



REGION IX
CALIFORNIA

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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April 28, 2022

Via Electronic Mail Only to superintendent@lausd.net

Alberto M. Carvalho
Superintendent
Los Angeles Unified School District
333 South Beaudry Avenue
Los Angeles, California 90017

Re: OCR Docket No. 09-21-5901

Dear Superintendent Carvalho:

This letter is to notify you of the disposition of the above-referenced directed investigation initiated by the U.S. Department of Education, Office for Civil Rights (OCR), of the Los Angeles Unified School District (the District) on January 12, 2021. OCR opened this investigation to determine whether during the COVID-19 pandemic 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. In OCR's data request letter issued to the District on April 9, 2021, OCR inquired whether the District did not provide the services identified in students' Individualized Education Programs (IEPs) and Section 504 plans during remote learning, impairing their ability to participate in or benefit from the District's educational programs.

OCR is responsible for enforcing 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, which prohibit discrimination on the basis of disability under any program or activity receiving Federal financial assistance. OCR is also responsible for enforcing 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, which prohibit discrimination on the basis of disability by public entities. The District is a public entity that receives funds from the Department and is therefore subject to Section 504, Title II, and their implementing regulations. Accordingly, OCR had jurisdiction to investigate and resolve this directed investigation under Section 504 and Title II.

Based on the evidence obtained through the District's documents and data, as well as interviews of its staff and other witnesses, OCR found that the District failed to provide a FAPE to qualified students with disabilities in violation of Section 504. Specifically, OCR found that during

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remote learning the District (1) limited the services provided to students with disabilities based on considerations other than the students' individual educational needs, did not conduct evaluations of students with disabilities prior to making significant changes to their placements, and did not ensure that the placement decisions were made by a group of persons knowledgeable about the students' needs, in violation of 34 C.F.R. § 104.33 and § 104.35(a) and (c); (2) failed to accurately or sufficiently track services provided to students with disabilities in violation of 34 C.F.R. § 104.33 and 34 C.F.R. § 104.61 (incorporating 34 C.F.R. § 100.6(b)); and (3) failed to develop and implement a plan adequate to remedy the instances in which students with disabilities were not provided a FAPE as required by Section 504 during remote learning. The preponderance of the evidence accordingly supports a finding that the District failed to provide the required services identified in students' IEPs and Section 504 plans during remote learning. The Section 504 regulation, at 34 C.F.R. § 104.6, requires a recipient to take such remedial action as OCR deems necessary to overcome the effects of discrimination when OCR finds that the recipient has discriminated against persons on the basis of disability.

The District signed the enclosed Resolution Agreement to address the violations identified below.

I. Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.33, requires public school districts to provide a free appropriate public education (FAPE) to all students with disabilities in their jurisdictions. An appropriate education is defined as regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of students without disabilities are met, and that are developed in accordance with the procedural requirements of 34 C.F.R. §§ 104.34-36. Districts are required to conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement. 34 C.F.R. § 104.35(a). Implementation of an IEP developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements. 34 C.F.R. § 104.33(b)(2). As a general rule, because Title II provides no less protection than Section 504, violations of Section 504 also constitute violations of Title II. 28 C.F.R. § 35.103.

In interpreting evaluation data and in making placement decisions, a recipient school district must draw upon information from a variety of sources, establish procedures to ensure that information obtained from all such sources is documented and carefully considered, and ensure that the decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. 34 C.F.R. § 104.35.

In addition, the Section 504 regulation, at 34 C.F.R. § 104.36, requires that school districts establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation

by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement.

The Section 504 regulation, at 34 C.F.R. § 104.6(a), provides that when OCR finds that a district has discriminated against persons on the basis of disability, the district shall take such remedial action as OCR deems necessary to overcome the effects of the discrimination. Compensatory services are required to remedy any educational or other deficits that result from a student with a disability not receiving the evaluations or services to which they were entitled.

Additionally, the Section 504 regulation at 34 C.F.R. § 104.61 (incorporating 34 C.F.R. § 100.6(b)) requires districts to keep records and accurate compliance reports in such form determined to be necessary to enable OCR to ascertain whether the district has complied or is complying with the regulations.

II. Summary of OCR's Investigation

A. Background

The District is the second largest school district in the United States with 574,996 students in the 2020-2021 school year.¹ As of April 7, 2022, the District enrolled 63,531 students with IEPs and 3,348 students with Section 504 plans. The District is divided into six local districts: Local District East, Local District West, Local District South, Local District Central, Local District Northeast, and Local District Northwest. Each local district has its own superintendent and special education administrator. Within each local district are Community of School² administrators who communicate directly with principals, schools, and parents/guardians. The District's Chief of Special Education, Equity and Access (Special Education Chief) is responsible for the implementation of the District's obligations to students with IEPs. The District's Director of the Educational Equity Compliance Office (EECO Director) is the District's Section 504 Coordinator and is responsible for the implementation of the District's obligations to students with Section 504 plans. According to the District, the Office of the General Counsel issued Section 504 policy and procedures.

¹ California Department of Education (CDE) Dataquest, <https://dq.cde.ca.gov/dataquest/dqcensus/EnrEthGrd.aspx?cds=1964733&agglevel=district&year=2020-21>

² LAUSD established Communities of Schools throughout the district and centered around local Los Angeles neighborhoods prior to the 2020-2021 school year. A Community of Schools consists of a support team headed by a Community of School Administrator, who foster collaboration within and across schools and strengthen connections to families and community members. The goals of the Community of Schools are to: 1) better serve the unique needs of local communities, students and parents; 2) build stronger relationships in communities; and 3) improve teacher and learning with an emphasis on advancing instructional equity. *See*, <https://achieve.lausd.net/cms/lib/CA01000043/Centricity/Domain/4/USC%20Rossier%20Exec%20Summary%20Pr eliminary%20Findings%20Communities%20of%20Schools%202020-10-01.pdf> and <https://achieve.lausd.net/site/Default.aspx?PageType=3&DomainID=4&PageID=1&ViewID=6446ee88-d30c-497e-9316-3f8874b3e108&FlexDataID=97971>.

District administrators informed OCR that the District uses an online system (Welligent) to file IEP plans, Section 504 plans, and evaluation documents. For students receiving services through an IEP or Section 504 plan, Welligent is also used to track the implementation of the services provided to students and service providers are directed to document services provided in Welligent. For students with Section 504 plans who do not receive services, but who have Section 504 plans that provide for accommodations or other supports, Welligent has not been used to track the implementation of Section 504 accommodations and supports. The District is currently modifying Welligent to be able to track measurable accommodations and supports provided to students with Section 504 plans. According to the District, while in rare circumstances students with Section 504 plans could have measurable prescribed services that can be tracked as do students with IEPs, other than students with health-related services there are not currently students with Section 504 plans that have measurable services that can be tracked in Welligent. According to the District, school site Section 504 designees and/or case managers (Section 504 designees) are responsible for ensuring that students with Section 504 plans receive their accommodations and supports which, according to the District, are implemented in the general education setting by the general education teacher or other general education personnel.

In addition to Welligent, the District uses a communication program (Schoology) to provide feedback, assignments, and web links to parents/guardians and students. Also, parents/guardians access information about services provided in an IEP or Section 504 plan to their child through the District's Parent Portal. The Parent Portal contains information about services provided to the student and services not provided due to student absence. Service delivery progress reports are available to parents/guardians through the Parent Portal on a quarterly basis.

B. Methodology

OCR reviewed data and information regarding the District's response to the COVID-19 pandemic, actions the District took to transition to remote learning, and actions to provide a FAPE to students with disabilities. OCR also conducted interviews of seven District administrators, including the Special Education Chief, Local District East Superintendent, Local District East Special Education Director, Local District South Superintendent, Local District South Special Education Director, Local District West Superintendent, and the former Local District West Special Education Director. OCR also interviewed nine other witnesses, including District students, parents/guardians, and legal counsel for special education students enrolled in the District.

III. Findings of Fact

A. Spring 2020

Beginning on March 17, 2020, the District cancelled all in-person classes. A District administrator stated that in March 2020, when the District was closed for two weeks, teachers gave students paper and pencil packets with assignments to work. An administrator confirmed that Local District South used paper and pencil packets during this time period.

On March 27, 2020, and March 30 through April 2, 2020, the District provided professional development to teachers to prepare for the transition to remote learning. The District created a guidelines and expectations document, “Special Education @Home Continuity of Learning Plan for Students with Disabilities” that stated that by March 23, service providers should have made initial contact with families of students on their special education caseload with a particular focus on technology accessibility questions. Service providers were instructed to have an initial remote instruction session during the week of March 30, 2020. They were also instructed to provide sessions to students “as close as possible to the frequency and duration” identified in students’ IEPs, “to ensure progress towards IEP goal attainment to the extent feasible.” Providers were instructed to document in Welligent the type of remote learning session in each student’s service record as “an Event with Notes”.

On March 31, 2020, the District’s special education division, through a Welligent update titled “Documenting Distance Service Sessions with Notes in Welligent During School Closures,” directed service providers to document in Welligent all student services provided during remote learning by using the interim service (IS) code³. Service providers were instructed to include virtual meetings, telephonic meetings, emails sent by District accounts, office hours, and Schoology messaging to parents/guardians and students as the provision of services. Interviews with local district administrators confirmed that service providers used the IS code, though their recollections regarding how the code was specifically used varied. According to the District, the IS code was instituted to capture the specific type of service offered during remote learning and was not seen as the same as the District’s traditional form of service.

The District was closed for spring break from April 6, 2020, to April 10, 2020. When instruction resumed on April 13, 2020, all instruction was conducted remotely. In the first week of April 2020, according to the Special Education Chief, the District launched its Continuity of Learning plan to transition to remote learning. He stated that the District tracked services provided to students with IEPs using Welligent. He also stated that the District monitored students’ login activity and their posting of completed assignments to determine whether students were accessing asynchronous instruction—instruction not delivered in real time, such as through pre-recorded videos. He also told OCR that service providers used Welligent to report assessments, speech and language services, physical therapy (PT), and occupational therapy (OT). The District used non-public agencies to provide 1:1 aides, who also input services into Welligent. Local district administrators confirmed that they tracked services on Welligent. The District stated that with regard to students with Section 504 plans, accommodation provisions were not tracked by whether they were synchronous or asynchronous.

The District reported that on April 17, 2020, it provided a training to staff based on OCR and Office of Special Education and Rehabilitative Services (OCR-OSERS’) joint guidance “Supplemental Fact Sheet: Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities” (March 21, 2020). The training stated:

³ Interim Service, or IS, is a code used in Welligent by special education service providers to document services provided to students with disabilities during remote learning.

[The] exceptional circumstances [created by the COVID-19 pandemic] may affect how all educational and related services and supports are provided...the provision of [FAPE] may include,...special education and related services provided through distance instruction provided virtually, online, or telephonically...schools may not be able to provide all service in the same manner that they are typically provided...federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities. The determination of how FAPE is to be provided may need to be different in this time of unprecedented emergency.

Citing this guidance, the District directed service providers to document services using the IS code and to focus on recording the amount of contact or attempted contact with students with disabilities. The training further stated that “[t]he expectation is not for providers to deliver every minute per FAPE 1 [*sic*] during COVID-19 school closures, but to document each attempt and contact with the student.”⁴

Throughout the pandemic, the District uploaded guidance onto Welligent regarding tracking services. The District provided examples of service tracking guidance posted in Welligent for local district administrators which included, for example, guidance on service tracking during remote learning, capturing RSP and BII services during remote learning, and capturing synchronous and asynchronous RSP and BII services.

The Special Education Chief told OCR that the District tracked services provided to students with IEPs but did not require that the amount of services provided actually match IEPs minute for minute during remote learning. According to the Special Education Chief, the District did not have a methodology for determining when a service delivered remotely would be considered equivalent to the same service required by an IEP. He stated that if a student logged in, the District counted it as class time for 1:1 instruction by capturing attendance, the resource teacher tracked interactions and any adult assistance provided, and each service provider reported their own individual time. The Special Education Chief noted that each service provider would self-report their service time through the Welligent Service Record. On April 17, 2020, the District directed Resource Specialist Program (RSP) service providers to document services using “inside of general education” and “outside of general education” on student service records, and included emails, phone calls, and attempts to contact the student and family as counting towards services provided “outside of general education” on the student service record.

During the spring of 2020, the District also provided guidance to staff concerning the provision of services to students with Section 504 plans. For example, the District issued a notification through Welligent “Conducting Section 504 Activities During Covid-19 Pandemic” that instructed staff to connect with parents/guardians virtually or telephonically to “conduct Section

⁴ While the March 21, 2020, OCR-OSERS guidance states that “the exceptional circumstances may affect how all educational and related services and supports are provided” and states that FAPE may include special education or related services delivered as appropriate through “distance instruction, provided virtually, online or telephonically,” it does not state that districts were not required to provide “every minute” of FAPE or that “contact with the student” alone would meet FAPE requirements during COVID-19 school closures. See OCR-OSERS March 21, 2020, Guidance, p. 2, available at <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>.

504 activities.” The notification also informed staff where they could obtain guidance on conducting Section 504 “preparatory activities, holding Section 504 evaluations, and required follow-up activities,” and where they could obtain guidance regarding conducting meetings using Zoom.

On May 11, 2020, the then Superintendent announced that IEP meetings would be held online. According to the Special Education Chief, due to a consent decree with the California Department of Education, the District used Welligent to identify how many IEPs were overdue and then informed local districts of IEPs that were overdue. Some local district administrators also informed OCR that they convened Section 504 meetings online. For example, Local District South relied on the school team and family requests to hold additional IEP meetings. The Central District Office stated that Section 504 plan providers relied on requests from families for additional meetings and initiated meetings according to need.

On June 30, 2020, the District directed service providers to discontinue use of the IS code.

B. Fall 2020

The 2020-2021 school year began on August 18, 2020. On July 13, 2020, the Superintendent announced that the “new [2020-2021] school year [would] start online only.”

On August 28, 2020, the District provided guidance to IEP teams on how to temporarily document that IEP services would be provided through remote learning while the District developed a permanent page in the IEP that would document Distance Learning Plans. The announcement included “Sample FAPE Notes” language for the IEP indicating the remote instruction that would occur under the Distance Learning Plans meant instruction under the general supervision of an employee and included instruction, interactions, or check-ins via computers, video or audio instruction, and print materials.

Local District West administrators stated that at the beginning of the 2020-2021 school year all local districts added a statement to their IEP forms, at the direction of the District’s Central Office, stating that the District would provide services to the “maximum extent possible.” In September 2020, the District conducted trainings on documenting services during remote learning for Behavior Intervention Implementation (BII) service providers (September 2020 BII Training) and RSP Service Providers (September 2020 RSP Training). The September BII 2020 Training stated that providers were “to deliver services per FAPE during COVID-19 school closures to the maximum extent feasible given the distance learning format. This service delivery may not amount to a minute-to-minute match.”

The September BII and RSP 2020 Trainings directed service providers to document synchronous and asynchronous service sessions together in Welligent and to code independent work, discussions, emails, comments, drafting of emails, time spent preparing for and completing asynchronous tasks, and phone calls from staff as asynchronous services. Local district administrators’ recollections regarding how services were tracked varied. For example, Local District East administrators stated that RSP providers tracked in Welligent the time they provided services, both synchronous and asynchronous, and Welligent reports grouped

synchronous and asynchronous activities together. Local District South administrators reported that they tracked asynchronous and synchronous instruction through Schoology based on assignments turned in, while Welligent tracked RSP and other services, including asynchronous activities that included phone calls to parents/guardians. Local District West administrators stated that there was no requirement for service providers to report asynchronous and synchronous services and stated that they could not access reports to determine whether services were synchronous or asynchronous because providers were inputting whether services were synchronous and asynchronous into Welligent's narrative notes section.

On September 1, 2020, the District issued an announcement to District staff stating that during remote learning, students' Section 504 accommodations must be implemented in accordance with their Section 504 plans and were "not waived due to the pandemic." The announcement instructed teachers and personnel responsible for implementing Section 504 plans to review and implement students' Section 504 plans. In circumstances where accommodations were not "feasible" due to remote learning, "a Section 504 evaluation may be necessary to consider alternative accommodations to address the distance learning environment." The District stated that it was the responsibility of Section 504 designees at school sites to ensure that implementation issues were addressed during remote learning. The District did not track instances of implementation issues due to remote learning for students with Section 504 plans and therefore did not know how often this occurred.

The District informed OCR that during the 2020-2021 school year, the District suspended its practice of providing quarterly updates to parents/guardians if the provision of their student's services fell below 70% because the District's reduction in daily instructional minutes during remote learning rendered Welligent inaccurate because Welligent is programmed to calculate the percentage of service provision using the IEP service prescription and the total number of daily instructional minutes during a traditional school day. Therefore, the District's formula for reporting the percentage of service provision was inaccurate when applied to the reduced instructional minutes during remote learning. The District reported that it reinstated the quarterly service provision updates to parents/guardians during the 2021-2022 school year. Even without the quarterly service updates, parents/guardians continued to have the ability to access their students' IEPs through the Parent Portal.

C. Spring 2021

In January 2021, the District conducted training on documenting services during remote learning for BII and RSP providers (January 2021 BII Training and January 2021 RSP Training). Both trainings described an additional feature in Welligent that allowed BII and RSP providers to document synchronous and asynchronous minutes separately. Time spent drafting emails and making phone calls was recorded as asynchronous time. Training for BII providers continued to state that service delivery did not have to be a minute-to-minute match.

An April 2021 RSP training on documenting services during "hybrid learning" (April 2021 Training) showed the new feature to Welligent allowing RSP providers to separately document in-person, synchronous, and asynchronous minutes. Asynchronous services were services provided to a student or group of students not in real time, independent work, discussions,

emails, and comments. The service providers were instructed to input service minutes, the service code, and the start time of the service. The April 2021 Training further directed service providers to document time spent drafting emails, making phone calls, and preparing for or completing asynchronous instructional tasks as asynchronous events.

With regard to IEP implementation, the Special Education Chief stated that he saw service providers falling behind. He stated that he ran service tracking reports to identify gaps and provide support, and that each local district special education administrator also monitored service provision. Local district administrators described that they became aware of complaints regarding the provision of services to students with disabilities from the Central District Office or parents/guardians directly. They also described the lack of a mechanism for tracking and reporting the provision of services to students. They described that during remote learning they reviewed Welligent reports regularly, which could show overdue IEPs.

However, local district administrators provided OCR inconsistent information regarding whether they were able to use Welligent to track actual IEP implementation. For example, Local District East administrators stated that their office and each Community of School in their district had referral forms that tracked parent/guardian concerns; they also received complaints regarding IEP implementation from the Central District Office. The administrators stated that they received complaints about the way IEP meetings and assessments were being conducted, and the way services were being provided. While Local District East administrators reviewed Welligent reports every week which showed overdue IEPs, they stated that they did not have a process for reviewing IEPs to determine whether the service minutes could be completed under the limited minutes of synchronous and asynchronous instruction and did not have a report or mechanism to determine this information. Local District East administrators stated that they did not initiate IEP meetings to review how to address the individual needs of students who were provided limited minutes during remote learning. Local District South administrators stated that they reviewed Welligent reports every Friday to ensure that students received services and saw that service providers were providing services to the extent feasible. They tracked parent/guardian concerns and questions on a Google form. Local District South noted IEP concerns including: helping parents/guardians understand how services were being delivered through remote learning, parents/guardians wanting in-home services, parents/guardians keeping students engaged and on track during synchronous learning, and service providers not tracking services. Unlike Local District East administrators, Local District South administrators were able to run reports to see if the services provided matched the IEP. Local District West administrators stated that they ran weekly reports to review overall service delivery for every school such as a school missing an RSP teacher; they noted that most parent/guardian concerns were related to service provision. They further noted that parents/guardians had concerns about how students were going to receive services, whether they would receive the minutes specified in their IEP, and whether they would have access to their aide or paraprofessional. The administrators also reviewed weekly Welligent reports to identify schools that were underreporting services or had overdue IEPs and stated that they resolved these concerns by ensuring that special education students were receiving services “to the maximum extent feasible.” They stated that they reviewed “percentage of service provision” for every school and “quality of service” but did not indicate how they arrived at “percentage of service provision” or “quality of service” and did not provide sample weekly Welligent reports for OCR review. They also did not recall if there were

inaccuracies in service reporting. The administrators further stated that they tracked parent/guardian communications in a Google form and responded to all parent/guardian complaints within 24 hours.

The Central District Office did not specify whether and how Section 504 plans were reviewed to determine whether services could be provided during synchronous and asynchronous instruction or whether schools convened Section 504 meetings to address students' individual needs during remote learning. The Central District Office stated generally that school Section 504 designees held Section 504 meetings according to need and updated Section 504 plans as necessary.

OCR spoke with a parent of a student receiving RSP services through an IEP plan in the District (Witness 1), and a parent of a student receiving behavioral support services in the District (Witness 2). Witness 1 stated that during the pandemic period the District did not provide the RSP services specified in the IEP because the teacher had difficulty logging on or spent time waiting for other students; further Witness 1 believed that RSP services provided virtually were ineffective in assisting the student. She stated that she had to request RSP service logs from the District to negotiate compensatory education; she reported that the District agreed to provide compensatory services for some but not all services in dispute and discussions were ongoing at the time OCR interviewed Witness 1. Witness 2 reported that, during remote learning, the behavioral support provider relied on Witness 2 to determine how to support the student and to administer support. She also believed that the services did not meet the student's needs. In response to OCR's reporting to the District that parents raised IEP implementation issues during remote learning, the District stated that it communicated "expectations" to staff and provided resources on how to support students through remote learning which were provided in both synchronous and asynchronous models. The District also stated that providers scheduled one office hour per week and communicated this to parents/guardians, that parents/guardians were provided access to various resources to support students.

D. 2021-2022 school year

On August 9, 2021, the District conducted a webinar entitled "Facilitating Recoupment Conversations in Preparation for Full In-Person Return to School" (Webinar) for all District special education administrators and local district support staff. The Webinar's stated learning objective was to teach staff to distinguish between compensatory and recoupment services, and lead discussions at IEP meetings about the potential need for recoupment services.⁵ The Webinar articulated that compensatory education is not intended for situations such as the COVID-19 pandemic. According to the Webinar slides, compensatory education "implies that the school district was at fault or did something wrong in the provision of FAPE to a student with a disability during the COVID-19 school closure period" and is not intended for situations outside of a district's control or where the district is not at fault. The Webinar recommended that District employees "steer away" from using the terms "compensatory education" and "compensatory services" with students and families, and "reframe the conversation around" recoupment services.

⁵ The District offers recoupment services to students regardless of disability status. The Webinar outlined the process for determining recoupment services for students with IEPs. The Webinar does not include a process for determining compensatory education or recoupment services for students with Section 504 plans.

According to the Webinar, the term recoupment services “implies that LAUSD and families work together to develop a plan for a student to address any loss of skills or lack of progress caused by COVID-19 school facility closures.” The Webinar outlines the District’s recoupment services program considerations that “[a]ll students likely suffered some learning loss from the conversion to distance learning” and “all students will require tailored teaching to address loss.” “Learning loss” is described in the Webinar as any loss of skills or lack of progress caused by remote learning due to pandemic-related school facility closures. The Webinar further describes that students with disabilities, like students without disabilities, may be able to address their learning loss through tailored instruction, “but to the extent their disability prevents them from recovering and recouping quickly, then SWD [students with disabilities] may require additional instruction/support to continue making progress and educational benefit.”

To assess whether recoupment services are needed, the Webinar encourages case carriers and service providers to engage in a three-step preparatory activity using the “IEP Team Consideration for Goal Progress” to assist an IEP team (Team) to engage in a “meaningful, data driven discussion to determine goal progress.” The preparatory activity outlines three steps:

1. Evaluate a student’s IEP goal progress and determine whether the student met each goal or made some progress, and whether there is evidence of regression or learning loss.⁶
2. Document services and supports a student received before and after school facility closures, including the method of provision of services (i.e., in-person, synchronous, and/or asynchronous through pre-recorded videos, work packets, and/or email check-ins).
3. Analyze a student’s successes and challenges accessing instruction and services alongside the student’s historical pattern of learning and progress. Specifically, ask whether a “student’s goal progress align[s] with expectations of progress/goal achievement in light of the various models of instruction provided during the pandemic” and if a “student’s goal progress shift[ed] from his/her past goal progress, or was it [*sic*] consistent with what was experienced by all students?”

The Webinar states that if, after considering these steps, case carriers and service providers determine that a student has not made sufficient progress towards their IEP goals, their progress does not align with the expectations of progress/goal achievement, there is “significant loss of learning/skills, AND [the] student demonstrates a need for additional services (i.e., recoupment).” a suggested plan for recoupment services is created and an IEP meeting is scheduled.⁷ At the IEP meeting, the Team reviews the results from the “IEP Team Consideration for Goal Progress” and determines the type, amount, and timeframe for the provision of recoupment services. The Webinar does not explain or provide a definition of “significant loss of learning/skills” or when a “student demonstrates a need for additional services.” These terms are stated as an undefined required step in the District’s flowchart for determining recoupment services.

⁶ The Webinar does not specify which IEP goals the Team should evaluate. For example, it does not specify whether the Team should evaluate the student’s pre-pandemic IEP goals, and/or IEP goals that were created or modified during the pandemic.

⁷ The District separately informed OCR that according to District policy “all parents and guardians will be given the opportunity to engage in a recoupment discussion, whether or not the preparatory activities of the IEP team initially determine a need for recoupment.”

The Webinar directs the Team to document whether or not the student requires recoupment services using specific recommended language in their IEP. According to the Webinar, there is “no specific formula to decide the amount or type of recoupment service(s) to offer.” “Recoupment service(s) need not be provided for the exact frequency/duration or service(s) as stated in the IEP (i.e., not minute-for-minute, day-for-day or service-for-service).” Instead, recoupment services “must be reasonably calculated to provide the educational benefits that likely would have accrued from special education services delivered had school facilities remained open.” Types of recoupment services include a block of service (with a start and end date); District enrichment courses or District enrichment programs such as tutoring and “Learning Center”; collaboration with service providers and parents/guardians; and instructional strategies such as re-teaching content, pre-teaching new materials, and teaching missing foundational skills.

Based on the above, if the student does not require recoupment, the Team notes that it has engaged in an analysis of the student’s goal progress, including their participation and progress in remote learning, and determined that the student has not experienced learning loss that requires recoupment services. On the other hand, if the Team decides that a student requires recoupment services, the Team notes that it has determined that the student experienced some educational loss and is recommending that the student receive recoupment services. The Webinar directs the Team to list the specific services and/or instructional strategies it recommends, the date/times the services are available, the duration of the services, and that the services are limited for recoupment purposes and not an offer of FAPE. Comparably, Local District South’s guidance entitled “IEP Team Considerations for Goal Progress during Distance Learning” also states that “recoupment services are not part of a student’s FAPE.” If the Team offers recoupment services, the Webinar states that the District sends the parent(s)/guardian(s) a letter with a copy of the IEP that includes the offer of services. If the parent(s)/guardian(s) consent(s) to this IEP, the recoupment services are implemented. If the parent(s)/guardian(s) do(es) not consent to this IEP, the District provides the parent/guardian with their “rights and options for resolution.”

During interviews with OCR in August 2021, the Special Education Chief, Local District East Special Education Director, and Local District West Special Education Director all stated that the District was reserving compensatory education for circumstances where the District is at fault for the non-provision of services. The Local District East Special Education Director described that, because the District did not create COVID-19, it is not at fault for the non-provision of services during the pandemic, and therefore would provide recoupment services to address learning loss rather than compensatory education. According to the Special Education Chief, the District did not create and did not plan to create centralized guidance on compensatory education related to the COVID-19 pandemic. District staff added that compensatory education is available on a case-by-case basis and through the District’s informal and formal dispute resolution processes.

The Special Education Chief, and Local District East, Local District South, and Local District West Special Education Directors told OCR that the District’s focus in the 2021-2022 school year has been on providing recoupment services to address learning and skill loss during the COVID-19 pandemic. The Local District East Special Education Director stated that District staff have been trained to have conversations during IEP meetings about recoupment services

and the Local District West Special Education Director stated that staff are “well versed” on the difference between compensatory education and these services. The Local District South and Local District West Special Education Directors further stated that all students have access to recoupment services that include: tutoring; summer programs; enrichment opportunities; a tutoring program entitled “Primary Promise”; and other programs available to “target populations” such as homeless and foster youth.

On September 8, 2021, the District’s Division of Special Education sent a guidance memorandum to principals titled “Guidance for IEP Teams Regarding Recoupment Services and Required Written Correspondence for CDE [California Department of Education] Corrective Action.” The guidance referred to “CDE mandated corrective actions for identified students” which, among other things, required a determination regarding compensatory education for students who did not receive new or increased services due to delayed evaluations.

In November 2021, the District modified its recoupment consideration process to require recoupment considerations for all students with IEPs and updated the required documentation of these determinations in each student’s IEP. On November 15, 2021, the District published a “Division of Special Education Employee Newsletter” directing special education personnel to convene IEP meetings to make recoupment service considerations for every student with an active IEP during the 2021-2022 school year. Later that month, on November 29, 2021, the District issued a “Recoupment Consideration” guidance directing all IEP teams to document their consideration in Section N of the IEP. Section N requires IEP teams to certify that: “the IEP team has reviewed and discussed student’s progress/achievement and considered factors that may have impacted student’s learning during the school facility closures as a result of the COVID-19 national pandemic” and either check a box that recoupment services are necessary, or that recoupment services are not recommended. Parent(s)/guardian(s) are also provided with procedural safeguards at the start each IEP meeting.

In March and April 2022, the District further modified its process for considering recoupment services and amended its definition of compensatory education. In March 2022, the District conducted “IEP Clinic” trainings that stated, “compensatory education is provided to students with disabilities as a remedy for the District’s violation of the Individuals with Disabilities Education Act (IDEA) that resulted in a denial of a free appropriate education (FAPE),” and removed the qualification that compensatory education is limited to circumstances not resulting from COVID-19 school closures. In March and April 2022, the District created guidance documents which it has yet to distribute to parent(s)/guardian(s), staff, students, or stakeholders that further modified the recoupment consideration process. In March 2022, the District created a revised version of the “IEP Team Considerations for Goal Progress Planning” document that states under an “additional factors to consider” heading, that “students should be considered for compensatory education services if service(s) were not delivered.” The document does not otherwise discuss or articulate a process for determining compensatory education when special education related aids and services were not provided during the COVID-19 pandemic. In April 2022, the District created a revised “Goal Progress Planning Map for IEP Consideration of Recoupment Services” guidance that removed the term “significant” from the recoupment consideration of whether a student experienced loss of learning/skills and demonstrates a need for additional supports.

In April 2022, the District informed OCR that during the 2020-2021 and 2021-2022 school years it made recoupment service offers to a total of 652 students with IEPs through the District's recoupment process and compensatory education offers to 1,493 students with IEPs through IEP team initiated meetings.

The District further informed OCR that it did not develop a plan for Section 504 teams to consider recoupment services or make compensatory education determinations for students with Section 504 plans, and during the 2021-2022 school year the District did not make any individualized recoupment service offers or compensatory education offers to students with Section 504 plans. The District described that recoupment services are provided to all students in the District and students with Section 504 plans who received recoupment were provided these services through school site processes designed for all "general education" students, instead of through a process involving the Section 504 team. The District further stated that the District has not held Section 504 meetings to determine compensatory education because none of the District's students with Section 504 plans receive special education services.

IV. Analysis and Conclusions

As described further below, OCR found that the District failed to provide a FAPE as required by Section 504 to qualified students with disabilities in violation of Section 504. Specifically, OCR found that during remote learning, the District (1) limited the services provided to students with disabilities based on considerations other than the student's individual educational needs, did not evaluate those students' needs prior to determining what services they would receive during remote learning, and did not ensure that the placement decisions were made by a group of persons knowledgeable about the students' needs in violation of 34 C.F.R. § 104.33(b)(1)(i) and § 104.35(a) and (c)(3); (2) failed to accurately or sufficiently track services provided to students with disabilities in violation of 34 C.F.R. § 104.33 and 34 C.F.R. § 104.61 (incorporating 34 C.F.R. § 100.6(b)); and (3) failed to develop and implement a plan adequate to remedy denials of FAPE during remote learning.

A. The District limited services provided to students with disabilities without evaluating students or involving the IEP or Section 504 teams, and based on considerations other than the student's individual educational needs

The evidence shows that the District communicated a policy to staff that it was not obligated during remote learning to provide services in the same level or amount (by service minutes) that was specified in each student's IEP. Students with IEPs are subject to the protections of Section 504 and districts are required to provide these students a FAPE. Communicating and implementing a policy in which District staff are not obligated during remote learning to provide services in the same level or amount that is specified in each student's IEP can result in the denial of a FAPE under Section 504 to students with disabilities. The September 2020 and January 2021 BII Training directed service providers to deliver services to the "maximum extent feasible," but that service delivery may not amount to a minute-to-minute match. Similarly, in its April 2020 guidance, the District stated that it did not expect service providers during remote learning to deliver every minute required by a student's IEP. The Special Education Chief confirmed that District policy asserts that minutes of services in Welligent did not have to match

the service minutes specified in the IEP during remote learning. The evidence further shows that the decisions to limit or alter the services provided to students with disabilities were not based on considerations regarding the student's individual educational needs and were not based on having conducted an evaluation of the student's individual educational needs. For example, the evidence indicates that the District did not consistently review IEPs or provide appropriate services for students with IEPs during remote learning. Local District East administrators stated that the District did not have a process for reviewing IEPs to determine whether the service minutes could be completed under the limited minutes of synchronous and asynchronous instruction and did not initiate IEP meetings to ensure that students would receive services during remote learning. Rather, the District included a statement in IEP meeting notes that the District would provide services to the "maximum extent possible." Local District South relied on the school team and family requests to hold additional IEP meetings.

Districts are also required to provide Section 504 students a FAPE. With regard to students with Section 504 plans, the District instructed teachers and other staff that accommodations must be implemented, that accommodations were not waived due to the pandemic, and that in situations where accommodations were not "feasible" due to remote learning, a Section 504 evaluation may be necessary to consider alternative accommodations to address the remote learning environment. The District did not, however, track the number of students with Section 504 plans who were not able to access needed accommodations due to remote learning because these students received accommodations rather than services. The District also did not specify whether and how Section 504 plans were reviewed to determine whether services could be provided during asynchronous and asynchronous instruction or whether Section 504 designees convened meetings to address students' individual needs. Instead, to show Section 504 plan implementation, the District stated that Section 504 designees held Section 504 meetings according to need and updated Section 504 plans as necessary.

Further, witnesses described instances where the District failed to provide the individualized services required by students' IEPs or Section 504 plans. For example, for two weeks after the March 2020 school closure, the District provided only pencil and paper packets to all students, which would have been a significant change in services for many students with disabilities with IEPs or Section 504 plans. Local district administrators also reported that they were aware that parents/guardians had concerns about provision of services and also saw Welligent reports indicating noncompliance with IEPs. For example, Local District South noted instances where services were not being provided to students with IEPs, Local District East's Welligent reports revealed overdue IEPs and percentages of IEP services provided, Local District West's reports revealed overdue IEPs and missing service providers, and Local Districts West and East tracked complaints that showed that parents/guardians had concerns with receipt of services, the conduct of IEP meetings and assessments, and the way services were being provided. Finally, interviews with Witnesses 1 and 2 corroborated District witnesses' assertions of implementation problems. The District stated that it does not have parents/guardians administer services and does not document parent/guardian support as a service. However, one parent witness interviewed by OCR believed that they were relied upon by the service provider to administer services; and parent witnesses told OCR that services provided remotely were not as effective as in-person services in meeting student needs. They also stated that the District did not evaluate whether students needed different or additional services during remote learning or modify IEPs so that

students' individual educational needs would be met during remote learning. Although the District stated that it made Districtwide provisions during remote learning regarding grades and allowing extra time as necessary for students with Section 504 plans, the change in the manner of the provision of FAPE was not based on individualized assessments as required by Section 504, and the services the District was able to provide do not reflect the full range of services and supports to which students with disabilities may be entitled.

Despite the challenges of the pandemic, the District has an obligation under Section 504 to make individualized determinations designed to meet the individual educational needs of students with disabilities to ensure students with disabilities are provided a FAPE. OCR recognizes the District may have tried to provide services to the "maximum extent" it deemed possible given the circumstances; however, to the extent students with disabilities experienced educational or other deficits that resulted from not receiving services to which they were entitled, compensatory education services are required under Section 504. The evidence gathered, including webinar trainings regarding students with IEPs; documentation provided by the District, some of which are publicly posted on the District's website; and interviews with District-level administrators with responsibility to implement FAPE for students with IEPs indicate that the District's stance was that FAPE can be provided with reduced services, less than what is specified in students' IEPs plans, if that was the maximum that was feasible due to the pandemic. This position is not correct. Regardless of the challenges the District faced during the pandemic, students with disabilities in the District retain their right to FAPE under Section 504.

The District's failure to provide services designed to meet the individual educational needs of students with disabilities and to evaluate those students' needs prior to determining what services they would receive during remote learning constitutes a violation of Section 504.

B. The District failed to accurately or sufficiently track services provided to students with disabilities

Additionally, the District either did not have a mechanism to track services or directed service providers to inaccurately document services for students with disabilities during remote learning. Specifically, the Central District Office stated that it did not track Section 504 plan implementation of accommodations because of a belief that Section 504 plan accommodations are typically not prescribed services that can be tracked by the District. The District relied on Section 504 teams to ensure that accommodations were provided during remote learning and to address implementation concerns. Also, as described further below, the District's practices and directions to services providers resulted in inaccurate tracking of the services provided to students with IEPs.

At the start of the pandemic, the District provided guidance to local districts to use the IS code for the provision of services, regardless of what services were included. IS coding resulted in inaccurate documentation of service provision because service providers were instructed to include attempts to contact students and families as services provided. Service providers included remote meetings, phone calls and messages, emails, office hours, and Schoology messaging alongside behavioral interventions, adapted PE, hearing services, speech and language services, OT, counseling, and RSP services under the IS code. On April 17, 2020,

District guidance directed RSP service providers to document emails, phone calls, and contact attempts as services provided.

Even after the District discontinued the IS code, BII and RSP trainings show that Welligent did not differentiate between synchronous and asynchronous services from September 2020 through January 2021 and continued to code services inaccurately by directing service providers to code independent work, attempts to contact families, and time spent preparing for and completing asynchronous tasks as asynchronous services. September 2020 BII and RSP Trainings directed providers to document synchronous and asynchronous service sessions together in Welligent. It was not until January 2021 that District BII and RSP trainings introduced a new feature allowing service providers to document synchronous and asynchronous minutes separately. However, January and April 2021 BII and RSP trainings continued to include time spent contacting students and families as asynchronous services.

Additionally, local districts were inconsistent in documenting services on Welligent. Local District South's and Local District East's service providers tracked synchronous and asynchronous services, but Local District East administrators stated that Welligent reports grouped synchronous and asynchronous activities together. Local District West had no requirement for service providers to report asynchronous and synchronous services and no way to review a report distinguishing the two because providers were inputting synchronous and asynchronous in the Welligent narrative notes.

Further, while parents/guardians could access the Parent Portal to review the services required and provided for students with IEPs, the only way for parents/guardians, or students to review the accuracy of the tracking regarding services being provided and make corrections would be to make a request for documentation from the District and pursue a resolution through one of the District's dispute resolution mechanisms. During the 2020-2021 school year, the District suspended their practice of providing quarterly updates to parents/guardians if the provision of their student's services fell below 70% because the District's reduction in daily instructional minutes during remote learning rendered Welligent inaccurate. Witnesses 1 and 2 stated that the minutes tracked in Welligent were not always accurate, because they included time the teacher spent logging on and time spent waiting for other students. Because parents/guardians did not have access to Welligent, to make corrections or request compensatory services, parents/guardians first had to request service logs from the District.

The District's inadequate tracking of accommodations provided to students with Section 504 plans, presumption that students with Section 504 plans did not have services to be tracked, and inaccurate tracking of services provided to students on IEPs further deprived these students of FAPE, in violation of 34 C.F.R. § 104.33. Recipients must also maintain such records and submit for our review complete and accurate compliance reports in such form and containing such information as may be necessary to allow OCR to ascertain whether the recipient has complied or is complying with Section 504. 34 C.F.R. § 104.61 (incorporating 34 C.F.R. § 100.6(b)). The District's failure to appropriately track services provided to students on IEPs and Section 504 plans accordingly violates the procedural requirements of § 100.6(b) as well.

C. The District failed to develop and implement a plan adequate to remedy denials of FAPE during remote learning

In August 2021, the District created a legally unsupported heightened standard for the assessment of compensatory services, as reflected in the District Webinar, limiting the provision of compensatory services to circumstances where the District was at “fault.” As a result, the District did not offer compensatory services when the District was unable or failed to provide appropriate services to a student with a disability during the COVID-19 pandemic. The Special Education Chief and Local District East and Local District West Special Education Directors told OCR that compensatory education was reserved for instances when the District was at fault for the non-provision of special education services. The Local District East Special Education Director reiterated this position that because the District did not create the COVID-19 pandemic, it was not at fault for the non-provision of services during the pandemic, and therefore would provide recoupment services to address learning loss rather than compensatory education. In addition, the Webinar specifically stated that recoupment services were not part of a student’s FAPE and compensatory education is only available as a remedy when the District could have reasonably provided services through remote learning during the COVID-19 pandemic stay-at-home orders.

In March 2022, during the course of resolution with OCR, the District created guidance that removed the qualification that compensatory education is limited to circumstances not resulting from the COVID-19 stay-at-home orders. However, according to the information that the District recently provided OCR, the District has not conducted a review of the decisions it previously made for individual students under that legally unsupported heightened standard.

Districts are required to ensure that each student with a disability has access to educational opportunities, including all special and regular education, related aids, and services necessary to receive a FAPE. This remains true even if the circumstances that resulted in the denial of FAPE to students with disabilities are not due to direct action or inaction by the District, such as the need to change to remote learning due to the COVID-19 pandemic. When the District has failed to meet its obligations to provide a FAPE to students with disabilities, those students might be entitled to additional instruction and services, referred to as compensatory services, to remedy any educational or other deficits that result from the student with a disability not receiving the evaluations or services to which they were entitled. Whether a student with a disability needs compensatory services as a result of remote learning must be individually determined, consistent with the requirements of Section 504. A district can remedy the failure to provide a FAPE to students with disabilities by making an individualized determination regarding whether and to what extent compensatory services is needed to address the denial of FAPE including to make up for any skills that may have been lost.

OCR recognizes that the District, pursuant to oversight by CDE, is in the process of conducting approximately 6,000 assessments of students with disabilities and providing compensatory services when an IEP team determines that a new or increased service is required. However, the CDE corrective action does not address the needs of *all* the students with disabilities in the District who may be entitled to compensatory education. The CDE corrective action addresses

the compensatory education needs of students with disabilities who are determined to need a new or increased service resulting from a delayed assessment during the pandemic.

Despite the documented lapses in the services the District provided during remote learning, and its failure to evaluate the needs of students with disabilities during remote learning, the District has not developed or implemented a comprehensive plan adequate to remedy the denial of FAPE to students with disabilities.

First, the District did not develop or follow a process for IEP teams to make individualized decisions regarding whether a student received the services required by their IEPs or Section 504 plans during the COVID-19 pandemic, and to determine whether compensatory services may be necessary. The District instead created a recoupment consideration process to address learning and skill loss for all students through a broad range of academic and enrichment programs. The District defined recoupment services as a collaborative effort between District employees and families to assess and address skill loss or lack of progress due to the COVID-19 pandemic. In August 2021, all District special education administrators and support staff were trained to distinguish between compensatory education and recoupment services through the Webinar that directed District staff to steer students and families away from IEP team discussions about compensatory services and reframe the conversation around recoupment services.

Moreover, in August 2021, the Webinar trained staff on a stringent and overly restrictive process to determine if students with IEPs needed recoupment services and offers minimal guidance on recoupment provision. The Webinar requires that it be determined that a student has not made IEP goal progress, the student's progress does not align with the expectations of their goal achievement, there is significant loss of learning/skills, and the student demonstrates a need for additional services, in order for recoupment services to be considered. If these terms are met, a suggested recoupment services plan is created, and an IEP meeting is scheduled. This recoupment service consideration process described in the Webinar and by District administrators during interviews with OCR focus on "learning loss." According to the District, "learning loss" is any loss of skills or lack of progress caused by remote learning due to school facility closures and a "significant loss of learning/skills" coupled with a need for additional services would determine whether a student will receive recoupment services. OCR recognizes that the District issued revised guidance in November 2021 requiring recoupment service considerations for every student with an active IEP during the 2021-2022 school year and drafted but did not disseminate guidance in April 2022 removing the requirement that learning loss be "significant" in order for a student to receive recoupment services. The District's revised guidance continues to focus on "learning loss", however, and as defined by the District, this term does not address circumstances where the District's failure or inability to provide appropriate services, including the individualized services identified in a student's IEP or Section 504 plan, resulted in a denial of FAPE. The trainings and District guidance therefore indicate that recoupment service considerations are not compensatory service determinations. Moreover, the Webinar and recent District guidance are limited to addressing students with IEPs and do not articulate a process for considering recoupment services or determining compensatory education for students with Section 504 plans who do not have IEPs.

Finally, from August 9, 2021, when the District conducted the Webinar, until the District issued a revised directive to conduct IEP team recoupment considerations for all students with IEPs during the 2020-2021 school year on November 15, 2021, the District articulated a heightened standard for the provision of recoupment services—one that apparently also did not give parents/guardians a meaningful voice in that determination. The Webinar stated that the purpose of the Preparatory Activity is to assist IEP teams to engage in a meaningful discussion about goal progress; however, the Webinar encouraged case carriers and service providers to complete the Preparatory Activity and to schedule an IEP meeting with a student’s IEP team only after determining that a student has a significant loss of learning and demonstrates a need for additional services. Parents/guardians, meanwhile, despite knowing best how their children have fared during remote learning, were not involved in the recoupment service determination process unless or until case carriers and service providers recommend recoupment services and an IEP meeting was held. If an IEP meeting was held, parents/guardians only reviewed the results of the analysis of student progress, provision of services, and related services conducted by the case carrier and service provider(s).

To date, the District has not created comprehensive guidance on compensatory education to address the non-provision of services during the COVID-19 pandemic. The District instead created a “recoupment service” process focused on students’ learning loss, not their loss of services. By design, that process does not purport to address whether and to what extent students with disabilities may need compensatory education as a result of the District’s failure or inability to provide appropriate services during the COVID-19 pandemic.

For the reasons described above, OCR found that the District failed to develop and implement a plan adequate to remedy denials of FAPE during remote learning, in a manner consistent with Section 504.

V. Resolution Agreement

To address the violations identified during the investigation, the District entered into the attached Resolution Agreement which is aligned with the issues investigated and the information obtained by OCR. The District agreed to create and implement a comprehensive plan which will describe for District staff, students, and parents/guardians the efforts the District will undertake to address the compensatory education needs of students with disabilities resulting from the Section 504 violations identified by OCR in this directed investigation. The plan will include a tracking mechanism to ensure all students who need compensatory education receive those services. The District will also appoint an administrator to oversee the District’s implementation of the plan, and conduct outreach to parents/guardians, and other stakeholders regarding the plan.

Based on the commitments made in the Resolution Agreement, OCR is closing the investigation as of the date of this letter. When fully implemented, the Resolution Agreement is intended to address the areas of violations identified by OCR. OCR will monitor the implementation of Resolution Agreement until the District is in compliance with the terms of the Resolution Agreement and with the statute and regulations at issue in this investigation. Upon completion of the obligations under the Resolution Agreement, OCR will close the case.

This concludes OCR's investigation. This letter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR investigation. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the District may not harass, coerce, intimidate, discriminate, or otherwise retaliate against any individual because that individual asserts a right or privilege under a law enforced by OCR or has files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Thank you for your cooperation in resolving this investigation. OCR looks forward to receiving the District's first monitoring report by April 29, 2022. If you have any questions regarding this letter, please contact Michael Chang at michael.chang@ed.gov; Anne Busacca-Ryan at anne.busacca-ryan2@ed.gov; and Susanne Mao at susanne.mao@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Regional Director

Enclosure