

**Resolution Agreement**  
Webb City R-VII School District  
Docket # 07121042

The Webb City R-VII School District (District), Webb City, Missouri, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve this 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 34; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation at 34 C.F.R. Part 28. The Agreement, when fully implemented, resolves the complaint allegations that the District discriminated against the Student on the basis of disability.

**I. Individual Remedies**

- A. If the Student reenrolls in school in the District, within 10 days of the Student’s reenrollment, the District will notify the Complainant and the Student by certified letter of its intent to conduct an evaluation of the Student to determine the Student’s eligibility to receive services as a student with a disability, under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq. (“IDEA”) or Section 504.

REPORTING REQUIREMENT: Within 10 days of the date of the certified letter, the District will provide OCR documentation of the Student’s date of reenrollment in the District, and a copy of the certified letter to the Complainant and the District’s procedural safeguards.

REPORTING REQUIREMENT: Within 10 days of the last day of each semester of the 2016-17 school year, the District will notify OCR in writing if the Student has not reenrolled in the District during that term.

- B. If the Student consents to the evaluation, within 60 days of receiving consent to evaluate, the District will conduct the evaluation and make the eligibility and placement determinations in accordance with the procedural requirements of the IDEA at 34 C.F.R. § 300.304 or Section 504 at 34 C.F.R. §§ 104.3(j) and (l), 104.33, 104.34, and 104.35. The District will consider information from outside medical or counseling providers, as well as other relevant information related to the Student’s diagnosis of XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX. The evaluation will include assessment and evaluation data, if determined necessary, as well as all other relevant information from the Student’s educational records. Based on the evaluation, the Student’s multi-disciplinary team will determine whether the Student is a child with a disability in need of special education and/or related services pursuant to the IDEA, or has an impairment(s) which substantially limits one or more of his major life activities pursuant to Section 504, and if so, the multi-disciplinary team will determine an appropriate educational placement for the Student, and draft and implement an IEP or Section 504 plan setting forth the Student’s educational placement and the services he is to receive.

REPORTING REQUIREMENT: Within 10 days of receiving consent to evaluate from the Student, the District will provide OCR a copy of the signed consent form.

REPORTING REQUIREMENT: Within 10 days of completing the evaluation of the Student, making eligibility determinations and developing an IEP or 504 plan for the Student, the District will provide OCR a copy of the complete evaluation of the Student, including all assessments, information, and records considered in the evaluation; notes from the multi-disciplinary team meeting(s); the District's eligibility determinations for the Student; all IEPs and/or 504 plans developed and implemented for the Student; and contemporaneous notices, correspondence and other records made part of the Student's Section 504 or special education file in the District.

- C. At the conclusion of the Student's evaluation, the District will provide the Student with a copy of the District's procedural safeguards that meet the requirements of IDEA or 34 C.F.R. § 104.36.

REPORTING REQUIREMENT: Within 10 days of completing the evaluation of the Student, making eligibility determinations and developing an IEP or 504 plan for the Student, the District will provide OCR with documentation that it provided the Student with a copy of its procedural safeguards.

## II. Section 504 Policies and Procedures

By January 9, 2017, the District will make the following revisions to its Section 504 Manual:

- A. The Section 504 Manual currently states:

*Mental or physical impairments are broadly defined and include any physiological disorder or condition or any mental or psychological disorder, whether formally diagnosed or not. However, an impairment, alone, is insufficient to qualify a student as Section 504 disabled. In addition, a medical diagnosis or the fact that a student takes medication is not controlling in determining whether that student has a 504 disability. The Office for Civil Rights, which is charged with the responsibility to enforce 504, has stated that finding a student 504 eligible solely on the basis of a diagnosis generally violates Section 504 [emphasis original].*

The District will replace the language bolded above with the following<sup>1</sup>:

*An impairment, in and of itself, is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504. Similarly, a medical diagnosis of an illness, or the fact that a student takes medication, does not automatically mean a student will qualify for services under Section 504. The Americans with Disabilities Act Amendments Act of 2008 emphasized that the definition of “disability” under Section 504 and Title II should be interpreted broadly.*

B. The Section 504 Manual currently states:

*Substantial limitation is not defined in Section 504 or the 2008 ADAAA [Americans with Disabilities Act Amendments Act of 2008]. In the 2008 ADAAA, Congress stated that the phrase “substantially limits” must be interpreted consistently with the findings and purposes of the 2008 Amendments. **However, pursuant to the 2008 ADAAA, substantial limitation means less than “significantly restricted.”***

The District will revise the last sentence bolded above to state:

*Pursuant to the 2008 ADAAA, an impairment does not have to prevent or severely or significantly restrict a major life activity in order to be considered substantially limiting. Accordingly, substantially limited means less than “significantly restricted.”*

C. The District will review and revise its referral and evaluation process to identify who may refer students for evaluation under Section 504, to ensure that the District responds promptly to all requests or referrals for 504 evaluations, and to ensure that all evaluations are completed within a reasonable length of time.

D. The District’s 504 Manual on page 10 contains the following language:

*As part of the district’s initial/pre-placement evaluation, the student’s parent and/or legal guardian may be asked to provide a written release or authorization to obtain further information from diagnosing or treating physicians, psychologists or other professionals. **If the District’s multidisciplinary team concludes that such information is a necessary part of the initial/pre-placement evaluation and the parent refuses to provide the requested written authorization to obtain it, the District will treat such refusal as a refusal to consent to the initial/pre-placement evaluation. In that event, the student will not be considered to be disabled and will remain a regular education student.***

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<sup>1</sup> See the OCR document *Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools*, which is available on the OCR website at <http://www2.ed.gov/print/about/offices/list/ocr/docs/dcl-504faq-201109.html>.

The District will replace the language bolded above with the following statement:  
*Failure by a parent to provide consent to obtain further information from diagnosing or treating physicians, psychologists or other professionals will limit eligibility and placement decisions by the multidisciplinary team to consideration of other relevant information is has about the student's impairment.*

- E. The District will make the following revisions to the District's *Section 504 Procedural Safeguards* contained in its 504 Manual:
1. identify the correct the address for the Kansas City OCR Office<sup>2</sup>; and
  2. increase the number of days a parent, legal guardian, or eligible student has to file a written request for a Section 504 due process hearing to challenge an action regarding the identification evaluation, program, or placement of a student with a disability.
- F. The District will develop an internal procedure to ensure that parents/guardians of students who need or are believed to need regular or special education and related services receive a written copy of the District's procedural safeguards that comply with the requirements of 34 C.F.R. §104.36 and that the provision of procedural safeguards to parents/guardians is documented.

**REPORTING REQUIREMENT:** By January 9, 2017, the District will provide OCR a complete copy of its revised Section 504 Manual to OCR for review and approval.

### **III. Training**

Within 90 calendar days of OCR's approval of the District's revised Section 504 Manual, the District will provide copies of the above revisions to the District's Section 504 Manual together with written explanations of the revisions, to all administrators, faculty, school nurses, and school counselors/social workers. In addition, prior to the start of the 2017-2018 school year, the District, as part of its professional development training, will provide training regarding the above revisions to the Section 504 Manual to all administrators, faculty, school nurses, and school counselors/social workers. To aid District staff in identifying and referring for evaluation students, including EL students, who may have a disability and need services pursuant to Section 504, the training will emphasize that the District has an obligation under Section 504 to conduct an evaluation of any student who, because of a disability, needs or is believed to need special education or related services, including students with medical conditions; the District must decide whether a student qualifies for a Section 504 evaluation without taking into account the ameliorative effects of mitigating measures such as medication, prosthetics, medical

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<sup>2</sup> The address for the Kansas City OCR Office is: U.S. Department of Education, Office for Civil Rights, One Petticoat Lane, 1010 Walnut St., Suite 320, Kansas City, Missouri 64106. The telephone numbers for the Kansas City OCR Office are: (816) 268-0550 (voice) and (877) 521-2172 (telecommunications device for the deaf).

equipment, hearing aids or cochlear implants, assistive technology, mobility devices, and reasonable accommodations; and that the definition of disability shall be construed in favor of broad coverage of students.

**REPORTING REQUIREMENT:** Within 60 calendar days of completion of the above training, the District will provide OCR with documentation of the training including the date(s) and time(s) of the training; the name(s) and title(s) of the trainer(s); a copy of any printed materials used during the training (handouts or PowerPoint presentations); and a sign in sheet showing the training participants by name and position.

The District 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 the regulation implementing Section 504 at 34 C.F.R. §§ 104.3(j) and (l)(2), 104.32, 104.33, 104.35, and 104.36 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 regulation implementing Section 504 at 34 C.F.R. §§ 104.3(j) and (l)(2), 104.32, 104.33, 104.35, and 104.36 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.

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Recipient Official

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Date