

**Resolution Agreement**  
**Sedgwick County Area Educational Services Interlocal Cooperative #618**  
**OCR Case Number 07-18-1088**

The U.S. Department of Education, Office for Civil Rights (OCR) and the Sedgwick County Area Educational Services Interlocal Cooperative #618, Goddard, Kansas (Interlocal), enter into this Resolution Agreement (Agreement) to resolve the allegations in the above-referenced complaint. The Agreement does not constitute an admission of liability, non-compliance, or wrong-doing by the Interlocal. The Interlocal 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 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, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities.-

The Interlocal agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's *Case Processing Manual* prior to the completion of OCR's investigation.<sup>1</sup> Accordingly, the Interlocal voluntarily agrees to take the actions set forth below.

Assessment, Evaluation and Meeting

1. By \_\_\_\_\_, 2018, the Interlocal will:
  - a. conduct a functional behavioral assessment (FBA); and
  - b. determine whether any additional evaluation of the Student pursuant to 34 C.F.R. § 104.35 are necessary and complete same.

If the Complainant either (a) refuses to consent to an evaluation of the Student or (b) fails to respond to the Interlocal in writing within the Interlocal's standard timelines for receiving consent to evaluate under Section 504 or IDEA, then the Interlocal shall so report to OCR and shall then have no further responsibilities under the *Assessment, Evaluation and Meeting* section of this agreement.

2. By \_\_\_\_\_, 2018, the Interlocal will consider the FBA, along with any new and existing evaluations of the Student, at a multidisciplinary team meeting regarding the Student's Section 504 plan or Individualized Education Plan (IEP).
  - a. The Interlocal will advise the Complainant, in writing, of the date of the meeting, and give the Complainant at least ten (10) calendar days to provide any additional information she would like the Interlocal to consider.
  - b. At the meeting, the Interlocal will develop a Section 504 plan or IEP for the Student, in accordance with Section 504 regulations at 34 C.F.R. § 104.35. Specifically, the

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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>.

Interlocal shall (1) draw upon information from a variety of sources, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the Student, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with the implementing regulation at 34 C.F.R. §104.34.

- c. At the meeting, the Interlocal will develop a BIP that addresses the specific behaviors that impede the Student’s learning, to ensure the Student receives a FAPE in accordance with 34 C.F.R. §104.33. The Interlocal shall develop the BIP with input from the individual who conducted the FBA.
  - d. At the meeting, the Interlocal will identify in writing the teacher(s), service provider(s) or staff member(s) that will be responsible for implementing each goal on the IEP and/or each provision of the BIP.
3. The Interlocal will provide a copy of the Interlocal’s Notice of Procedural Safeguards to the Complainant via regular mail or in-person prior to the team meeting. The Notice of Procedural Safeguards should include a written explanation of the Complainant’s right to challenge the team’s determination via a due process hearing.

**REPORTING REQUIREMENT A:**

At least five (5) days prior to the scheduled meeting, the Interlocal will provide OCR with an email specifying the date and time of the multidisciplinary team meeting required by paragraph 2. If the Interlocal emails OCR a copy of the Notice of Meeting, that is sufficient to meet this requirement.

**REPORTING REQUIREMENT B:**

Within ten (10) days of the multidisciplinary team meeting required by paragraph 2, the Interlocal will submit copies of the following to OCR:

- a. the evaluations, assessments (including FBA) and information the Interlocal considered at the multidisciplinary team meeting, including those submitted by the Complainant (if any);
- b. the Notice of Procedural Safeguards provided to Complainant, along with an indication of when it was provided;
- c. a sign-in sheet containing the date of the multidisciplinary team meeting signed by each team member;
- d. a description of the information considered and an explanation for decisions made;
- e. the meeting minutes, if any; and

- f. the IEP or Section 504 plan and BIP.

OCR will review and approve the documentation provided by the Interlocal to ensure that the Interlocal met the provisions of this Agreement and the procedural requirements of the regulations implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

### Training

- 4. The Interlocal will provide training to all Interlocal staff whose designated job roles and responsibilities include conducting assessments or evaluations of students with disabilities, participating in multidisciplinary team meetings or implementing IEPs or Section 504 plans. The training will include, but need not be limited to a review of the FAPE requirement of 34 C.F.R. §104.33, with a specific focus on its applicability to students who exhibit behaviors that impede their learning.

**REPORTING REQUIREMENT C:** By \_\_\_\_\_, 2019, the Interlocal will submit to OCR documentation reflecting completion of the activities described in Section 4. The documentation should include the name(s) and title(s) of the person(s) conducting the training; the dates and locations of the training; a copy of the agenda and/or training materials that clearly identify the topics addressed in the training; and the names and titles of individuals who attended the training.

The Interlocal 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. Further, Interlocal understands that during the monitoring of this Agreement, if necessary, OCR may visit the Interlocal, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Interlocal has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close this case.

The Interlocal 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 Interlocal written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the Interlocal's representative below.

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Dr. Erica Nance, Executive Director

Date