

RESOLUTION AGREEMENT
Blue Springs R-IV School District
OCR Docket Number 07161258

The Blue Springs R-IV School District (District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of ensuring compliance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, and to resolve the above-reference complaint.

This Agreement addresses the Complainant's allegation that the District discriminated against the Student on the basis of disability in violation of 34 C.F.R. §104.33 when the District failed to implement the Student's Section 504 plan by allowing students to walk around the room with peanut products during a XXXXX XXXXX XXXXX XXXXX XXXXX.

The District voluntarily agreed to resolve the complaint prior to the conclusion of OCR's investigation into the complaint allegation. OCR did not conduct any further investigation and considers the complaint to be resolved upon completion of the following action steps listed below.

This Agreement does not constitute an admission by the District of a violation of Section 504, Title II, or any other law enforced by OCR.

The District agrees to take the following actions:

1. **By August 14, 2017**, the District will convene a Section 504 meeting during which the Student's Section 504 team (team) will meet to consider whether the Student's Section 504 plan should be revised. In reaching this decision, the team will consider a variety of sources in evaluating the Student's disability related needs, including any recommendations submitted by the Student's allergist. The team will document and carefully consider the information obtained from all sources, including all available medical information regarding the student's peanut allergy, the nature and severity of the Student's peanut allergy, and the types of exposures that can result in the Student having a food allergy-related reaction (e.g., whether such reactions are most likely to occur due to ingestion or topical or airborne exposure) and ensure that the plan is developed by a group of individuals knowledgeable about the Student, evaluation data, and placement options. The team will also consider and document its consideration of whether the Student's Section 504 plan should include the following provisions:
 - a) Procedures governing food allergy risk management in the Student's classroom and common use rooms (e.g., the cafeteria, library, computer labs, gymnasium, and art and music rooms), and during recess periods, bus transportation, field trips, and extracurricular, and school-sponsored activities. Additionally, the Section 504 team will consider the need to develop procedures that may provide continuity of access to epinephrine and will identify staff responsible for overseeing the continuity of access.

- b) Emergency response procedures for addressing the proper handling and administration of epinephrine in the event of an anaphylactic or other serious allergy-related reaction, identifying the staff responsible for emergency responses. These procedures should address each aspect of the Student's school day.

The District will provide the Student's parents with an opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge any determination through an impartial due process hearing should they disagree.

Reporting Requirement: By August 14, 2017, , the District will provide for OCR's review and approval a copy of the revised Section 504 plan for the Student, along with copies of meeting minutes or similar documentation from the Section 504 meeting held to revise the plan, including names and titles of all participants. The documentation will include the Section 504 team's consideration of a) and b) above and, where these items are not fully incorporated into the Section 504 plan, an explanation of the team's rationale for not including them.

2. **By August 14, 2017**, all XXXXX XXXXX XXXXX School staff members who are primarily responsible for the Student will receive training on food allergies and the implementation of the Student's Section 504 plan. The Student's Section 504 Case Manager and/or School Nurse or other trained staff will provide one-on-one training regarding the student's food allergies and Section 504 plan to three (3) specific substitute teachers prior to school beginning that will be assigned as the subs for that teacher. In the case that one of those subs is not available, the counselor, who has also been trained, will step into that role. Substitute teachers assigned to the Student's classroom also will receive a packet of information prior to the start of the school day that includes: (a) information regarding the Student's food allergies; (b) the Student's current Section 504 plan; (c) contact information for the Student's Section 504 case manager for the substitute to direct any questions regarding the Student's needs and Section 504 plan; and (d) contact information for the school nurse to have as a reference in case of an emergency.

Reporting Requirement: Within 10 calendar days following the completion of the training session for staff members primarily responsible for the Student, the District will provide for OCR's review and approval the dates of the above-referenced training session, copies of any written training materials, the names and titles of participants, and the name/title and qualifications of the individual(s) providing the training.

3. **Within 10 calendar days** from the date this Agreement is executed, the District will provide the Student's parents with a written request that they provide written consent for the District to disseminate a letter notifying the parents of all students in the Student's classes, all School staff and students of the following:
 - (a) One of more students in the class have severe allergies to peanut products;
 - (b) If exposed to a peanut product, through contact or ingestion, such student(s) may develop a life-threatening reaction that requires emergency medical treatment;

- (c) Strict avoidance of peanuts and peanut products is the only way to prevent such reactions; and
- (d) Parents are requested to send foods/snacks to school that do not contain peanuts or peanut products.

Reporting Requirement: Within 10 calendar days of receiving the parents written consent in item 3, the District will provide for OCR’s review and approval a copy of the proposed letter to parents contemplated in item 3 above. Within 15 calendar days of OCR’s approval of the communications, the District will provide documentation to OCR verifying that it has sent the letter to School staff, parents, and students.

GENERAL REQUIREMENTS

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 regulation implementing Section 504 at 34 C.F.R. §§ 104.3(j), and 104.35 through 104.37; and the regulation implementing Title II at 28 C.F.R. §§ 35.104 and 35.130, 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), 104.35 through 104.37; and the regulation implementing Title II at 28 C.F.R. §§ 35.104 and 35.130, which were at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including 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.

/s/ Jim Finley
Dr. Jim Finley, Superintendent
Blue Valley R-IV School District

5/22/17
Date