

**RESOLUTION AGREEMENT
FORSYTH R-III SCHOOL DISTRICT
OFFICE FOR CIVIL RIGHTS DOCKET NUMBER 07161075**

The Forsyth R-III School District (District), Forsyth, Missouri, voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the allegations in Complaint No. 07161075 (Complaint) that was filed under Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 104; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation at 28 C.F.R. Part 35.

The District submits this Agreement to resolve OCR Docket No. 07161075 and issues identified by OCR during the course of its investigation, pursuant to Section 302 of OCR's *Case Processing Manual*. Because the District voluntarily submitted, and OCR accepted, the Agreement prior to the conclusion of OCR's investigation, OCR has made no findings of fact or law and has not issued a final determination with respect to any of the allegations in the complaint.

The District agrees to take the following actions:

Section 504/Title II Policies and Procedures

1. The District shall review, and if necessary, revise its Section 504 and Title II policies and procedures, particularly those provisions addressing the identification, evaluation, and placement of students with disabilities to ensure compliance with the regulations implementing Section 504, specifically 34 C.F.R. § 104.33 - *Free Appropriate Public Education*; 34 C.F.R. § 104.35 - *Evaluation and Placement*; and 34 C.F.R. § 104.36 - *Procedural Safeguards*; and with the Americans with Disabilities Act Amendments Act of 2008 (ADA Amendments Act) which broadened the definition of a qualified individual with a disability. OCR is available to provide technical assistance to the District upon request.

Reporting Requirement: Within 90 calendar days of signing this Agreement, the District shall provide OCR a copy of the proposed Section 504 policies and procedures related to students with disabilities for review and approval.

2. Within 60 calendar days of receiving OCR's approval of its proposed Section 504 and Title II policies and procedures developed pursuant to item 1 of the Agreement, the District shall adopt, publish, and disseminate the OCR approved 504 and Title II policies and procedures using its standard methods for disseminating new information, policies, or procedures that impact the District's student population

(such as including the information on the District’s website and in student handbooks).

Reporting Requirement: Within 60 calendar days after taking action to appropriately publish and disseminate the policies and procedures developed pursuant to item 1 of this Agreement, the District will provide OCR with links to the information, if available in electronic format, or copies of publications including the approved policies and procedures related to the identification, evaluation and placement of students with disabilities, which demonstrate completion of item 2.

Procedural Safeguards

3. By August 18, 2016, the District will review, and if necessary, revise procedural safeguards to comply with the Section 504 regulation at 34 C.F.R. § 104.36. Specifically, the procedural safeguards will:
 - a. detail how and when the District will notify the parents or guardians of District students of the District’s Section 504 procedural safeguards, and how the District will maintain documentation indicating the parents or guardians have been informed of the Section 504 procedural safeguards;
 - b. provide an opportunity for the parents or guardians of the student to examine relevant records;
 - c. provide an impartial hearing relating to decisions involving the identification, evaluation and placement of students with disabilities, including the opportunity for participation by the student’s parents or guardians and representation by counsel; and
 - d. provide eligible students, parents or guardians a reasonable amount of time not less than 90 calendar days to request a Section 504 impartial hearing to challenge actions the District proposes or refuses under Section 504 regarding the identification, evaluation, program, or placement of a student with a disability.

Reporting Requirement: By August 18, 2016, the District will provide to OCR for review and approval, copies of its proposed notice of procedural safeguards, required in item 3 of this Agreement.

4. Within 60 calendar days of receiving approval from OCR of its Section 504 procedural safeguards, the District will formally adopt the procedural safeguards and disseminate the revised procedure to District staff members and administrators through the District’s electronic communications system (email). Additionally, the

District will ensure the Section 504 procedural safeguards are readily available to all students, parents, guardians, and other appropriate individuals by either distributing an insert containing the procedure for requesting an impartial hearing or including the information in its student/parent handbooks and/or District website.

Reporting Requirement: By __August 18_____, 2016, the District will provide OCR with documentation demonstrating implementation of item 4 of this Agreement.

Training for Section 504 Coordinator

5. By __September 1_____, 2016, the District will ensure the identified Section 504 coordinator receives training on the legal requirements of Section 504 and his or her responsibilities as the District’s designated Section 504 coordinator. The training will be provided by a person knowledgeable of the Section 504 regulation and requirements. OCR is available to provide technical assistance to the District upon request.

Reporting Requirement: Within _30_ calendar days of providing the Section 504 coordinator with the training identified in item 7 of the Agreement, the District will provide documentation to OCR detailing the name and credentials of the person who provided the training to the designated coordinator, the date the training was provided, and a copy of any training materials used.

Training –Section 504 and Title II

6. By _September 23_____, 2016, the District will provide the first session of annual training on the subject of Section 504 and Title II compliance, including the OCR approved Section 504 policies and procedures, grievance procedure, and procedural safeguards, to District officials and staff, including but not limited to, administrators or officials, teachers, paraprofessionals, counselors, nurses and any other individuals who may be involved in the identification, evaluation, and placement of students suspected of having disabilities. The training will be conducted by an individual(s) knowledgeable about the laws and issues pertaining to Section 504 and Title II. The District’s training will include the following topics and activities:
 - a. information regarding the District’s revised Section 504 and Title II policies, procedures, manuals, and forms;
 - b. the District’s obligation under the Section 504 regulation at 34 C.F.R. § 104.33(a), to provide a FAPE to all qualified students with a disability in its

jurisdiction and that the provision of a FAPE is the provision of regular or special education and related aids and services as required under 34 C.F.R. §§ 104.34, 104.35, and 104.36;

- c. the District's obligation under the Section 504 at 34 C.F.R. § 104.37 to provide non-academic and extracurricular services, including athletics, transportation, recreational activities and non-curriculum field trips in such a manner as is necessary to afford all students with disabilities an equal opportunity for participation;
- d. the Section 504 regulation at 34 C.F.R. § 104.3(j)(1)(i), definition of a qualified individual with a disability as any person who has a physical or mental impairment which substantially limits one or more major life activities or has a record of or is regarded as having such an impairment;
- e. the eligibility criteria under Section 504 and Title II;
- f. the District's obligation pursuant to 34 C.F.R. § 104.3 (and under 28 C.F.R. § 35.104), to consider the full range of major life activities of a qualified individual with a disability, when identifying and evaluating a student who needs or is believed to need regular or special education and related aids and services due to a disability under Section 504;
- g. the District's Section 504/Title II evaluation process and how it interfaces with student referrals and evaluations conducted pursuant to the Individuals with Disabilities in Education Act (IDEA) and IHP processes.

Reporting Requirements: By _September 30_____, 2016 the District will provide OCR documentation that demonstrates implementation of item 8. The documentation must identify the following: a) the date, time and location of the training; b) the topics addressed at the training(s) (including an outline of the training and 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 does not have to provide documentation of subsequent training unless OCR requests that information.

Student Review

- 7. By _August 18, 2016___ the District will review the educational record of every student who transferred to the District during the 2015-16 school year. The District

will identify every transfer student who arrived at the District with an existing IEP or 504 plan.

8. For every student who came to the District with an IEP or 504 Plan, the District will determine whether the District conducted a new evaluation, or adopted the plan in place when the student arrived in the District. The District will create a spreadsheet documenting the status of implementation of the special education/504 plan for each student identified.
9. For each student identified, for whom the District did not conduct a new evaluation, or adopt or implement the plan, the District will conduct an IEP/504 team meeting to determine whether the particular student is entitled to services as a student with a disability and whether the student is entitled to compensatory educational services for any educational loss suffered the result of the District's failure to implement the student's IEP/504 plan.
10. For every student identified by the District, and for whom compensatory services are required for provision of FAPE to that student, the IEP/504 team will identify the necessary compensatory education services; develop a written plan or schedule for providing those services including, if necessary, transportation; notify all staff responsible for providing the compensatory education services of their responsibility in writing; provide the compensatory education services according to the written plan or schedule; and document the provision of the compensatory education services to the student. If the 504 or IEP team determines no compensatory education services are necessary for the provision of a FAPE to the student, the 504/IEP team will identify the information considered in its decision and set forth the reasons for its decision in writing.

Reporting Requirements:

Within 1 week of the District's identification of every special education or 504 student who transferred to the District with an IEP or 504 plan, the District will furnish OCR a spreadsheet detailing the information set forth in item 8.

Reporting Requirements:

Within 30 days of the completion of the 504 or special education teams' determinations as to whether each students' IEP or 504 plan has been implemented, and whether compensatory and/or remedial services are needed, the District will submit to OCR documentation supporting the groups' decisions. The documentation submitted shall include 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 and/or remedial services (if any) to the students. OCR will, prior to approving the District's decision and plan for providing

the proposed services, review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

Reporting Requirements:

By December 20, 2016, and by May 26, 2017, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided to the identified students, a description of what was provided, and the name(s) of the service provider(s).

Individual Remedy

11. If the complainant's son re-enrolls in the District during the 2016-17 school year, the District will, within three weeks of the complainant's son return, bring together a multidisciplinary and conduct a Section 504 evaluation of the complainant's son and hold a Section 504 committee meeting to determine if the complainant's son is eligible for services under Section 504. The District will, in writing, invite the Complainant to participate in the Section 504 committee meeting and advise her that she can bring an advocate and other individuals with information about her son to the meeting. The 504 committee will include persons knowledgeable about the complainant's son, the meaning of evaluation data, and applicable placement options that may be available to him and will document its determination in writing.
12. If the committee finds that the complainant's son is eligible for services as student with a disability under Section 504 it will develop a written Section 504 Plan and consider whether the Complainant's son is eligible for compensatory services based on the District's failure to evaluate the Student. If the District determines that the Complainant's son is not eligible for Section 504 services or accommodations, the District will provide the Complainant written notice of the District's Section 504 procedural safeguards at the time it makes its determination.

Reporting Requirements

Within two weeks of holding the Section 504 committee meeting required by item 11 of this Agreement, the District will provide OCR for OCR's review and approval documentation showing it complied with item 12. The documentation will include, at a minimum, a list of the individuals (with their titles and work assignments) who participated in the meeting, copies of all documents considered by the committee, any notes or summaries of the meeting, and documentation of its decision regarding the Complainant's son's eligibility for services under Section 504 and his eligibility for compensatory education, written notice to the Complainant of the decision, and if applicable, documentation showing it provided the Complainant notice of the District's Section 504 procedural safeguards.

This Agreement is not intended to constitute, nor shall it be deemed to constitute, an admission by the District of any violation of Section 504 or Title II, or any other law or regulation pertaining to the allegations contained within the Complaint.

The District understands that OCR will close the monitoring of this Agreement when the District has fulfilled the terms of the Agreement.

The District understands that by signing the Agreement, it agrees to provide data and other information in a timely manner 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 the Agreement, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of the Agreement and is in compliance with the statute(s) and regulations that 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 a minimum of sixty (60) calendar days to cure the alleged breach.

Jeff Mingus, Superintendent
Forsyth R-III School District
Forsyth, Missouri

Date