



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
KANSAS
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NEBRASKA
OKLAHOMA
SOUTH DAKOTA

April 19, 2017

XXXXXX XXXXXX, Esq.
XXXXXX XXXXXX Avenue
XXXXXX, XXXXXX XXXXXX

Re: Docket No. 07161903

Dear Ms. XXXXXX:

On August 25, 2016, the U.S. Department of Education, Office for Civil Rights (OCR) received a complaint filed against Ozark R-VI School District (District), Ozark, 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 discriminated against her son on the basis of disability (XXXXXX, XXXXXX and XXXXXX) by denying him a free and appropriate public education (FAPE) during the 2015-2016 and 2016-2017 school years when it:

- a. failed to properly evaluate him, in violation of 34 Code of Federal Regulations (CFR) §104.35; and
- b. failed to provide him regular or special education and related aids and services that are designed to meet his individual educational needs, in violation of 34 CFR §104.33(b)(1).¹

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.

¹ Absent extraordinary circumstance, OCR does not assess the appropriateness of pedagogical decisions made by school district employees.

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 September 13, 2016, OCR spoke with the Complainant regarding her allegations. On November 3, 2016, OCR issued notification letters informing the Complainant and the District of the allegations above and requesting data from the District. OCR determined that this investigation was appropriate for the Rapid Resolution Process as set out in Section 207 of the *Case Processing Manual*. On December 9, 2016, the District provided responsive data. The District requested to resolve this matter on January 9, 2017, and on April 11, 2017, the District returned the enclosed, signed Agreement.

The Agreement requires the District to (1) evaluate the Student for a 504 plan, (2) convene a 504 evaluation meeting in order to create a 504 plan, (3) create a schedule to provide a minimum of twenty-four hours of academic tutoring services to the Student, (4) consider at the 504 meeting whether to provide the Student with additional academic tutoring hours, and (5) provide training to all teachers, staff members, counselors and administrators regarding the Section 504 policies and procedures and how they relate to students with ADHD. 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.

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, Attorney, at (816) 268-XXXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by e-mail at XXXXX.XXXXX@ed.gov.

Sincerely,

/s/ Maria L. North

Maria L. North
Supervisory Attorney

Enclosure