



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VII  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

October 4, 2017

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XXXX XXXXXX, XXXXX XXXX  
XXXXXX XXXX, XXXXXXXXXXX XXXXX

Re: Park Hill School District  
OCR Case Number: 07-16-1127

Dear Mr. XXXXXXXXXXXX:

On February 23, 2016, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against the Park Hill School District (District), Kansas City, Missouri, alleging discrimination on the basis of disability. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

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.

OCR investigated whether the District discriminated against the Student on the basis disability (panic and anxiety disorders) by:

1. failing to implement the Section 504 plan which provided the Student with adequate classroom breaks as needed due to his disability, resulting in the Student being disciplined and suspended from school in the 2015-16 school year; and
2. failing to prevent, address, and remedy the effects of harassment by other students, creating a hostile environment that denied the Student a free appropriate public education.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

[www.ed.gov/ocr](http://www.ed.gov/ocr)

On June 30, 2016, OCR mailed notification letters to the complainant and recipient. OCR made a data request to the recipient on June 30, 2016. The District responded to OCR’s request for information on July 25, 2016. On September 15, 2016, the District expressed to OCR an interest in engaging in resolution negotiations pursuant to Section 302 of OCR’s *Case Processing Manual*.<sup>1</sup>

As part of its investigation, OCR interviewed the Complainant and reviewed documentation, including numerous emails, supplied by the Complainant, and reviewed, the District’s data responses. OCR also reviewed the Student’s disciplinary records. The District expressed interest in the negotiations process before OCR conducted onsite interviews.

### **Preliminary Investigative Information**

The complainant alleged the District failed to provide her son with breaks as outlined in his Section 504 Plan (Plan). The Complainant told OCR that instead of following the Plan, District staff would attempt to engage the Student at the onset of unwanted behavior by asking the Student questions about why he was not responding to them. The Complainant said that the Principal said that giving the Student breaks did not fall within the expectations of the Middle School.

OCR reviewed the Student’s Plan in place for the period November 23, 2015 through September 2016. The Plan stated that the Student would be offered the opportunity to take a break and/or call his mother at the onset of unwanted behavior. The Plan noted that the Student’s “triggers” included, but were not limited to, XXXXXXXXXXX XX XXX XXXXXXXX XXX XXXXXXX XXXXXXXXXXX XXXXXXX XXXXXXX. The Student’s breaks were not to exceed one class period. If, after one class period, the Student was not able to process, the Student’s parents were to be called and notified. The Plan provided that should the Student refuse to take a break offered by the teacher, the Student’s parents would be called immediately. The District also created a Student Success Plan (Success Plan), which was in effect at the same time as the Plan, and which stated that the Student would be expected to follow adult direction the first time asked before disciplinary action was taken.

The Student was disciplined for misconduct several times during the 2015-16 school year. On XXXXXXXXXXX XX XXXX, the Student received five days of in-school suspension (ISS) for using threatening words and actions. Three days before that, on XXXXXXXXXXX XX XXXX, the Student had pushed two students and XXXXXXXXXXX X XXXX XXXXXXX XX X XXXXXXX XXXX. The Student had also XXXXXXX XXX XXXXXXX XXXXXXX XXXX XXXXXXXXXXX XXXXX XXXXXXXXXXX XXXXXXX XXX XXXXXXXXXXX. The teacher evacuated the classroom. On XXXXXXXXXXX XX XXXX, the Complainant emailed the District requesting a meeting to discuss the disciplinary action taken against the Student. The Complainant stated that she wished to discuss the mischaracterization of what the Student did, how it related to his diagnosis,

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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>.

and how there was a breakdown in handling the incident. The Complainant met with District administrators. Following the meeting, the District assigned a different 504 Coordinator to the Student; however, there was no change to the characterization of the Student's misconduct or to the disciplinary sanctions. Also following the meeting, on November 23, 2016, the Assistant Principal reviewed the Student's Plan with all of his teachers.

On XXXXXXXX XX XXXX, the Student received one day of out of school suspension (OSS) and one day of ISS for disruptive behavior.

XXX – PARAGRAPH REDACTED -- XXX

A week later, on February 29, 2016, the Complainant wrote to school staff and administrators stating that the contradiction between the Success Plan, which allowed for the Student to be disciplined immediately for noncompliance, and the Plan, which allowed the Student to take breaks, were causing confusion for the staff who were following the Success Plan instead of implementing the Plan. After receiving the Complainant's letter, the Principal informed the Middle School staff that they should follow the Plan instead of the Success Plan.

In March 2016, the Complainant informed the District of an incident that occurred between her son and one of his classmates (Student 2) on March 15, 2016.

XXX --- PARAGRAPH REDACTED --- XXX

On XXXXX XX XXXX, the Student received an ISS and five days off the bus for a physical confrontation during the bus ride on XXXXX X XXXX. The discipline record reflects that the Student acknowledged that he shoved and hit another student with a computer.

On April 28, 2016, the District evaluated the Student to determine eligibility for services pursuant to the Individuals with Disabilities Education Act. The District determined that the Student was eligible for services as a student with Other Health Impairment, and convened a meeting to develop the Student's initial individualized education program (IEP) on May 18, 2016. The IEP provided that the Student would receive specialized instruction in behavior related to learning. Beginning July 1, 2016, the Student would receive 103 minutes of instruction in behavior related to learning. Upon transitioning to the District's Middle School in the Fall, the Student would receive 615 minutes weekly of specialized instruction in behavior related to learning.

Both the District and the Complainant provided OCR with copies of additional correspondence between the Complainant and the District regarding the District's provision of FAPE to the Student. OCR reviewed this correspondence and interviewed the Complainant as part of its investigation; however, OCR did not interview District staff due to the District requesting to enter resolution negotiations prior to OCR completing its investigation. In August 2016, the Complainant provided OCR with a letter from the District acknowledging the Complainant's written notification that she would home school the Student.

Prior to the completion of the investigation, the District submitted a signed Agreement (copy enclosed) on October 3, 2017 that, when fully implemented, will address both 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 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.

OCR is committed to providing prompt and effective service. If you have any questions regarding this matter, please contact XXXX XXXXX, Equal Opportunity Specialist at (816) 268-XXXX or (877) 521-2172 (telecommunications device for the deaf), or via email at XXXX.XXXXX@ed.gov.

Sincerely,

/s/ J. Earlene Gordon

J. Earlene Gordon  
Supervisory Attorney

Enclosure