



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS -- REGION VII

XXXXXX XX, XXXX

Sent via email to XXXXXX@XXXXXX

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Re: OCR Docket # 07XXXXXXX

Dear XXXXXX XXXXXX:

On XXXXXX XX, XXXX, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against your client, the Mission Valley U.S.D. 330 (District), Eskridge, Kansas, alleging discrimination and retaliation on the basis of disability. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve allegations 1, 2, and 3(a-c) of this complaint. Allegations 3(d-f), which are addressed, below, are closed effective the date of this letter.

The complainant alleged the following:

- 1. [X---sentence redacted---X];
2. [X---sentence redacted---X]; and
3. The District denied her son a free appropriate public education (FAPE) by failing to implement some of the accommodations listed in his IEP, including the following:
a. [X---sentence redacted---X],
b. repeating instructions or explaining information in a different manner,
c. [X---sentence redacted---X],
d. [X---sentence redacted---X],
e. [X---sentence redacted---X], and
f. [X---sentence redacted---X].

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

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(C.F.R.) Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance (FFA). The Section 504 regulation at 34 C.F.R. § 104.61, incorporates by reference the regulatory provision of Title VI of the Civil Rights Act of 1964 at 34 C.F.R. § 100.7(e), which prohibits retaliation, including intimidation, threats, coercion, or discrimination, for engaging in an activity that is protected under the laws OCR enforces. Protected activities include opposing discrimination or any act or practice made unlawful by these laws, or making a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under these laws.

- 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. The Title II regulation at 28 C.F.R. 35.135 also prohibits retaliation for engaging in an activity that is protected under Title II.

As a recipient of FFA 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 XXXXX X, XXXX, OCR sent notification letters to the parties, including a data request to the District. On XXXXX XX, XXXX, the District provided OCR with a response to OCR's data requests. On XXXXX XX, XXXX, OCR conducted an onsite investigation at the District and interviewed the Principal of the Mission Valley High School, the Director of Special Services, the Special Education Teacher, and two core subject teachers. In addition, OCR conducted an in-person interview with the Complainant on XXXXX XX, XXXX, as well as previous telephone interviews with the Complainant. The District subsequently 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 XXXXX XX, XXXX, that, when fully implemented, will address allegations 1, 2, and 3(a-c) of this complaint. OCR considers allegations 1, 2, and 3(a-c) 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.

[X---paragraph redacted---X]

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

As such, compliance with those discretionary accommodations is an educational decision, and OCR generally does not investigate educational decisions except in extraordinary circumstances, pursuant to Appendix A of the Section 504 regulation. The Complainant has the right to file a Section 504 impartial hearing to resolve disputes regarding educational decisions. Therefore, OCR is closing allegations 3(d-f) effective the date of this letter.

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.

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 email at XXXXX.XXXXX@ed.gov.

Sincerely,

/s/ Karl Menninger

Karl Menninger
Supervisory Attorney

Enclosure

cc: Brad Neuenswander
Kansas Interim Commissioner of Education