



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS -- REGION VII

February 23, 2015

XXXXXX XXXXXX
XXXXXX
XXXXXX XXXXXX of XXXXXX XXXXXX
XXXXXX XXXXXX XXXXXX XXXXXX
XXXXXX, XXXXXX XXXXXX

Re: OCR Docket # 07141210

Dear Ms. Church:

On August 27, 2014, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the Burlingame Public Schools USD 454 (District), Burlingame, Kansas, alleging discrimination against the Complainant's son (Student), a student with a disability (XXXXXX XXXXXX XXXXXX). 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 the Student, a student with a disability, a free appropriate public education by failing to promptly and appropriately evaluate, develop and implement a program of regular or special education and related aids and services designed to meet his individualized educational needs during the 2013-14 school year; and
2. failed to provide the Complainant with notice of the District's procedural safeguards during the 2013-14 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, 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, 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>.

OCR interviewed the Complainant on four occasions between September 22 and 25, 2014. OCR interviewed the District Superintendent on January 29, 2015, and received data from the District regarding the Student on November 12, 2014. During the course of the investigation, OCR discovered areas of the District's Section 504 process and notice of procedural safeguards that raised compliance concerns. Prior to the completion of OCR's investigation, the District submitted a signed Agreement (copy enclosed) on February 23, 2015 that, when fully implemented, will address the compliance concerns and the allegations in this complaint. OCR updated the Complainant regarding the signed 302 Agreement on February 23, 2015.

The Agreement requires the District to: 1) modify and publish its Section 504/Title II policies and procedures to meet the requirements of Section 504/Title II; 2) provide annual training to administrators and staff regarding the District's revised Section 504/Title II policies and procedures, the District's obligation to provide FAPE to each qualified student with a disability in its jurisdiction and the District's obligation to ensure Section 504/Title II meetings are conducted in accordance with Section 504; and 3) send the Complainant a written offer to conduct an evaluation of the Student upon reenrollment in the District. If the Complainant accepts the offer, the District will conduct an evaluation following evaluation procedures and procedural safeguards, which meet or exceed the requirements outlined in Section 504. The District will assess the Student's educational needs to determine whether the Student is entitled to compensatory education because of the loss in educational benefit during the 2013-14 school year. If the team determines the Student needs compensatory education, the team will develop a plan and schedule for providing the compensatory educational services to the Student.

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.

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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 email at XXXXX.XXXXX@ed.gov.

Sincerely,

Maria L. North
Supervisory Attorney

Enclosure

cc: Brad Neuenswander
Interim Kansas Commissioner of Education