

**Resolution Agreement**  
**Ava R-I School District**  
Docket # 07171017

The Ava R-I School District, Ava, 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 Ava R-I School 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 denied the complainant's son (Student) a free appropriate public education (FAPE), when it failed to consider or provide him with homebound instruction before and after his October 26, 2016 heart surgery, in violation of 34 C.F.R. §104.33.

Before OCR completed its investigation, the District agreed to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual*.<sup>1</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, 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:

**A. Compensatory Education**

1. By May 1, 2017, the District will convene a meeting at a mutually agreeable date and time, which shall include the Complainant and other individuals knowledgeable about the Complainant's son (multidisciplinary team), to discuss and determine specific compensatory education (e.g., one-on-one tutoring outside the academic day), to address the alleged denial of a free appropriate public education (FAPE) resulting from the failure to provide homebound instruction to the Complainant's son from October 14 – October 28, 2016.

**REPORTING REQUIREMENT**

At least **5 (five) days** prior to the scheduled meeting the District will provide OCR with an email specifying the date and time of the meeting further described in (A)1, *supra*, as soon as the Complainant and the District agree on a mutually agreeable time. If the District emails OCR a copy of the Notice of Meeting, that is sufficient to meet this requirement.

2. The team will discuss and determine the type, frequency, duration, and location of appropriate compensatory services that will accommodate the Student's schedule.

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<sup>1</sup> OCR's *Case Processing Manual* may be accessed at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrepm.pdf>.

The team will take into account the amount of specialized instruction the Student missed during the relevant time period and the Student's current academic performance. Compensatory services will be provided at no cost to the Complainant and will not be scheduled during the Student's school day or other educational and non-academic activities associated with his school. In addition, the provision of any tutoring or educational programs will be provided by qualified staff.

3. The District and the Complainant may mutually agree to change the schedule of compensatory services, including the type of compensatory services, based on the individual needs of the Student, which may change over time. If the parties change the schedule or type of compensatory services, the change will be reflected in a written agreement signed and dated by the District and the Complainant.
4. The District shall not be obligated to provide specific compensatory services if the Complainant declines those services in writing or does not respond to the District's offer within two weeks of the date of the District's offer. If the Complainant does not make his son available at the scheduled date or time for a compensatory 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 compensatory services, and the Complainant shall contact directly the service provider or tutor at least 5 hours prior to any compensatory services session or program if the Complainant needs to cancel a session or program. If compensatory 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 may discontinue those compensatory services.
5. 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 of compensatory services via a Section 504/Title II impartial hearing.

### **REPORTING REQUIREMENT**

Within **10 (ten) days** of the multidisciplinary team meeting to determine compensatory services, the District will provide to OCR for review and approval, all documentation and information considered and created by the multidisciplinary team, including: 1) information provided by the Complainant and the District, 2) a sign-in sheet with the date of the team meeting signed by each team member, 3) a copy of the compensatory services plan, 4) a description of all compensatory services considered, and the specific reason(s) for rejecting

any particular compensatory service, if applicable and 5) a copy of the District's notice of procedural safeguards.

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

## **B. Training**

1. By October 31, 2017 the District will provide training at the Student's school (School) regarding the District's Section 504 policies and procedures, including how they relate to requests for medical homebound services. The training shall be provided to School teachers and administrators. The training shall include, but need not be limited to, (i) defining medical homebound services (as distinct from home instruction and home schooling), (ii) outlining the procedures that parents, teachers, staff members and administrators who are requesting/receive a request for medical homebound services should follow to ensure the request is processed in a timely manner, (iii) reviewing the location and content of written materials that District teachers, staff, and administrators should share with a parent who requests medical homebound service for his/her child, (iv) specifying if there are specific individuals that should be contacted when teachers or staff members at the School receive notice that a child will be absent due to medical reasons, and (v) reviewing District policies regarding the factors a 504 team should consider in determining the type, frequency, duration, and location of medical homebound services.

### **REPORTING REQUIREMENT**

Within 10 (ten) 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, which was 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 the regulation at 34 C.F.R. §104.33, which was 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 Ava R-I School District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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Superintendent

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Date