

1. **By April 29, 2022**, the District will provide for OCR review the qualifications, position description, and support structure for the Plan Administrator identified in Section I.A. above.
2. **By April 29, 2022**, the District will provide OCR the name and contact information for the Plan Administrator.

¹ The District is currently implementing two processes: compensatory education and recoupment. This Agreement focuses on the District's compensatory education process.

² Because some students were unable to return to in-person learning in the 2021-2022 school year because of both their disability and the COVID-19 pandemic, for those students, the Pandemic Period will include the impact of remote learning they experienced during the 2021-2022 school year.

³ The plan for compensatory education is described in Section II.

II. Plan for Compensatory Education (Plan)

To ensure that the District (1) determines what Pandemic Period associated compensatory education is owed to students with disabilities, (2) makes individualized determinations for each student with a disability regarding whether compensatory education is necessary, and (3) provides procedural protections afforded by Section 504, the District's Plan will describe for District staff, students, and parents/guardians the efforts the District will undertake, which support the District's current recoupment or compensatory education determinations for all students with disabilities within the District. The Plan will describe the following:

- A. Criteria for Determining Provision of FAPE and Compensatory Education:** A description of the criteria the District will use to determine for each student with a disability whether the student did not receive appropriate services to meet their individual needs during the Pandemic Period and the method for determining compensatory education for students who did not receive a FAPE during the Pandemic Period as further described in Section III below.
- B. Tracking Mechanisms:** The District utilizes the Welligent reporting system to document and track for each student with a disability whether the determination regarding compensatory education has been made; and will use Welligent to track the amount, nature of, and timeframe for the compensatory education (if any) to be provided; and how the District will monitor the implementation of compensatory education for those students who are to receive it as further described in Section IV below.
- C. District Staff Training and Parent/Guardian and Stakeholder Outreach:** A description of the training regarding the Plan for compensatory education including the criteria to be used when making those determinations; and the District's outreach to parents/guardians and stakeholders regarding the Plan as further described in Section V below.
- D. Reporting Requirements:**
The reporting requirements regarding the training about the Plan; and the posting and distribution of the Plan are addressed in the reporting requirements of Section V below.

III. Criteria for Determining Compensatory Education

Consistent with federal law and in addition to the District's current recoupment or compensatory education determinations being made for students with disabilities, the District will use the criteria and process described below:

- A. IEP and Section 504 teams will make Compensatory Education Determinations:**
For students with IEPs and Section 504 plans, the District will follow the Section 504 and IEP processes for conducting meetings in alignment with federal law and District policies and procedures to discuss and address whether the student did not receive the instruction and/or services required for FAPE during the Pandemic Period. During these meetings,

the IEP and Section 504 teams will make and document a determination regarding whether and to what extent, compensatory education is required.

- B. Compensatory Education Considerations:** To make these compensatory education determinations, IEP and Section 504 teams will consider the following:
1. The regular or special education and related aids and services required by the student's Section 504 plan or IEP that was in effect at the beginning of March 2020;
 2. The frequency and duration of missed instruction and related services;
 3. Whether special education and/or related services that were provided during the Pandemic Period were appropriate based on the student's individual needs;
 4. The student's present level of performance;
 5. Previous rates of progress;
 6. The results of updated evaluations;
 7. Whether evaluations were delayed; and
 8. Any other relevant information.
- C. In making a compensatory education determination, the District will provide the student's parents/guardians access to the information recorded by the District regarding the amount of special education, related aids or services provided during the Pandemic Period, including the option to review IEP service logs or discuss implementation of Section 504 plan accommodations.
- D. If a parent/guardian disputes the determination made by the Section 504 team or IEP team regarding whether or to what degree services were provided to the student during the Pandemic Period, the District will notify the parent/guardian of the process to challenge the determination consistent with procedural safeguards which includes the process for reimbursement for out-of-pocket expenses incurred by the parent/guardian to provide the services required by the student's IEP or Section 504 plan during the Pandemic Period. The District will continue to also provide parents/guardians with notice of the procedural safeguards, including the right to challenge the Section 504 or IEP team's determination through an impartial due process hearing if a parent/guardian disagrees with the compensatory education determination made by the Section 504 team or IEP team.
- E. For students for whom a recoupment determination has been made and is being implemented, when determining the amount of compensatory education needed, the IEP team may consider recoupment services already being provided to the student if those recoupment services, based on an individualized determination of the student's compensatory education needs, address the specific individualized needs of the student.

F. Documenting the Compensatory Education Determination. The IEP and Section 504 teams will document the compensatory education determinations made, including the following:

1. Whether the team determined that compensatory education is owed or not owed;
2. The appropriate and reasonable timeframe for the completion of the agreed upon compensatory services; and
3. The team reviewed and discussed whether compensatory education is required due to the COVID-19 pandemic including whether the student received all of their special or regular education and related aids and services required by the IEP or Section 504 plan, whether compensatory education was determined to be needed, and the date of the determination in Welligent. For students who did not receive all their special education and related aids and services required by their IEP, compensatory education offer details will be documented in the FAPE 2 - Summary of Services section of the IEP document. In circumstances in which the team determined that the student did not receive the special or regular education and related aids and services required by their IEP, and also determined that no compensatory services are owed, the IEP will document the reason for that determination in Part 2, Part 4. IEP teams will document this through Section N of the IEP in Welligent. Section 504 teams will also document these determinations in Welligent.

G. Reporting Requirements

The reporting regarding the District's implementation of Section III is addressed in the reporting requirements of Section IV below. The reporting requirements regarding training, notice, and outreach about the Plan are addressed in the reporting requirements of Section V below.

IV. Data Tracking of Services Provided to Students with Disabilities and Compensatory Education

A. Data tracking: The District will use its existing special education tracking system in Welligent so that it tracks the following:

1. Total number of students with disabilities in each local district for the 2019-2020, 2020-2021, and 2021-2022 school years.
2. The total number of students with disabilities to date in each local district for whom an IEP or Section 504 team has been convened and addressed compensatory education pursuant to this Agreement.

3. Total number of students with disabilities receiving compensatory education, recoupment, both compensatory education and recoupment, and neither compensatory education nor recoupment in each local district.
4. Students for whom an IEP and/or Section 504 team determines compensatory education is owed pursuant to Section III of this Agreement. Data categories will include:
 - a. Student Identification Number.
 - b. IEP or Section 504 Service Category from IEP or Section 504 plan (Service).
 - c. Total (Yearly) Number of Service Minutes Listed in the IEP or Section 504 plan (Total Target).
 - d. Service Minutes Provided Compensatory Education Due Date (F-END_DATE).
 - e. Compensatory Education Service Minutes Completion Date.
 - f. Recoupment Amount of Services (Frequency, Interval, Minutes)
 - g. Date of IEP/Section 504 Meeting on which the Compensatory Education and/or Recoupment Determination was Made.
 - h. Notice was provided to parents/guardians regarding the process available to them to dispute compensatory education decisions made by the IEP/Section 504 team.
5. Students for whom an IEP and/or Section 504 team determines compensatory education is not owed pursuant to Section III of this Agreement. Data categories to include:
 - a. Student Identification Number.
 - b. IEP or Section 504 Service Category from IEP or Section 504 plan (Service).
 - c. Total (Yearly) Number of Service Minutes Listed in the IEP or Section 504 plan (Total Target).
 - d. Service Minutes Completed (Minutes Delivered).
 - e. Recoupment Amount of Services (Frequency, Interval, Minutes).
 - f. Date of IEP/Section 504 Meeting on which Compensatory Education was Made.
 - g. Date of IEP/Section 504 Meeting on which Recoupment Determination was Made.
 - h. Notice was provided to parents/guardians regarding the process available to them to dispute compensatory education decisions made by the IEP/Section 504 team.

B. Reporting Requirements:

1. Aggregate compensatory education data: The District will provide to OCR quarterly tracking reports regarding the data identified in Sections IV.A. 1-3 above by September 30, 2022, and on a quarterly basis thereafter until the conclusion of the monitoring of this Agreement.

2. Reporting of IEP and Section 504 team meetings and determinations: The District will provide to OCR quarterly reports in a spreadsheet format that provides the data identified in Sections IV.A.4 a-g and 5 a-g above by September 30, 2022, and on a quarterly basis thereafter until the conclusion of the monitoring of this Agreement.
3. Quarterly sampling of compensatory education rationale data: The District will provide OCR with a twenty percent random sampling of compensatory education documented rationales associated with student identification numbers for students whose IEP or Section 504 teams determined that services were not provided but also that no compensatory education was warranted.
4. Quarterly compensatory education data meetings with OCR: The District will meet with OCR on a quarterly basis to discuss the compensatory education data. The Plan Administrator and/or their designees will attend the meetings.
5. On or before September 15, 2022, the District will provide OCR with a template of the Welligent format that was created and will be used to document the data captured in Section N as described in Section III.F.3 above and Section IV.A.4 and 5 above for students with Section 504 plans.

V. District Staff Training and Outreach Plan

A. District Staff Training and Guidance: The District will provide training and guidance materials regarding the Plan described in Section II, the criteria described in Section III, and the tracked data described in Section IV to all relevant Central Office, District, local district, and school site staff who have responsibilities under Section 504 and Title II. The training and guidance will include information about:

1. The District's commitment to implement the Plan as described in Section II as part of its obligation to provide a free and appropriate public education to students with disabilities;
2. Compensatory education service determinations, including the criteria IEP and Section 504 teams are to use as described in Section III;
3. The requirement that staff implement the Plan, including that IEP and Section 504 teams input data as described in Section IV.

Training Reporting Requirements:

4. Within two (2) calendar days of OCR's approval of the Plan which is delineated within the provisions of this Agreement, the District will provide a copy of the written guidance and training materials for the training described in Section V.A. above to OCR. Within four (4) calendar days of the District's submission of the written guidance and training materials, OCR will provide substantive feedback to the District regarding any misalignment with law or the requirements of the Plan.

5. Within 30 days of OCR approval of the training materials, the District will provide OCR documentation demonstrating that the written guidance and training has been provided to all to relevant Central Office, District, local district, and school site staff who provide special or regular education, related aids or services to students with disabilities.

B. Outreach Plan: Utilizing parent/guardians and stakeholder outreach, the District will ensure that parents/guardians and other stakeholders are informed about the Plan, including District processes for informal and formal resolution consistent with the requirements of IEP and Section 504 processes, regarding disputes arising from compensatory education determinations and utilizing the District's existing points of contact for addressing parent/guardians questions and concerns.

1. The existing District points of contact for addressing parents/guardians inquiries and concerns include but are not limited to the following:
 - a. District Parent and Community Services Designated Central Office Parent Committees (i.e., Community Advisory Committee (CAC), District English Learner Advisory Committee (DELAC) and Parent Advisory Committee (PAC)).
 - b. Board of Education Special Education Committee Meeting.
 - c. Board of Education Family and Community Engagement Committee Meeting.
 - d. Designated District Call Centers, Hotlines and Helplines.
 - e. Parent and Family Centers.
 - f. Local District Special Education Offices.
 - g. District Parent Facilitators.
 - h. Designated District Websites (i.e., District Homepage, Division of Special Education, Division of Instruction, Educational Equity Compliance Office, etc.).
 - i. Bi-Monthly District Parent Newsletters.
 - j. Parent Portal.
2. Plan Administrator will document, track and address concerns and/or complaints regarding the implementation of the Plan; and
3. Plan Administrator will coordinate the communications outreach to parents/guardians, and other stakeholders about the Plan, including the following:
 - a. In order to educate parents/guardians, and public stakeholders on the District's Plan and the process for Pandemic Period compensatory education determinations to be completed through the IEP and Section 504 processes, the District will provide an overview of the Plan, including informal and formal resolution consistent with the requirements of IEP and Section 504 processes for disputes arising from compensatory education determinations. These District-provided overviews will occur at ten (10) formal parent/guardian-attended public meetings, which will take place between the

end of the 2021-2022 school year and be completed by the beginning of the 2022-2023 school year. The ten (10) formal parent/guardian-attended public meetings are listed below:

Community Advisory Committee (CAC), District English Learner Advisory Committee (DELAC), Parent Advisory Committee (PAC), Board of Education Special Education Committee Meeting, and Board of Education Family and Committee Engagement Committee Meeting.

- b. The District will create a brochure/mailer announcing that the District has created the Plan described in Section II above and providing a brief description of the Plan; and mail the brochure/mailer to parents/guardians of students with disabilities and stakeholders at the start of the implementation of the Plan.
- c. The District will create a public Plan portal with links to the Plan itself, as well as notifications of the ten (10) formal parent/guardian-attended public meetings described above, the brochures/mailer, and contact information for addressing concerns with the Plan Administrator. This will be posted prominently on the District's homepage and will be accessible for persons with disabilities and translated in the appropriate languages.

4. Outreach Plan Reporting Requirements:

- a. By April 29, 2022, the District will provide OCR with copies of presentation slides and/or written materials it will use for the ten (10) formal parent/guardian-attended public meetings described above in Section V.B.3.1. Within four (4) calendar days of the District's submission of the presentation slides and/or written materials, OCR will provide substantive feedback to the District regarding any misalignment with law or the requirements of the Plan.
- b. By April 29, 2022, the District will provide to OCR the dates of the scheduled public meetings and the website links to the announcement of the public meetings.
- c. By October 31, 2022, the District will provide OCR documentary evidence that the meetings were conducted.
- d. By April 29, 2022, the District will provide OCR with a copy of the brochure/mailer as described above in Section V.B.3.2. Within four (4) calendar days of the District's submission of the brochure/mailer, OCR will provide substantive feedback to the District regarding any misalignment with law or the requirements of the Plan. The District will provide OCR documentary evidence that the brochure/mailer was sent to parents/guardians, and stakeholders by May 9, 2022.

- e. By April 29, 2022, the District will provide OCR with the content to be posted on the public Plan portal described above in Section V.B.3.3. Within four (4) calendar days of the District's submission of the content to be posted on the public Plan portal, OCR will provide substantive feedback to the District regarding any misalignment with law or the requirements of the Plan. By May 9, 2022, the District will provide OCR with the links to the information posted on the District's website.
- f. Twice a year, the Plan Administrator will provide OCR with a summary of the complaints and concerns related to implementation of the Plan reported through the District's resolution processes or collected by local districts from parents/guardians, or other stakeholders disaggregated by local district until the conclusion of the monitoring of this Agreement.

General Requirements

By signing this Agreement, the District understands that it agrees to provide data and other 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 staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms and obligations of this Agreement and is in compliance with the statute and regulations at issue in this investigation. Upon the District's satisfaction of the terms and obligations of the Agreement and the statute and regulations at issue in this investigation, OCR will close the case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or Section 504, Title II, and their implementing regulation(s). Before initiating such proceedings, OCR will give the District 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 District's representative below.


Alberto M. Carvalho
Superintendent

Date 4/27/22