

RESOLUTION AGREEMENT
SHAWNEE MISSION PUBLIC SCHOOLS USD # 512
DOCKET NUMBER 07161935

The Shawnee Mission Public Schools USD #512(District), Shawnee Mission, Kansas, 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. 07161935 (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. 07161935 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:

A. Individual Remedy

1. As of the date of this Agreement, April 13, 2017, the Student's eligibility transfer status has not been revoked and the Student remains an eligible transfer student at Mill Creek Elementary.

REPORTING REQUIREMENT: Within 60 calendar days of the date of this Agreement, the District shall provide OCR documentation reflecting that the Student's In-District Transfer eligibility at Mill Creek Elementary remains in effect.

2. On December 9, 2016, the District convened a Section 504 team meeting for the purpose of conducting an evaluation of the Student.
 - a. In making the Section 504 eligibility determination, the District has ensured OCR that it drew upon all available and relevant information from a variety of sources (including information provided by the Complainant or necessary testing); the decision was made by a group or team of people knowledgeable about the Student and his disability, the meaning of evaluation data, and the possible placement options (i.e. the related aids and/or services that the Student may or may not need due to any suspected disability); and the team's decision-making is documented and carefully considered.
 - b. Based on the December 9, 2016, evaluation the District determined the Student meets Section 504 eligibility. The District assures OCR, the Section 504 group or

team has determined the appropriate placement for the Student and has developed a Section 504 plan for him which is currently being implemented at Mill Creek Elementary.

REPORTING REQUIREMENT: Within 60 calendar days of the date of this Agreement, the District shall provide OCR documentation reflecting any notes or minutes of the evaluation and eligibility team meetings, the evaluative data reviewed, documentation of the placement options considered, documentation of the attendees, and a copy of any completed Section 504 Plan(s) developed.

3. The District determined that the Student meets Section 504 eligibility and the Student shall be considered “in good standing” for purposes of Board Policy JBCB and shall remain eligible to attend Mill Creek Elementary school. Nothing in this agreement shall prevent future application of eligibility requirements of Board Policy JBCB to the Student so long as the District will consider the Student’s disability related issues whenever reviewing the Student’s status with regard to Board Policy JBCB.¹

B. In-District Transfer Policy (Board Policy JBCB)

1. The District will revise Board Policy JBCB to ensure the policy will not interfere with the District’s obligation to provide a free, appropriate public education to students with a disability and will be administered consistent with the School Board Policy AC (Non-Discrimination). Specifically, the following language will be added to Board Policy JBCB: “Transfer requests and transfer revocations will be processed in accordance with the non-discrimination requirements in Board Policies AC and KN”

REPORTING PROVISION: Within 45 calendar days of signing this Agreement, the District shall provide OCR a copy of the revised Board Policy JBCB for OCR’s review and approval.

Within 30 calendar days of receiving approval from OCR, the District will formally adopt the revised Board Policy JBCB.

Within 30 calendar days of adoption revised Board Policy JBCB, the District will provide OCR with documentation demonstrating the adoption, including publishing and distributing the adopted policy in all manners in which the District currently publishes and distributes the current policy.

¹ For example, Board Policy JBCB states: “The student must demonstrate regular attendance habits; regular attendance habits are defined as no more than ten (10) days of absences during the previous school year (tardies to school or class may accumulate as absences).” Where a student’s absence or tardiness is due to the student’s disability, the absence or tardiness may not be considered for purposes of determining eligibility in the In-District Transfer.

C. Training

1. The District will provide training on the subject of Section 504 and Title II compliance and the anti-discrimination and anti-retaliation requirements of those laws, to all employees at Mill Creek Elementary school. The training will be conducted by an individual(s) knowledgeable about the laws and issues pertaining to Section 504 and Title II compliance and the specific topics listed below.² The training will include:
 - a. A discussion and distribution to trainees of the District’s Section 504 and Title II policies, procedures, manual, and notice of procedural safeguards.
 - b. The identification of the District’s Section 504 and Title II coordinator, including required contact information, and an explanation of the responsibilities of the coordinator(s).
 - c. A discussion of the general anti-discrimination provisions of Section 504 and Title II, including the prohibition against denying a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service of the District.³
 - d. A discussion of the District’s child find obligations and examples of situations in which school personnel may reasonably conclude that a student needs or is believed to need special education or related aids and services, including: 1) when a teacher, based on observation of or work with the student, expresses the view that an evaluation is needed; or 2) when the parent of a student has requested an evaluation.
 - e. A discussion and distribution to trainees of the District’s revised notice of nondiscrimination, and anti-discrimination and anti-retaliation policies and procedures, including the District’s grievance procedures for complaints of discrimination and how to file a complaint of discrimination.

REPORTING REQUIREMENT: By October 31, 2017, the District will provide training materials in accordance with the requirements of this Agreement for OCR’s review and approval. By December 31, 2017, the District will provide to OCR documentation showing it has completed the training. The documentation must identify the:

- a) Date, time, and location of the training.
- b) Topics addressed at the training (the District may provide OCR an outline of the training and copy of the materials disseminated at the training).

² OCR will accept a joint training of any required parties to be trained in satisfaction of Agreements under both OCR Docket #07161935 and OCR Docket #07161175. The District should be aware that the Agreement in Docket #07161175 may still require the District to provide documentation of proof of completion of the training and of attendance by required parties.

³ See, 28 C.F.R. § 35.130(b)(1)(i), (ii) and (vii) (Title II) and 34 C.F.R. § 104.4(b)(1)(i), (ii) and (vii) (Section 504).

