



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VII  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

August 29, 2016

Mike Roth, Superintendent  
Leavenworth U.S.D. No. 453  
200 N. 4th Street  
Leavenworth, Kansas 66048

Re: Docket # 07161139

Dear Superintendent Roth:

On March 10, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against Leavenworth U.S.D. No. 453 (District), Leavenworth, Kansas, 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.

The Complainant alleged the District discriminated against her son on the basis of his disabilities (xxxxxxxxxxxx xxxxxx xxxxxxxxx, xxxxxx xxxxxxxxx xxxxxxxxx, xxxx xxxxxxxxx) by terminating his enrollment in the Horizon Kids before and after school program.

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.

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 April 21, 2016, OCR sent notification letters to the Complainant and the District, including a data request to the District. On April 29, 2016, the District provided OCR with documents and information responding to OCR's data requests. On May 27, 2016, OCR interviewed the Horizon Kids Program Director and the Horizon Kids Site Director for xxxxxxxxxxxxxxxx Elementary School.

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

OCR’s investigation established that the District provides “significant assistance” to Horizon Kids within the meaning of 34 C.F.R. § 104.4(b)(1)(v). The investigation established that the Complainant alerted Horizon Kids staff that the Student was suffering from mental health issues in the fall of 2015. The investigation further established that Horizon Kids has a behavior policy that was applied—without modification—to the Student, which resulted in Horizon Kids terminating the Student’s enrollment in the program.

On June 29, 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>

Prior to the completion of OCR’s investigation, on August 29, 2016, the District submitted a signed Agreement that, when fully implemented, will address the allegations of this complaint and any concerns raised during the course of the investigation. 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.

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.

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 Stephanie Lovett-Bowman, Attorney, by telephone at (816) 268-0576 or (877) 521-2172 (telecommunications device for the deaf) or by email at [stephanie.lovett@ed.gov](mailto:stephanie.lovett@ed.gov).

Sincerely,

J. Earlene Gordon  
Supervisory Attorney

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<sup>1</sup> OCR’s *Case Processing Manual* is online at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcrpm.html>.

cc: Randy Watson  
Kansas Commissioner of Education