

**Resolution Agreement
Ozark R-VI School District
Docket No. 07171110**

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 allegations that the District discriminated against her son (the Student) on the basis of disability (severe peanut allergy) when it: 1) failed to provide the Student a free appropriate public education (FAPE) in violation of 34 Code of Federal Regulations (C.F.R.) § 104.33(a) and (b) by failing to conduct an evaluation of the Student to determine whether he is a qualified individual with a disability who requires appropriate regular or special education and related aids and services; and 2) failed to provide the Student an equal opportunity to participate in non-academic and extracurricular activities in violation of 34 CFR §104.37.

Before OCR completed its investigation, the District agreed to resolve this complaint pursuant to Sections 207 and 302 of OCR's *Case Processing Manual*.¹ 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

1. As soon as practicable, but no later than September 1, 2017, the District will convene a Section 504 evaluation meeting to determine the Student's Section 504 eligibility and develop an appropriate Section 504 plan in accordance with the following:
 - a. The District will inform the complainant, in writing, of the date of the Section 504 evaluation meeting, and will give the complainant at least ten (10) calendar days to provide any additional information she would like the District to consider in the evaluation.

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

- b. The Section 504 Plan for the Student will provide all aids and services that are required to provide a free and appropriate public education for the Student. In developing the plan, the District will: draw upon a variety of sources in evaluating the Student's disability related needs, including recommendations of the Student's physician and/or allergist; document and carefully consider the information obtained from all sources, including all available medical information regarding the student's food allergies, the nature and severity of the Student's food allergies, and the types of exposure 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, food allergies, and the School's programs. The Section 504 plan will include, at a minimum, the following provisions:
- i. Adequate procedures and practices governing food allergy risk management for the Student in each type of District program and activity in which the Student participates, including 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, District-sponsored activities. These procedures will include a means to ensure continuity of access to epinephrine, and will allow the Student to carry his own epinephrine at all times. The District will give the parents prior written notice if a situation arises where the Student will not be allowed to carry his own epinephrine.
 - ii. Sufficient emergency response procedures and practices covering all District programs and activities in which the Student participates, including non-academic and extracurricular activities, to address instances in which the Student is suspected of having a food allergy-related reaction. These procedures will address the proper handling and administration of epinephrine in the event of an anaphylactic or other serious allergy-related reaction, and will identify the staff responsible for emergency responses.
 - iii. The food allergy-related responsibilities of the District and the Student's parents, including a process for alerting the Student's parents of the need for them to provide meals or snacks for the Student to participate in school events or activities with reasonable notice.

The District will provide the Student's parents with a meaningful 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 such determinations through an impartial due process hearing should they disagree.

REPORTING REQUIREMENT 1: At least five (5) days prior to the Section 504 evaluation meeting, the District will provide OCR with an email specifying the date and time of the meeting. If the District emails OCR a copy of the

Notice of Meeting to the parent, that is sufficient to meet this requirement.

REPORTING REQUIREMENT 2: Within ten (10) days of the Section 504 evaluation meeting required by item 1, the District will submit the following to OCR for OCR’s review and approval: 1) evaluative information considered, including information provided by the complainant, 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 Section 504 evaluation meeting signed by each team member, 4) an explanation for decisions made and the information considered, and 5) a copy of the Section 504 plan.

Communication to Students and Parents

2. At the 504 evaluation meeting further described in section 1, the team will consider which of the following options are most appropriate to communicate to other students in the Student’s class and their parents the severity and potential consequences of the Student’s allergy:
 - a. A letter notifying students and their parents that:
 - i. there are one or more students in the class that have severe allergies to peanut/tree nut products;
 - ii. exposure to a peanut-product (and/or other nuts) may result in a life threatening reaction that requires emergency medical treatment;
 - iii. strict avoidance of nut products is the only way to prevent such reactions; and
 - iv. requesting that parents send and/or students bring foods/snacks that are free of peanuts and tree nuts.
 - b. Designate certain classrooms or other areas of the building as “Nuts Prohibited Zones.” If any areas are designated as “Nuts Prohibited Zones,” the District will provide education to students and parents regarding why nuts are prohibited in those zones and direct students not to have food/snacks that contain peanuts or other nut products in those areas of the school. The education shall include the points listed in 2(a) above.
 - c. Any combination of (a) and (b) or any third option agreed to by the team that meets the purpose of communicating to other students in the Student’s class and their parents the severity and potential consequences of the Student’s allergy.

REPORTING REQUIREMENT 3: Within ten (10) days of the Section 504 evaluation meeting required by item 1, the District will inform OCR which option the team chose to fulfill the requirements of section 2. Within thirty (30) days of OCR’s approval of same, the District will implement the chosen option. Within ten (10) days of implementing the option, the District will send OCR proof of implementation for review and approval.

Training

3. By January 5, 2018, the District will provide District-wide training regarding the District’s Section 504 policies and procedures, and how they relate to students with allergies. The training shall be provided to the District teachers, counselors, and appropriate staff and administrators. The training shall include, but not be limited to defining the spectrum of allergies, outlining statutes, regulations, and OCR policies and guidance that apply to the evaluation and accommodation of students, including students with allergies, and familiarizing staff with the proper emergency response to anaphylaxis, including the use of epinephrine or whom to contact to administer same.

REPORTING REQUIREMENT 4: 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. §§ 104.4, 104.33, 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. §§ 104.4, 104.33, 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.

Kevin Patterson, Superintendent

Date