



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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KANSAS
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March 28, 2017

Kyle Hayden, Superintendent
Lawrence School District
110 McDonald Drive
Lawrence, Kansas 66044

Re: Docket No. 07161184

Dear Superintendent Hayden:

On May 2, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging discrimination on the basis of disability by the Lawrence School District, Lawrence, Kansas (District). This letter is to confirm that the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve the complaint.

Specifically, the Complainant alleged the District discriminated against her son (Student) on the basis of his disabilities when the District:

- 1) failed to provide the Student with two ten-minute breaks where he could self-engage in self-regulation exercise which may include textures/temperature/pressure on affected areas of his body (example: choice of ball exercises, rice bags), as required by his Section 504 plan; and
- 2) violated the Student's procedural rights by:
 - a) failing to provide the Complainant with prior notice to the rescheduled Section 504 plan meeting; and
 - b) asking the Complainant to sign a blank Section 504 Plan.

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.

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

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 August 22, 2016, OCR sent notification letters to the Complainant and the District, including a data request to the District. On September 30, 2016, the District provided OCR with a response to OCR's data requests. OCR spoke with the Complainant on May 25, June 10, August 22, and November 18, 2016. OCR also conducted interviews of District employees on November 18, 2016.

During the investigation, the Student's teacher told OCR that the Student received all or most of his two 10-minute breaks as stated in his Section 504 plan. The District also told OCR that the Complainant confirmed with the school secretary that she would be able to attend the Section 504 plan meeting on March 25, 2016, the date the meeting was held. The District told OCR that the Complainant was never asked to sign a blank Section 504 plan.

During an OCR telephone interview on November 18, 2016, the Complainant told OCR that there were many days that the Student would come home and tell her he did not receive his breaks. The Complainant also told OCR that she never confirmed with the school secretary a date and time for the Section 504 plan meeting. The Complainant reiterated that District employees requested her to sign a blank Section 504 plan.

Prior to the conclusion of the investigation, on December 6, 2016, 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*.¹ Accordingly, the District submitted a signed Agreement (copy enclosed) on March 27, 2017, which, when fully implemented, will address the complaint allegations.

The Agreement requires the District to convene a Section 504 plan meeting, as well as to review the Student's existing 504 plan, any new or additional information the Complainant provides, and any other relevant information regarding the Student's disabilities pursuant to 34 C.F.R. §104.35. Pursuant to the Agreement, the District will determine whether compensatory services are appropriate for the time during the 2015-16 school year when the Student was supposed to receive two ten-minute breaks to self-engage in self-regulation exercise as stated in his Section 504 plan. The District will also develop and implement a recordkeeping procedure for documenting the District's implementation of the Student's Section 504 plan. In addition, 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. 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

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

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.

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 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,

J. Earlene Gordon
Supervisory Attorney

Enclosure

cc: Dr. Randy Watson
Commissioner of Education (via email)