

**Resolution Agreement  
Ozark R-VI School District  
Docket # 07161903**

The Ozark R-VI School District, Ozark, Missouri (District), 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, 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, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities. The District, as a recipient of Federal financial assistance and a public entity, is subject to the requirements of Section 504 and Title II.

The Agreement addresses the complainant's allegation that the District discriminated against her son (the Student) on the basis of disability by denying him a free and appropriate public education (FAPE) during the 2015-2016 and 2016-2017 school years when it:

- a. failed to properly evaluate him, in violation of 34 Code of Federal Regulations (CFR) § 104.35; and
- b. failed to provide him regular or special education and related aid and services that are designed to meet his individual educational needs, in violation of 34 C.F.R. § 104.33(b)(1).<sup>1</sup>

Before OCR completed its investigation, the District agreed to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual*.<sup>2</sup> Therefore, OCR has not made any findings of fact or law, or issued a final determination with respect to the complaint. The District agrees to take the following actions for the purpose of resolving this complaint, but nothing contained in this Agreement shall be construed to constitute an admission on the part of the District to any of the allegations in this complaint:

**Section 504 Evaluation, Meeting and Plan Creation**

1. Within two weeks of the date of this Agreement the District will, after consultation with the complainant, initiate an evaluation of the Student pursuant to 34 C.F.R. § 104.35. The evaluation will be considered within sixty (60) days of the date of this Agreement. The District will advise the complainant, in writing, of the date of the meeting in which it will consider the evaluation, and give the complainant at least ten (10) calendar days to provide any information she would like the District to consider. In accordance with Section 504 regulations at 34 C.F.R. § 104.35(c) the District shall: (1) draw upon information from a variety of sources, (2) establish procedures to ensure that information

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<sup>1</sup> Absent extraordinary circumstances, OCR does not assess the appropriateness of pedagogical decisions made by school district employees.

<sup>2</sup> OCR's *Case Processing Manual* may be accessed at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrepm.pdf>.

obtained from all such sources is documented and carefully considered, (3) 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 (4) ensure that the placement decision is made in conformity with the implementing regulation at 34 C.F.R. § 104.34. The regulation at 34 C.F.R. § 104.34 requires that disabled students be placed with their non-disabled peers to the maximum extent appropriate and addresses non-academic settings. The District will determine whether the Student is a qualified student with a disability and, if so, prepare an appropriate Section 504 plan reflecting the special education or related services necessary to ensure the Student receives a free appropriate public education (FAPE). 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.

2. The District will provide to the Complainant via regular mail or in-person a copy of the District's notice of the procedural safeguards prior to the team meeting with a written explanation of the Complainant's right to challenge the team's determination via a Section 504/Title II impartial hearing.

**REPORTING REQUIREMENT:** At least five (5) days prior to the scheduled meeting, the District will provide OCR with an email specifying the date and time of the Section 504 multidisciplinary meeting described above. If the District emails OCR a copy of the Notice of Meeting, that is sufficient to meet this requirement.

**REPORTING REQUIREMENT:** Within ten (10) days of the Section 504 evaluation meeting required by item 1, the District will submit to OCR documents supporting the team's decisions regarding the Student's eligibility for special education or related services pursuant to Section 504, for OCR's review and approval. The documentation submitted shall include: 1) information provided by the Complainant and the District, 2) a copy of any notices of procedural safeguards provided to complainant, and when provided, 3) a sign-in sheet with the date of the team meeting signed by each team member, 4) an explanation for decisions made and the information considered, and 5) a copy of the 504 plan. OCR will review and approve the documentation provided by the district to ensure that the District met the procedural requirements of the regulations implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

3. The District will also address the alleged failure to provide a FAPE and a 504 plan to the Complainant's son during the 2015-2016 and 2016-2017 school years by providing a minimum of twenty four (24) hours of academic tutoring and/or other educational services. During the 504 meeting required by paragraph 1, the District will develop a schedule of academic tutoring and/or other educational services. In developing the schedule, the District will consider:

- a) the type, frequency, and location of appropriate academic tutoring and/or other educational services that will accommodate the Student's schedule, including whether it is appropriate to offer the Student more than twenty four (24) hours of academic tutoring and/or other educational services.
  - b) how to provide the academic tutoring and/or other educational services at no cost to the Complainant and to schedule around the Student's school day or other educational and non-academic activities associated with his school.
  - c) how to schedule the academic tutoring and/or other educational services to the Student so that all sessions are provided they are provided by January 31, 2018.
4. The District and the Complainant may mutually agree to change the schedule of academic tutoring and/or other educational services, including the type of services, based on the individual needs of the Student, which may change over time. If the parties change the schedule or type of services, the change will be reflected in writing and be signed and dated by the District and the Complainant.
5. The District shall not be obligated to provide specific academic tutoring and/or other educational services if the Complainant declines those services in writing or does not respond to the District's offer within three weeks of the date of the District's offer. If the Complainant does not make her son available at the scheduled date or time for a service that service will be considered waived by the Complainant for that day or time, unless the Student is physically ill, in which case the missed service will be rescheduled. The District shall provide to the Complainant via email the name and contact information for any service provider or tutor prior to the start of academic tutoring and/or other educational services, and the Complainant shall contact directly the service provider or tutor prior to any academic tutoring and/or other educational services session or program if the Complainant needs to cancel a session or program. The academic tutoring and/or other educational services may be provided by a District staff member. If academic tutoring and/or other educational services are missed 3 consecutive times without advance notice by the Complainant to the service provider or tutor, or without written medical documentation of an illness or injury, the District will notify the Complainant in writing that any additional failure to provide advance notice of the Student being unable to attend the services will result in the District discontinuing those services.

**REPORTING REQUIREMENT:** Within ten (10) days of the Section 504 evaluation meeting described in the preceding paragraphs, the District will provide to OCR for review and approval a copy of the schedule for academic tutoring and/or other educational services, which shall include a listing of the type of services considered, and the specific reason(s) for rejecting any particular type of academic tutoring and/or other educational services, if applicable.

Within seven (7) days of receiving OCR's approval of the information provided regarding the 504 evaluation meeting and the academic tutoring and/or other educational services, the District will send a letter to the Complainant enclosing copies of the Section 504 plan, schedule of academic tutoring and/or compensatory services agreed to, including the dates and amount of academic tutoring and/or other educational services for each, and the District's notice of procedural safeguards. The letter will be sent certified mail, return receipt requested, and the OCR investigator will be copied on the letter.

The District will maintain a log specifying the date and the start and end time that academic tutoring and/or other educational services were provided to the Student for each session, class, or program, along with the amount of academic tutoring and/or other educational services time. The District will provide to OCR via email a copy of the log at the end of each academic semester, until the District has provided the required amount of academic tutoring and/or other educational services.

6. **Training**

By \_\_\_\_\_, the District will provide training at the Student's school (School) regarding the District's obligation to provide services to students with disabilities; the District's Section 504 policies and procedures, including how they relate to students with ADHD. The training shall be provided to the School teachers, staff, counselors, and administrators. The training shall include, but not be limited to defining ADHD, and outlining statutes, regulations, and OCR policies and guidance that apply to the evaluation and accommodation of students with disabilities, including ADHD.

**REPORTING REQUIREMENT:** Within ten (10) days of the date the training is conducted, the District shall provide a copy of the training presentation and materials, the name and qualifications of the individual who conducted the training, and a copy of the completed sign-in sheet to OCR for review and approval.

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 at 34 C.F.R. §§ 104.33 and 104.35, 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, 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 the regulation at 34 C.F.R. §§ 104.33 and 104.35, 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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Kevin Patterson, Superintendent

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Date