

**Resolution Agreement**  
**OCR Case No. 07-17-1273**  
**Concordia Unified School District #333**

The U.S. Department of Education (Department), Office of Civil Rights (OCR) and the Concordia Unified School District #333 (District) enter into this agreement to resolve the allegations in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures OCR that it will take the following actions to comply with the requirements of 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, which prohibit discrimination on the basis of disability by recipients of federal financial assistance (FFA); 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 public entities; and Title VI of the Civil Rights Act of 1964 (Title IV), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin by recipients of FFA.

Prior to the completion of OCR’s investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR’s *Case Processing Manual*.<sup>1</sup> Accordingly, the District agrees to take the following actions.

**Policies and Procedures**

1. The District will revise “Section 504 of the Rehabilitation Act of 1973: Administrative Guidelines” (Section 504 Policy), including its Notice of Parents and Student Rights, to ensure they comply with the Section 504 implementing regulation as set forth in Exhibit A which is incorporated by reference into this Agreement.<sup>2</sup>

REPORTING REQUIREMENT: By \_\_\_\_\_, the District will submit to OCR for its review and approval its revised Section 504 Policy and Notice of Parents and Student Rights.

2. Within 30 calendar days of OCR’s approval of the Section 504 Policy referenced in Item 1 of the Agreement, the District will adopt and implement the revised Section 504 Policy.

REPORTING REQUIREMENT: Within 10 calendar days after the completion of Item 2 of the Agreement, the District will provide OCR with documentation that it has completed Item 2.

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<sup>1</sup> The *Case Processing Manual* is available on OCR’s website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

<sup>2</sup> On March 13, 2018, the District requested that OCR provide specific information about revisions to the Section 504 Policy which OCR is providing in Exhibit A.

### **Training**

3. The District will ensure District personnel, including administrators, faculty, and staff, are effectively trained regarding the requirements of Section 504 and the District's revised Section 504 Policy.

REPORTING REQUIREMENT: By \_\_\_\_\_, the District will provide documentation to OCR demonstrating that the training required by Item 3 of the Agreement was provided to District personnel, including administrators, faculty, and staff. The documentation must include: the date(s) of the training; the name(s) and credentials of the presenter(s); copies of any materials used during the training, including any handouts, guides or other materials; and sign-in sheets showing who attended the training.

### **Individual Remedies**

4. If the Student reenrolls in school in the District, within 15 days of the Student's reenrollment, the District will identify and convene a multidisciplinary team for the Student. The multidisciplinary team will determine the type and amount of compensatory education services to be provided to the Student, and develop a plan for providing the compensatory education services to the Student. The multidisciplinary team will determine the type and amount of compensatory services appropriate for the Student based upon the services required in the Student's December 10, 2016 Individualized Education Program (IEP) from the first day of the 2017-18 school year through September 11, 2017. The District will provide the Complainant written notice of all multidisciplinary team meetings held for the purpose of determining the Student's compensatory education services and the opportunity to participate in those meetings. Compensatory education services for the Student may include, but are not limited to educational instruction, tutoring, completion or resubmission of assignments, retaking tests, and recalculation of grades. The District's plan to provide the Student with compensatory education services will be developed, included in the Student's IEP or 504 plan, and implemented. The plan will identify the compensatory education services to be provided to the Student, the manner in which they will be provided, who will provide them, and a schedule for providing them.

REPORTING REQUIREMENT: If the Student reenrolls in school in the District, within 10 days of the Student's reenrollment, the District will notify OCR in writing of the Student's date of reenrollment in the District.

REPORTING REQUIREMENT: Within 15 days of developing a plan for the provision of the Student's compensatory education services, the District will provide OCR a list of the Student's multidisciplinary team members by name and position; a copy of the Complainant's notice of multidisciplinary team meetings; a copy of the District's plan for providing the Student compensatory education services; and information and records used by the multidisciplinary team in determining compensatory education services to be provided to the Student.

REPORTING REQUIREMENT: Within 15 days of completing the provision of compensatory education services to the Student, the District will provide OCR documentation that it has provided all compensatory education services the District determined to be appropriate pursuant to Item 4 of the Agreement.

REPORTING REQUIREMENT: If applicable, within 10 days of the last day of the 2017-18 school year, and within 10 days of last day of the first semester of the 2018-19 school year, the District will notify OCR in writing if the Student has not reenrolled in the District during that term.

5. The District will remove from the Student’s discipline record any and all mention of the October 9, 2017 disciplinary incident that resulted in a five-day out-of-school suspension of the Student.

REPORTING REQUIREMENT: By \_\_\_\_\_, the District will provide OCR a copy of the Student’s complete discipline records from the 2017-18 school year showing the October 9, 2017 incident is no longer part of those records.

The District understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. 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 the Rehabilitation is in compliance with Section 504 and Title II, and their respective implementing regulations at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, as well as Title VI and its implementing regulation at 34 C.F.R. Part 100. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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.

This Agreement will become effective immediately upon the signature of the District’s representative below.

\_\_\_\_\_  
Superintendent or Authorized Designee  
Concordia Unified School District #333

\_\_\_\_\_  
Date

**Exhibit A**  
**OCR Case No. 07-17-1273**  
**Concordia Unified School District #333**

1. The District will include evaluation procedures in its Section 504 Policy that will ensure: 1) tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel; 2) tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and 3) tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student’s aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student’s impaired, sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
2. The District will include evaluation procedures in its Section 504 Policy ensuring that placement decisions are made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and that the group of persons, in interpreting evaluation data and in making placement decisions, will draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.
3. The District will include a process in its Section 504 Policy to ensure that evaluative information obtained from all sources is documented and carefully considered in all Section 504 eligibility and placement decisions.
4. The District will include the expanded definition of “major life activities” in accordance with the ADA Amendments Act of 2008.
5. The District will include procedures that identify the individuals(s) responsible for ensuring that, when students with 504 plans transfer from building to building within the District, including from elementary to middle school to high school, all relevant information about the student’s disability, evaluation and assessment history, and 504 plan(s) is provided in a timely manner to appropriate staff to ensure the continued provision of the student’s free appropriate public education.
6. The 504 Policy refers to “accommodations,” “access,” “necessary accommodations,” “accommodations to access USD 333’s programs and activities,” and “access to district programs and activities” throughout the policy, particularly in sections pertaining to the provision of a free appropriate public education to qualified students with a disability under Section 504. The District will remove these references and, in consultation with OCR, replace them with terms consistent with the requirements of the regulation implementing Section 504 for providing a free appropriate public education to qualified students with a disability under Section 504.

7. Under the section entitled **Introduction**, the District will add this sentence to the second paragraph: “An appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with a disability as adequately as the needs of students without a disability are met.
8. Under the section entitled **Eligibility for Section 504 Plans**, the District will remove the sentence “An appropriate education for a Section 504 eligible student may require the provision of specific accommodations and related services in order to meet the needs of the student.”
9. Under the headings **Eligibility for Section 504 Plans**, *Conducting an Evaluation* in Item D, the District will either remove the sentence “Section 504 evaluations are not intended to be as comprehensive as a special education evaluation” in its entirety or replace it with “Section 504 evaluations may not be as comprehensive as special education evaluations.”
10. Under the headings **Eligibility for Section 504 Plans**, *Steps for Determining 504 Plan Eligibility* in Item 1(b), the District will replace the sentence “It is vital to understand that for a student to meet this prong of the criteria the impairment must impose a considerable limitation or limit to a large degree one or more major life activities at the current time” with “It is vital to understand that for a student to meet this prong of the criteria an impairment does not have to prevent or severely or significantly restrict a major life activity in order to be considered substantially limiting. Substantially limited means less than significantly restricted.”
11. Under the headings **Eligibility for Section 504 Plans**, *Steps for Determining 504 Plan Eligibility* in Item 1(b), the District will remove the sentence, “The condition must present a barrier to the student’s ability to access the same opportunities as that afforded a nondisabled student or a substantial limitation does not exist.”
12. Under the headings **Eligibility for Section 504 Plans**, *Steps for Determining 504 Plan Eligibility* in Item 4, the District will remove the sentence, “When drafting a 504 Plan, the focus is to determine what policies, procedures, practices or rules require modification so that the student can gain equal access to the district’s programs and activities.”
13. Under the headings **Eligibility for Section 504 Plans**, *Steps for Determining 504 Plan Eligibility* in Item 4, the District will remove the sentence, “Since 504 is expected to be managed within the domain of general education, when students require academic accommodations, the plan will usually pertain to the teacher’s instruction or to general rules applicable to students in the classroom.”
14. Under the headings **Eligibility for Section 504 Plans**, *Steps for Determining 504 Plan Eligibility* in Item 4, the District will replace the last sentence in the paragraph with, “Participation in field trips, extracurricular activities and other school programs should be addressed in a student’s 504 Plan if participation in such programs and activities is part of the student’s appropriate education.”

15. Under the heading **Annual Review**, the District will remove the sentence, “Individual accommodations included in the plan may be reviewed more frequently at the discretion of the individual implementing the plan in concert with the parent and the student (when appropriate)” and replace it with “A student’s 504 Plan may be reviewed more frequently upon request by a parent or teacher.”
16. The District will revise the procedures under the headings **Transition Guidelines** and **Terminating a 504 Plan** to clearly state that a re-evaluation of the student is required under Section 504 prior to making a significant change to the student’s placement or terminating the student’s services under Section 504.
17. The District will revise its **Grievance Process** to provide a timeframe for initiation of the District’s procedural safeguards that will ensure parents/guardians have adequate time to review relevant student records, make a decision about whether or not to request due process, and to secure legal representation if desired. Pursuant to the regulations implementing Section 504 at 34 C.F.R. § 104.36, compliance with the procedural safeguard provisions of the Individuals with Disabilities Education Act (IDEA) is one way to meet this requirement.
18. Under the heading **Disciplining a 504 Student**, the Section 504 Policy states, “The major difference between IDEA and 504 is that if a student with a 504 Plan commits an infraction that is not a manifestation of his or her disability, and is suspended for more than 10 school days, there is no obligation to provide any educational services to the student with the 504 plan during the suspension.” The District will revise this sentence to read, “If a student with a 504 Plan commits an infraction that is not a manifestation of his or her disability, and is suspended for more than 10 school days, the District is not required to provide educational services to the student during the suspension unless the District would provide educational services to a student without a disability during a suspension.”
19. In the District’s **Notice of Parents and Student Rights**, the District will provide the correct address for OCR’s Kansas City Office as follows.
  - a. U.S. Department of Education
  - b. Office for Civil Rights
  - c. One Petticoat Lane
  - d. 1010 Walnut Street, Suite 320
  - e. Kansas City, Missouri 64106
  - f. (816) 268-0550
  - g. [ocr.kansascity@ed.gov](mailto:ocr.kansascity@ed.gov)
20. In the District’s **Notice of Parents and Student Rights**, the District will identify the Section 504 Coordinator by title and provide contact information, including an office address, telephone number, and email address.