

May 31, 2016

XXXXX XXXXX. XXXXX, XXXXX  
XXXXX XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX  
XXXXX, XXXXX XXXXX

Re: Docket# 07161065

Dear XXXXX XXXXX:

On December 1, 2015, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint filed against the Ferguson-Florissant R-II School District (District), Florissant, Missouri, alleging discrimination on the basis of disability. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve the complaint.

Specifically, the Complainant alleged the District denied her daughter a free appropriate public education (FAPE) when it failed to evaluate her for a Section 504 plan (Plan) despite having knowledge of her disabilities (XXXXX, XXXXX, and XXXXX) since 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); and
- 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>.

OCR identified this complaint as appropriate for the Rapid Resolution Process (RRP), which is an expedited case processing approach utilized in certain substantive areas determined appropriate by OCR. During the course of its investigation, OCR interviewed the Complainant,

and reviewed information submitted by the Complainant and the District, including correspondence between the Complainant and District officials.

The Complainant alleged she informed the District of the Student's XXXXX and XXXXX during the 2013-14 school year, her sophomore year. The Complainant stated the Student initially struggled with an XXXXX and subsequently manifested XXXXX and XXXXX issues. The Complainant stated the Student's former guidance counselor suggested that she be placed on homebound service and the Student began receiving homebound educational services during the 2013-14 school year. The District did not refer the student for an evaluation under Section 504 or the Individuals with Disabilities Education Act (IDEA) prior to placing the Student on homebound services.

The District alleged the Complainant stated the Student suffered from XXXXX during the 2013-14 school year. The District responded to this allegation that District staff were not aware of the Student's XXXXX and XXXXX disorders until it received a letter from the treating physician dated October 31, 2014. The note from the Student's doctor recommended that the Student's homebound placement continue through the 2014-15 school year. The doctor indicated the goal was for the student to attend partial days with a gradual addition of classes throughout the school year until she progressed to full-time status.

The District worked with the Complainant to arrange a schedule for the spring 2014 semester that included two courses at her school, two homebound courses, and three online courses. The Student's condition did not improve and she continued to struggle with her grades and class attendance. The District referred the Student for evaluations under Section 504 and the Individuals with Disabilities Education Act (IDEA) in May 2015 but the Complainant refused to consent to the IDEA evaluation in May 2015. In August 2015, the Complainant informed the District that she did not want to continue with the Section 504 evaluation process and the District discontinued the Student's evaluation at that time. The Complainant contacted the District and renewed her request for a Section 504 evaluation on October 22, 2015, and provided the District with an updated letter from the Student physician on December 3, 2015. The District mailed the Complainant a Notice of Action stating that the Student was eligible for services under Section 504 on December 4, 2015.

In December 2015, the Student entered an out-of-state inpatient medical treatment program. The Student returned to Missouri on February 17, 2016, and the District resumed homebound education services. The parties participated in OCR's Early Complaint Resolution (ECR) process on March 4, 2016. The parties did not reach an agreement during the ECR process and the process was terminated on March 9, 2016. The Section 504 team drafted the Plan for the Student on March 16, 2016.

With the agreement of the Complainant, the District took the following steps to assist the Student with obtaining a high school diploma through completion of the Missouri Option Program:

1. The District provided the required High School Equivalency Test (HiSET) preparation course via homebound services in the amount of five (5) hours per week;
2. The District requested state approval to waive the Missouri Option Program work requirement upon parent/student provided documentation of therapy schedule from her health care provider; and
3. The District provided homebound services for the Student for two courses of her choosing in the established amount of five hours per week until May 18, 2016.

The Student completed the Missouri Option Program graduation requirements and participated in the District's commencement program on May 22, 2016.

During the course of the investigation, OCR identified compliance concerns specifically related to the District's process of identifying, evaluating, and placing students suspected of having disabilities under Section 504 and Title II. Prior to the conclusion of the investigation, the District expressed an interest in resolving the allegations and issues identified during the course of OCR's investigation. OCR determined that it was appropriate to resolve this complaint with an agreement pursuant to the process outlined in Section 302 of the *OCR Case Processing Manual*.<sup>1</sup> Accordingly, the District submitted a signed Agreement (copy enclosed) on May 31, 2016, which, when fully implemented, will address the complaint allegations.<sup>2</sup>

The Agreement requires the District to provide training to District staff regarding compliance with Section 504 and Title II and the District's Section 504/Title II policies. Specifically, the District is required to educate all administrators and staff members who may be involved in the identification, evaluation and placement of students suspected of having disabilities. Please consult the Agreement for further details.

OCR considers the 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.

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, please be advised 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.

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<sup>1</sup> The *Case Processing Manual* is available on OCR's website at <http://www.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

<sup>2</sup> The Agreement does not contain any individual remedy for the Student due to her graduation from the District.

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.

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

Sincerely,

Maria North  
Supervisory Attorney

Enclosure

cc: Dr. Margaret Vandeven  
Commissioner of Education