

**RESOLUTION AGREEMENT
INDEPENDENCE # 30 SCHOOL DISTRICT
DOCKET NO. 07161046**

The Independence School District (District), Independence, Missouri, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced discrimination complaint against the District and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and the implementing regulations of these federal laws.

The District is resolving this complaint during OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*.¹ Therefore, OCR has not made any findings of fact or law, or issued a final determination with respect to this complaint. Nothing contained in this Agreement shall be construed to constitute an admission on the part of the District to any of the allegations in this complaint. The District agrees to take the following actions:

SECTION 504 EVALUATION

- 1) On January 20, 2016, the District, in consultation with the complainant, met to evaluate the appropriateness of a Section 504 Plan for the Student pursuant to 34 C.F.R. § 104.35. The District, in consultation with and participation of the complainant, held an eligibility meeting on January 20, 2016, to determine whether Student was eligible for a 504 Plan. In accordance with Section 504, 34 C.F.R. § 104.35(c), the District (1) drew upon information from a variety of sources, (2) established procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensured that the placement decision was made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensured that the placement decision was made in conformity with the implementing regulation at 34 C.F.R. § 104.34. The regulation at 34 CFR 104.34 requires that disabled students be placed with their non-disabled peers to the maximum extent appropriate and addresses non-academic settings.

On January 20, 2016, the District met and determined that the Student is a qualified student with a disability and, prepared a Section 504 Plan reflecting the accommodations necessary to ensure the Student receives a free appropriate public education (FAPE). The District provided the Complainant notice of the procedural safeguards including the right to challenge the group's determination through an impartial hearing.

¹ OCR's *Case Processing Manual* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

REPORTING REQUIREMENT: On April 8, 2016, the District herewith submits documents supporting the team’s decisions regarding eligibility for accommodations pursuant to Section 504. The documentation submitted includes documentation showing the participants in the meeting, an explanation for the decisions made, the information considered, and a description of and schedule for providing any compensatory educational and/or remedial services (if any) to the Student. OCR is to review and approve the documentation provided by the District to ensure that the District met the procedural requirements of the regulations implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

MANIFESTATION DETERMINATION

- 2) On February 5, 2016, the District convened a 504 team of persons knowledgeable about the Student to determine whether Student’s conduct during the 2015-16 school year, was caused by or had a direct and substantial relationship to (i.e. manifestation of) the Student’s disability and whether the Student is entitled to compensatory educational services for any educational loss the Student suffered for the period of time during which the Student was not provided a 504 Plan designed to meet the Student’s individual educational needs. The team determined that Student’s conduct was not a manifestation of his disability. If the conduct had been determined to be a manifestation of the Student’s disability, the District would have determined any appropriate compensatory education, and returned the Student to the regular education setting.

REPORTING REQUIREMENT: On April 8, 2016, the District herewith submits documents supporting the team’s decisions regarding the manifestation determination and eligibility for compensatory education. The documentation submitted includes documentation showing the participants in the meeting, an explanation for decisions made, the information considered and a description of and schedule for providing any compensatory educational and/or remedial services (if any) to the Student. OCR is to review the documentation to ensure that the District met the procedural requirements of the regulations implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

FUNCTIONAL BEHAVIOR ASSESSMENT

- 3) The District will conduct a Functional Behavior Assessment (FBA) and determine the appropriateness of a Behavior Intervention Plan (BIP) for the Student.

REPORTING REQUIREMENT: Within one week of the completion of the FBA required by paragraph 3 above, the District will submit to OCR, a copy of the FBA and documents supporting the team’s decisions regarding the appropriateness of a BIP. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered.

POLICY

- 3) By September 1, 2016, the District will revise its *Section 504 Process and Forms Manual* to include additional language from 34 C.F.R. §§104.32 and 104.33. The language shall describe the District's duty to notify persons with disabilities and their parents or guardians of the District's obligation to identify and locate every qualified handicapped person residing in the District who is not receiving a public education and to provide a free appropriate public education to each qualified person with a disability who resides in the District, regardless of the nature and severity of the student's handicap, with the understanding that whatever impairment giving rise to a claim of disability must substantially limit a major life activity before a child can qualify as a qualified person with a disability and with the further understanding that a qualified person with a disability may not require any accommodations or special education in order to receive a free appropriate public education.

REPORTING REQUIREMENT: By September 1, 2016, the District shall provide OCR a copy of the revised *Section 504 Process and Forms Manual* for review and approval.

TRAINING

- 4) By September 1, 2016, the District will provide training on the revised Section 504 Process and Forms Manual to District officials and staff, including but not limited to, administrators, teachers, staff, counselors, paraprofessionals employed by the District at the time the training is conducted, and the designated Section 504/Title II compliance coordinator and investigator(s). The training will be conducted by an individual knowledgeable about the laws and issues pertaining to Section 504 and Title II compliance and the specific topics listed below. The training will include:
 - a) A discussion of compliance with Section 504 and Title II, including identification of potentially qualifying students, evaluations, placement decisions, provision of FAPE, and procedural safeguards.
 - b) A discussion and distribution to trainees of the District's *Section 504 Process and Forms Manual*, including the District's policies and procedures regarding the identification, evaluation and placement of students who have or are suspected of having a disability.

REPORTING REQUIREMENT: Within thirty (30) days of completing the training required in this agreement, the District will provide OCR documentation showing it has completed the training described above. The documentation must identify: (a) the date and location of the training; (b) the topics addressed at the training(s) (the District may provide OCR an outline of the training and a copy of the materials disseminated at the training); (c) the name(s), title(s) and credentials of the individual(s) who conducted the training; and (d) the name, title and work location of each District administrator or employee who attended the training (a sign-in sheet with the attendees' names, titles, and work locations is sufficient).

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement and that all actions taken to comply with the requirements of the Agreement are subject to OCR’s review and approval. 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 of this Agreement and is in compliance with the regulations implementing Section 504 and Title II which were at issue in this case.

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

The person(s) signing for the District represents that he is authorized to bind the District to this Agreement.

For the District:

Dale Herl, Superintendent of Schools
Independence School District

Date