



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS -- REGION VII

October 23, 2013

Dean Tickle, Superintendent
Elm Creek Public Schools
230 Culkins Street, Post Office Box 490
Elm Creek, Nebraska 68836

Re: OCR Docket # 07131153

Dear Mr. Tickle:

On May 7, 2013, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the Elm Creek Public Schools, Elm Creek, Nebraska, alleging discrimination based on disability. This letter is to confirm the District has voluntarily submitted a Resolution Agreement to OCR to resolve this complaint.

Specifically, the complainant alleged the District discriminated against her XX-year-old son on the basis of disability (XXXXXX XXXXXX XXXXXX, XXXXXX XXXXXX, and XXXXXX) when it:

- 1) denied him a free appropriate public education by failing to evaluate him and provide him special education or Section 504 services in a timely manner during the 2012-13 school year; and
- 2) prevented him from participating in the District's 2013 graduation ceremonies despite his completing all degree requirements because he requested a modified schedule for the spring semester of the 2012-13 school year.

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 at 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 (FFA).
- 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. Title II prohibits discrimination on the basis of disability by public entities.

ONE PETTICOAT LANE, 1010 WALNUT STREET, SUITE 320, KANSAS CITY, MO 64106
www.ed.gov

As a recipient of FFA 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>.

Prior to the completion of OCR's investigation, the District submitted a signed Agreement (copy enclosed) on October 22, 2013, that, when fully implemented, will address the allegations of this complaint.

OCR considers the allegations 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 its 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 note our office has moved. The new mailing address for OCR Kansas City is:

U.S. Department of Education
Office for Civil Rights
One Petticoat Lane
1010 Walnut Street, Suite 320
Kansas City, Missouri 64106

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

Sincerely,

/s/ Kelli Douglas

Supervisory Attorney

Enclosure

cc: Dr. Scott Swisher
Commissioner of Education