

**St. Joseph Intermediate School District
Resolution Agreement
OCR Docket #15-23-1192**

St. Joseph Intermediate School District (the ISD) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of resolving the above-referenced complaint and ensuring compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35.

The ISD agrees to take the following actions:

A. ACTION STEPS: INDIVIDUAL REMEDIES

1. By **August 4, 2023**, the ISD will send a letter to the parent(s) of each student who was enrolled in the ISD's Pathfinder Elementary and Secondary Emotionally Impairment (EI) classrooms during the 2022-2023 school year, notifying them that the ISD intends to determine whether compensatory education or other remedial services are required for the student as a result of the lack of a certified teacher trained in the instruction of students with emotional impairments during the 2022-2023 school year. The letter will state that the ISD will consider all relevant information from a variety of sources, including the student's parent(s), regarding whether the ISD met the individual needs of the student during the time the student did not have a certified teacher providing instruction in the EI classroom. Such information may include, but shall not be limited to, educational records, input from teachers and parents, relevant individual determinations by other state or local entities, and actions taken by the ISD during and subsequent to the time that there was no certified teacher.
 - a. The letter will state that the determination regarding compensatory education will be made on or before **November 30, 2023**. The letter will explain that the determination regarding compensatory education will take place at a Section 504 plan or Individualized Education Program (IEP) team meeting held with a group of knowledgeable people including the student's parent(s).
2. The group of knowledgeable persons convened by the ISD will develop a written plan for providing each student with the compensatory education or other remedial services deemed necessary, and each plan will identify the nature and amount of the services to be provided at no cost to the student's parents, the individual or entity who will provide the services and the timeframes that the services will be provided and will become part of the student's IEP. The ISD will provide each student's parents with 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 REQUIREMENTS:

- By **August 14, 2023**, the ISD will provide OCR with documentation of the notification letters sent to the families of eligible students with Section 504 plans and IEPs identified in Action Step I.A above.
- By **December 23, 2023**, the ISD will provide documentation of any compensatory education determinations reached in accordance with Action Step A.2 above, including: documentation of attempts to invite the student' parent(s) to the meeting, a copy of any meeting minutes, a copy of any plan developed for the student, documentation of any input the student's parents provided and documentation verifying that the ISD provided the parents procedural safeguards, and any other documentation relevant to the determinations. Should the ISD determine that compensatory education or other remedial services were not necessary for an individual student, the ISD will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the ISD met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.
- By **June 30, 2024**, the ISD will provide OCR with documentation verifying that it provided each student with the compensatory education determined to be necessary, including the dates, times, and locations that the compensatory education or other remedial services were provided to the student, including the name(s) and title(s) of the service provider(s).

B. ACTION STEPS: ISD-wide Remedies

1. On July 20, **2023**, the ISD will provided OCR with its staffing plan (the Plan) intended to fully and effectively implement the IEP of each student enrolled in its Pathfinder Program. OCR will review the Plan to determine that:
 - a. The ISD will continue to provide services immediately and effectively when teachers and service providers resign from their positions at the ISD, either through contract employment or otherwise.
 - b. The ISD will attempt to ensure that teachers and staff responsible for implementing all programs and services at the ISD's Pathfinder Program will meet all state certification and endorsement requirements that pertain to those programs and services.
 - c. The ISD will ensure that students are provided with appropriate instruction if teachers and staff who hold the state required certification and endorsements are unavailable.
 - d. The Plan will include a specific discussion of how the ISD will overcome staff shortages and provide students with a FAPE.

- e. If the ISD utilizes substitute teachers, the plan will detail how the ISD will supervise the substitute teachers including how the ISD will document the monitoring or training that it provides to the substitute teachers so that they may effectively and adequately provide program services to the students assigned to their respective classrooms or programs. The training may include any in-services, college coursework, or other appropriate means of education or training.
 - f. If the Plan includes a certified teacher who is not trained in the instruction of persons with the disability in question, the Plan will detail how the ISD will ensure that the teacher receives relevant training so that the teacher may effectively and adequately provide program services to the students assigned to their respective classrooms or programs.
 - g. The Plan should make clear that the ISD's obligation to provide a free appropriate public education (FAPE) to each student remains intact in the event of a teacher shortage. The Plan shall include a provision that the ISD will provide notice to parents of students with disabilities when a certified teacher or staff is unavailable and will indicate the measures in place to ensure students are provided a FAPE.
 - h. The ISD will monitor its Plan on a periodic basis, at least every semester, to ensure both the immediacy and effectiveness of its provision of programs and services.
2. Within 45 calendar days of OCR's approval of the Plan, the ISD will make a copy of the Plan described above publicly available and shall publicize its existence and location(s) to the ISD community, including staff, students, and parents. This may be done through hard copy distribution, maintenance of hard copy procedures in central locations, electronic distribution, and/or posting to the ISD's website. The ISD may publicize the location(s) of the Plan through notation in a ISD newsletter or other publication that the ISD widely distributes to its community, through direct e-mail notification, through flyers posted at ISD buildings, or other similar means.

REPORTING REQUIREMENTS:

- Within 45 calendar days of OCR's approval of the Plan, the ISD will provide OCR with a link to or a copy of any revised documents in which the ISD published the Plan. The ISD will also provide documentation of how it notified the ISD community of the existence and location of the Plan.
- By **June 7, 2024**, the ISD will submit to OCR a list of the ISD Pathfinder staff and program providers, their qualifications, a list of the students whom they serve (including types and amount of service for each student); vacancies, and documentation demonstrating the ISD's efforts to fill the vacancies if sufficient staff are not available.
- By **June 7, 2024** and **June 6, 2025**, the ISD will submit to OCR a report documenting its monitoring of the Plan. The reports will summarize any issues the ISD identifies

regarding its ability to immediately and effectively provide programs and services considering its staffing levels and document any actions the ISD has taken or plans to take to address those issues, along with a timeframe for completing those actions.

GENERAL REQUIREMENTS

The ISD understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Before initiating such proceedings, OCR will give the ISD written notice of the alleged breach and 60 calendar days to cure the alleged breach.

The ISD understands that OCR will not close the monitoring of this Agreement until OCR determines that the ISD has demonstrated compliance with all the terms of this Agreement and is in compliance with Section 504 and Title II, which were at issue in this complaint.

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

/s/

07/25/2023

Superintendent or Designee

Date