

**RESOLUTION AGREEMENT  
HOLDEN R-III SCHOOL DISTRICT  
OFFICE FOR CIVIL RIGHTS DOCKET NUMBER 07141157**

The Holden R-III School District (District), Holden, 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. 07141157 (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. 07141157 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 Section 504 and Title II policies and procedures related to the identification, evaluation, placement, and discipline 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 30 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 30 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 30 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 1, 2015, the District will review, and if necessary, revise procedural safeguards which 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 September 1, 2015, the District will provide to OCR for review and approval copies of its notice of procedural safeguards, required in item 3 of this Agreement.

4. Within 30 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 October 1, 2015, the District will provide OCR with documentation demonstrating implementation of item 4 of this Agreement.

**Notice of Nondiscrimination**

5. By August 15, 2015, the District will ensure that its Notice of Nondiscrimination is included in the District's student/parent and staff handbooks and in the electronic versions of the handbooks on the District's website.

**Reporting Requirement:** By August 15, 2015, the District will provide OCR with documentation demonstrating implementation of item 5 of this Agreement.

**Grievance Procedures**

6. By August 15, 2015, the District will ensure that its multi-purpose Grievance Procedures are included in the District's student/parent and staff handbooks and in the electronic versions of the handbooks on the District's website.

**Reporting Requirement:** By August 15, 2015, the District will provide OCR with documentation demonstrating implementation of item 6 of this Agreement.

**Training for Section 504 Coordinator**

7. By August 1, 2015, 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.

**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**

8. By September 1, 2015, 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 notice of nondiscrimination and revised Section 504 and Title II policies, procedures, manuals and forms;

- b. the District's requirement, pursuant to 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 requirement pursuant to 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; and,
- h. the District's Board Policy JGE-AP(2), *Discipline of Students with Disabilities*, that provides guidance to district personnel for disciplining students with disabilities as defined by Section 504 of the Rehabilitation Act of 1973.

**Reporting Requirements:** By October 1, 2015, 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**

9. By October 1, 2015, for the time periods of second semester of the 2013-14 school year and the entire 2014-15 school year, the District will review student discipline and special education records and identify every student who was suspended for more than 10 consecutive days during a school year or more than 10 cumulative days during a school year.
10. For the students identified, the District will prepare two spreadsheets:
  - (1) a spreadsheet identifying every special education or 504 student suspended for more than 10 consecutive days during a school year, the dates of suspension, the code of conduct violation, whether a manifestation determination meeting was held and the date of the meeting; and,
  - (2) a spreadsheet identifying every special education or 504 student suspended for more than 10 cumulative days during a school year, the dates of suspension, the code of conduct violation, the date a determination was made as to whether the cumulative suspension amounted to a pattern of suspension, the persons involved in that decision, and whether a manifestation determination meeting was held and the date of the meeting.
11. For each student identified who was suspended for more than 10 consecutive days during a school year, or for more than 10 cumulative days where a determination was made that the cumulative suspension amounted to a pattern of suspension, and for whom a manifestation determination was not conducted, the District will convene a 504 or an IEP team of persons knowledgeable about the particular student to determine whether the student's actions were caused by or had a direct and substantial relationship to (i.e. manifestation of) the student's disability and whether the particular student is entitled to compensatory educational services for any educational loss suffered during the student's suspension.
12. For each student for whom a manifestation determination was not conducted, and the District subsequently conducts a manifestation determination, if the 504 or IEP team determines the student's actions were a manifestation of his or her disability and that compensatory education services are required for the provision of a FAPE to the student, the team will within one week of its determination: 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 and/or 504 student who was suspended for more than 10 consecutive or more than 10 cumulative days, the District will furnish OCR a spreadsheet detailing the information set forth in item 10.

**Reporting Requirements:**

Within 30 days of completing item 10, the District will furnish documentation to OCR indicating the District satisfied the requirements of item 11.

**Reporting Requirements:**

Within 30 days of the completion of the 504 or special education teams’ determinations as to whether each students’ actions were a manifestation of his or her disability, 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 information indicating the participants in the meetings, an explanation for decisions made, the information considered, and a description of the educational loss, and a 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 1, 2015, 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**

13. Within ten days from the date of this Agreement, the District will identify and flag all references to the 50-day long term suspension in the Student’s cumulative education record.

Within 30 days from the date of this Agreement, the District will convene a 504 team of persons knowledgeable about the Student to determine whether the Student’s actions on April 16, 2014, were 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 program of regular or special education and related aids and services designed to meet the Student’s individual educational needs, specifically from April 16, 2014, through the end of the 2013-14

school year and from August 13, 2014, to September 30, 2014. If the 504 team determines the Student's actions on April 16, 2014 were not a manifestation of his disability, the District need not take any further action with regard to this Student. The District will still need to satisfy the applicable reporting requirements.

If the 504 team determines the Student's actions on April 16, 2014, were a manifestation of his disability and that compensatory education services are required for the provision of a FAPE to the Student, the team will, within one week of its determination, identify the necessary compensatory education services and develop a written plan or schedule for providing those services, including transportation, if necessary; 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 team determines no compensatory education services are necessary for the provision of a FAPE to the Student, the 504 team will identify the information considered in its decision and set forth the reasons for its decision in writing. The District will provide the Complainant notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

#### **Reporting Requirements**

Within 15 calendar days of the date of this Agreement, the District shall identify and flag any reference to the Student's 50 day suspension in his cumulative student record. Within 30 calendar days of the date of this Agreement, the District shall provide OCR documentation indicating the Student's 50 day suspension has been identified and flagged in the student's cumulative student record.

#### **Reporting Requirements:**

Within 1 week of the decision whether the Student's actions were a manifestation of his disability and whether compensatory and/or remedial services are needed, the District will submit to OCR, documents supporting the group's decision. 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 Student. 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:**

If necessary, by December 1, 2015, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services

were provided to the Student, a description of what was provided, and the name(s) of the service provider(s).

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 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 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.

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.

      /s/ Wade Schroeder        
Wade Schroeder, Superintendent  
Holden R-III School District  
Holden, Missouri

                  June 8, 2015                    
Date