



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS -- REGION VII

September 29, 2015

XXXXX X. XXXXX
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XXX X. XXXXX XXXX
XXXXXXXXX, XXXXXXXXXXX XXXXX

Re: Docket # 07141157

Dear Ms. XXXXX:

On May 30, 2014, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging discrimination on the basis of disability (Attention Deficit Hyperactivity Disorder) by your client, the Holden R-III School District (District), Holden, Missouri. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

Specifically, the complainant alleged the District:

- 1) denied her son a free appropriate public education when it failed to implement his Individual Education Program (IEP) and required her son to sit in the back of his classroom;
- 2) failed to convene her son's IEP team and conduct a reevaluation prior to assessing him a long-term suspension for behavior that may have been a manifestation of his disability; and
- 3) failed to provide her notice of the District's system of procedural safeguards regarding her son's change in placement.

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 (FFA).

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- 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 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>.

On July 14, 2014, OCR sent notification letters to the parties, including a data request to the District. On August 26, 2014, the District provided OCR with a response to OCR's data request. OCR subsequently conducted interviews with the Complainant and District staff. During the course of OCR's investigation, OCR discovered deficiencies in the District's notice of nondiscrimination and anti-discrimination policies and grievance procedure that raises compliance concerns. OCR's review of the District's middle school Student/Parent and Staff handbooks on the District's website revealed that the current handbooks do not contain the Notice of Nondiscrimination or Grievance Procedures. OCR's review of the District's policies and practices regarding the discipline of special education students also raises compliance concerns. Additionally, OCR found that the District's publication entitled *Holden R-III School District 504 Procedural Safeguards* contained the incorrect address for OCR. Finally, OCR determined that the District did not follow the Evaluation and Placement directives of the Section 504 regulation at 34 C.F.R. 104.35. The District expressed to OCR an interest in engaging in resolution negotiations pursuant to section 302 of OCR's *Case Processing Manual*.¹

Prior to the completion of OCR's investigation, the District submitted a signed Agreement (copy enclosed) on June 8, 2015, that, when fully implemented, will address the allegations of this complaint. The Notice of Nondiscrimination and Grievance Procedures are addressed in the Agreement. 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 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.

¹ OCR's *Case Processing Manual* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

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OCR is committed to prompt and effective service. If you have any questions, please contact XXXXX XXXX, Attorney, 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 North

Maria North
Supervisory Attorney

Enclosure

cc: Dr. Margaret Vandeven
Commissioner of Education