

Webster County School (WCSD)
OCR Complaint No. 06141567
Resolution Agreement

The Webster County School District (WCSD) voluntarily agrees to enter into a Resolution Agreement (RA) in order to resolve the above-referenced complaint. The WCSD commits to implement the provisions set forth in this Agreement to ensure the District's compliance with the requirements of Section 504 or the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, both of which prohibit discrimination on the basis of disability. This Agreement is not intended to be, nor shall it be construed as an admission by the WCSD of a violation of Section 504 or Title II or any other federal civil rights statutes enforced by OCR. Accordingly, the WCSD hereby voluntarily agrees to take the following actions.

ACTION ITEM 1: Section 504 Policies and Procedures

1.1 The WCSD shall review and revise its Section 504 policies and procedures to ensure that they include established standards and procedures for the evaluation and placement of individuals who, because of disability, need or are believed to need special education or related services, including:

(a) Evaluation Procedures that ensure that:

- (i) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
- (ii) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;
- (iii) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
- (iv) Students who have been provided special education and related services are periodically re-evaluated. A reevaluation procedure consistent with the Individuals with Disabilities Education Act (IDEA) is one means of meeting this requirement.

- (b) Placement Procedures that ensure that in interpreting evaluation data and in making placement decisions, the WCSD shall:
 - (i) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
 - (ii) Establish procedures to ensure that information obtained from all such sources is documented and carefully considered (e.g., evaluation data);
 - (iii) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and
 - (iv) Ensure that the placement decision is made in conformity with §104.34.

REPORTING REQUIREMENTS:

- 1.2 By **August 1, 2015**, the WCSD will submit to OCR, for its review and approval, a copy of the revised Section 504 policies and procedures it has developed pursuant to Action Item 1.1.
- 1.3 Within **30 days** of receipt of written notification from OCR of its approval of the revised Section 504 policies and procedures, the WCSD will provide documentation to OCR evidencing that the policies and procedures developed in accordance with Action Item 1.1. have been fully implemented and that informative communications have been provided to all WCSD staff notifying them of said policies and procedures.

ACTION ITEM 2: Training

- 2.1 The WCSD will provide training, by a qualified individual,¹ to the Section 504/Title II Coordinator(s), administrators, teachers, and aides responsible for implementing and/or ensuring compliance with Section 504² at Eupora High School. The training shall address, at a minimum:
 - (a) The WCSD’s policies and procedures for carrying out its responsibilities under Section 504 and Title II to provide a free appropriate public education (FAPE) to each qualified disabled person who is within the WCSD’s jurisdiction, regardless of the nature or severity of the person’s disability (including the revised Section 504 policies and procedures for evaluation and placement referenced in Action Item 1.1 following their review and approval by OCR);

¹ A person knowledgeable about the laws and issues pertaining to the identification, evaluation and placement of students who are, or are believed to be, disabled.

² The Agreement uses Section 504 for brevity purposes; however, the Title II regulatory requirements are equally applicable.

- (b) The WCSD’s obligation to conduct an evaluation of any student who, because of disability, needs or is believed to need special education or related services before (1) taking any action with respect to the initial placement of the student in regular or special education and (2) any subsequent significant change in the student’s placement, consistent with the Section 504 regulations, at 34 C.F.R. § 104.35;
- (c) WCSD staff members’ obligation to fully implement any Section 504 Plan that has been developed for a qualified student with a disability;
- (d) The development of a system to ensure that Section 504 services related aids and services that are identified as necessary are implemented; and
- (e) The WCSD’s obligation to effectively notify parents of (1) placement decisions, including re-evaluations, and (2) the WCSD’s system of procedural safeguards, in accordance with the Section 504 regulations, at 34 C.F.R. § 104.36.

REPORTING REQUIREMENTS:

- 2.2 By **August 1, 2015**, the WCSD will submit to OCR for review and approval its proposal for complying with Action Item 1.1, above. Specifically, the WCSD will provide to OCR the name(s) and credentials of the individual(s) who it proposes to conduct the training session(s), and copies of the proposed materials the WCSD intends to use at the training session(s).
- 2.3 By **no later than August 31, 2015 and in no event later than the beginning of the 2014-2015 school year**, following OCR’s approval of the individual(s) and materials referenced in Reporting Requirement 2.2, the WCSD will provide the training listed in Action Item 2.1
- 2.4 Within **10 calendar days** of the completion of the training referenced in Reporting Requirement 2.3, the WCSD will provide OCR with documentation demonstrating that it has timely completed Action Item 2.1 above. Specifically, the WCSD will provide to OCR the names of all individuals who attended the training session(s) provided pursuant to Action Item 2.1, the date(s) and time(s) the training session(s) occurred, the name(s) and credentials of the individual(s) who conducted the training session(s), and copies of the materials disseminated at the training session(s).

ACTION ITEM 3: Individual Student

- 3.1 By **August 1, 2015**, the WCSD will send the complainant a letter via certified mail, return receipt requested, notifying the complainant that if the Student applies for re-enrollment and is accepted in accordance with WCSD’s application and enrollment policies, WCSD will conduct an evaluation **within 30 days** of the Student’s re-enrollment to identify the Student’s need for special education or related aids and

services, consistent with the Section 504 regulation at 34 C.F.R. §104.35, subject to receipt of parent's consent to evaluate Student. Pursuant to Section 504, at 34 C.F.R. §104.35, the evaluation should be conducted by a group of persons who are knowledgeable about the Student, the meaning of the evaluation data, and placement options within the WCSD. Prior to the conclusion of this evaluation, the WCSD will provide the complainant notice of the WCSD's system of procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

If, **within 20 days** of the date on the signed returned receipt (3.1), the complainant has not submitted an application to re-enroll the Student, the WCSD will notify OCR of that fact by the **30th day**, and the WCSD will have no further obligation to report to OCR regarding Action Items 3.1 or 3.2.

Additionally, if the complainant refuses to sign the WCSD's evaluation parental consent forms, the WCSD is relieved of any further obligations identified under Action Item 2, and will inform OCR of same.

3.2 By **August 21, 2015** (if WCSD receives consent to evaluate Student), after providing proper written notice to the Student's parent/guardian, a group of knowledgeable persons, including the parent/guardian, will determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to provide appropriate regular and/or special education or related services during the spring 2014 term. If so, **within 1 week** of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond September 30, 2015. The District will provide the Student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

REPORTING REQUIREMENTS:

- 3.3 By **August 31, 2015**, the WCSD will provide OCR with a copy of the written notification sent to the complainant and Student in accordance with Action Item 3.1.
- 3.4 By **September , 2015**, the WCSD will submit to OCR a narrative report and documentation evidencing whether the complainant submitted an application to re-enroll Student and/or provided consent to evaluate the Student and the scheduled date of the evaluation.
- 3.5 If the Student re-enrolls in the WCSD and is so evaluated in accordance with Action Items 3.1 and 3.2:
- (a) **Within 2 weeks** of the decision as to whether compensatory and/or remedial services are needed, the WCSD will submit documents to OCR supporting the group's decision. The submitted records shall include documentation identifying

the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing compensatory and/or remedial services (if any) to the Student. If compensatory and/or remedial services are needed, OCR will, prior to approving the WCSD's decision and plan for providing the proposed services, review the documentation to ensure that the WCSD 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.

- (b) If applicable, by **October 30, 2015**, the WCSD will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

The WCSD understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with Section 504 and Title II. The WCSD 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. Further, the WCSD understands that during the monitoring of this agreement, if necessary, OCR may visit the district, interview staff and contract staff, students, or others and request such additional reports or data as are necessary for OCR to determine whether the district has fulfilled the terms of this agreement and is in compliance with Section 504 and Title II, which are at issue in this case.

The WCSD 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 WCSD written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Mr. Jack Treloar, Superintendent (or designee)
Webster County School District

Date