

Encinitas Union School District  
OCR case number 09-14-1351

Resolution Agreement Reached During an Investigation

The Encinitas Union School District (District), without admitting to any violation of law, agrees to implement this Agreement Reached During an Investigation (Agreement) to resolve the issues investigated by the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 in the above-referenced OCR case number.

I. Section 504 Meeting

By November 11, 2015, the District will convene a Section 504 team meeting, or update the current 504 Plan, for the Student and address the following three items in the Student's Section 504 Plan:

Rainy Days: The Section 504 Plan will include a description of the steps the Student's teacher is taking on rainy days to ensure that the Student does not come into contact with foods that he is allergic to. On rainy days, when students eat inside the classroom, the teacher will have all students eating nuts or peanut butter eat at a designated peanut table with a different classroom. The teacher will inform these students that they cannot return to the classroom until she returns from lunch. The teacher will also ensure that these students wash their hands with soap and water or use a hand wipe to clean their hands prior to re-entering the classroom. In addition, the teacher will inform the noon aides that the students eating at the designated peanut table are not to re-enter her classroom until she returns. The teacher will leave instructions for any substitute teacher regarding this procedure on her desk, in case it rains on a day that a substitute teacher is in the class. The same will be included in any school-wide documents provided to substitute teachers with respect to the class that the Student attends.

Substitute Teacher Plan: The Section 504 Plan will also state that the Substitute Teacher Plan will instruct the substitute teacher to immediately call the office if the Student has an allergic reaction.

Nurse and Health Tech: The Section 504 Plan will further state that the teacher or substitute teacher will have the nurse or health tech come to the classroom, if there is any possibility that the Student is having an allergic reaction, instead of having the Student walk to the nurse's office. If the situation requires, EMT or 911 will be called.

II. Staff Training:

All relevant school staff will be trained at least annually regarding the procedures for addressing allergic reactions for students with disabilities to food, including regarding how to use of an EpiPen.

III. Reporting Requirements

- A. Within five days after the Section 504 meeting referenced in Section I of this Agreement, the District will provide OCR with a copy of the Student's Section 504 Plan as verification that the three items listed above are addressed in the Plan.
- B. By November 30, 2015, the District will provide OCR with the date, the training referenced in Section II of this Agreement, has taken place for all of the school staff members for the 2015-16 school year.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, 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 Section 504 of the Rehabilitation Act of 1973 (Section 504), at 34 C.F.R. §104.33, and Title II of the Americans with Disabilities Act of 1990 (Title II), at 28 C.F.R. §§35.103(a), 35.130(b)(1)(ii) and 35.130(b)(1)(iii), which were at issue in this case.

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 Section 504 and Title II and the regulations implementing these statutes.

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 or 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/\_\_\_\_\_, \_\_\_\_\_, October 20\_\_\_\_\_, 2015

Encinitas Union School District