

RESOLUTION AGREEMENT
Kansas City #33 School District
OCR Docket Number 07171194

The Kansas City #33 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 allegations 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 using a particular XXXXX product in the Student's classroom, and by not calling an XXXXX as soon as the nurse administered the Student's 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 October 15, 2017**, the District will convene a Section 504 meeting during which the Student's Section 504 team (Team) will consider whether the Student's Section 504 plan should be revised. In reaching this decision, the Team will consider information from a variety of sources in evaluating the Student's disability related needs, including any recommendations submitted by the Student's doctors. The Team will document and carefully consider the information obtained from all sources, including all available medical information regarding the student's XXXXX to XXXXX products, the nature and severity of the Student's XXXXX, and the types of exposures that can result in the Student having an XXXXX XXXXX (e.g., whether such reactions are most likely to occur due to ingestion or topical or airborne exposure). The team will ensure that the plan is developed by a group of individuals knowledgeable about the Student, the 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 cleaning product XXXXX risk management in the Student's classroom. Specifically, the Team should consider banning the use of XXXXX products that the Student is allergic to in the Student's classroom.

- b) Emergency response procedures for addressing the proper handling and administration of XXXXX in the event of an XXXXX or other serious XXXXX-related reaction, identifying the staff responsible for emergency responses and identifying when 911 should be called.

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

Reporting Requirement: By October 30, 2017, the District will provide to OCR 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 November 15, 2017, all East High School staff members who are primarily responsible for the Student will receive training on XXXXX product XXXXX, XXXXX administration, and the implementation of the Student's Section 504 plan.

Reporting Requirement: Within 10 calendar days following the completion of the training session above the District will provide to OCR documentation showing the dates of the above-referenced training session(s), copies of any written training materials, the name, title and qualifications of the individual(s) providing the training, and the names and titles of participants. A sign-in sheet showing the names and titles of those who attended the training is sufficient to identify the participants.

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 also 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

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.

/S/ Mark Bedell

9/25/17

Dr. Mark Bedell, Superintendent
Kansas City #33 School District

Date