

December 2, 2015

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Re: Docket # 07151190

Dear Mr. Wiens:

On June 5, 2015, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the St. Louis City School District (District), St. Louis, Missouri, alleging discrimination on the basis of disability. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

The complainant alleged the District discriminated against her client's son (Student) on the basis of disability (XXXXXX XXXXXX XXXXXX XXXXXX) by:

1. failing to conduct an evaluation prior to a significant change of placement when the District ceased providing the Student special education services required in his Section 504 plan for the 2014-15 school year; and
2. failing to evaluate the Student to determine his eligibility for special education or related services due to his disability after the complainant's client's request on December 9, 2014.

OCR is responsible for enforcing:

- 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. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
- 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. Title II prohibits discrimination on the basis of disability by public entities.

As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to Section 504 and Title II. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

OCR reviewed documentation from the complainant and the District. The Student's special education records show that he was diagnosed with XXXXX XXXXX XXXXX XXXXX by a licensed psychologist on October 15, 2013. On November 6, 2013, the District held a Section 504 meeting, which included the Student's parent. The team determined that the Student was eligible for special education services through a Section 504 plan. The Section 504 plan stated that the following services were to be provided; 1) one on one supervision during school hours (preferred male) paraprofessional; 2) continue weekly meeting from which derived outcomes will be shared with all pertinent staff --behavioral specialist; 3) work with teachers to determine a structured daily schedule, including intermittent breaks for the student--CCA; and 4) administer prescribed medication as ordered and reinforce the school's strategies at home – parent. The Section 504 plan determination notice states that the initiation date was November 6, 2013, and the review date would be January 6, 2014. There were no special education records provided for the 2014-15 school year.

The District conducted an evaluation of the Student for special education services on September 9, 2015. On October 7, 2015, the IEP team met and determined that the Student was eligible for an IEP under the disability category "XXXXX XXXXX XXXXX". The IEP was initiated on October 12, 2015, and a copy of the IEP was given to the parents on October 27, 2015. On December 2, 2015, prior to the completion of OCR's investigation, the District submitted a signed Agreement (copy enclosed) that, when fully implemented, will address the allegations of this complaint. The Agreement requires the District to insure that the Student's October 2015 evaluation and placement decision was made in accordance with the procedural requirements of the regulation implementing Section 504 at 34 C.F.R § 104.35. It also requires the District to determine whether and to what extent compensatory education is appropriate for the Student due to the alleged termination of the Student's services under his Section 504 plan, and the subsequent failure to evaluate the Student upon his parent's request. Please consult the Agreement for further details.

OCR considers the allegation of this complaint resolved effective the date of this letter and will monitor the District's implementation of the Agreement. When OCR concludes the District has fully implemented the terms of the Agreement, OCR will close the complaint. If the District fails to carry out the Agreement, OCR may resume the investigation.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR is committed to prompt and effective service. If you have any questions, please contact XXXXX XXXXX, Equal Opportunity Specialist, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.XXXXX@ed.gov.

Sincerely,

/s/ Maria L. North

Maria L. North
Supervisory Attorney

Enclosure

cc: Dr. Margaret Vandeven
Commissioner of Education