

June 17, 2016

XXXXXX XXXXXX, Attorney
XXX XXXXXX XXXXXX
XXX XXXX XXXXXXXXX
Oklahoma City, Oklahoma 73102

Re: Docket # 07162039

Dear XX. XXXXXX:

On December 22, 2015, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against your client the Francis Tuttle Technology Center (Center), Oklahoma City, Oklahoma, alleging discrimination based upon disability (Specific Learning Disability). This letter is to confirm the Center has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

Specifically, the Complainant alleged the Center failed to provide her daughter (the Student) a free appropriate public education (FAPE) when it:

- 1) failed to implement her Individualized Education Program (IEP) when it did not modify her assignments, and did not provide extra time for assignments and tests as required by the (IEP); and
- 2) dismissed her from the Center after she was hospitalized.

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 Center 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>.

In the remainder of this letter, the complainant is referred to as “the Complainant” and her daughter is referred to as “the Student.” To protect individuals’ privacy, the names of employees and other parties also were not used in the letter.

On January 29, 2016, OCR sent notification letters to the Complainant and the Center, including a data request to the Center. On March 3, 2016, the Center provided OCR with a response to OCR’s data request. OCR also received documentation from the Complainant.

The Complainant provided OCR a copy of a letter the Student sent to the Center expressing dissatisfaction with the Center’s action of dismissing her from the Center and stating that she believed the Center’s action was discriminatory on the basis of disability. The Center provided OCR a copy of its Notice of Nondiscrimination and Grievance Procedure, a copy of its 2015-16 Student Handbook, a copy of the information in the Student’s education file, correspondence between the Complainant/Student and the Center, a copy of the Student’s education file, a list of high school students enrolled at the Center with IEPs or 504 plans, and, copies of the Student Information Sheets for all IEP or 504 plan high school students enrolled at the Center. The Center also provided details of the investigations it undertook in response to the Student’s January 6, 2016 and OCR’s January 29, 2016, letter to the Center advising it of the complaint filed with OCR.

Summary of Investigation

OCR’s investigation established that the Student is a senior at Putnam City School District (Putnam City) and was also enrolled at the Center. The Center accepts high school students from Putnam City and other school districts. The Center, like other technology centers in Oklahoma, is governed by the Oklahoma Department of Career and Technology Education. Administration and civil rights compliance, as it applies to IEP and 504 plan students, are specifically addressed under the Administration and Supervision provisions of the Oklahoma state statutes (Code 780:20-3-1). Oklahoma Code 780-20-3-1 (b) (3) contains specific requirements for technology centers and the requirements addressing the services to be provided to students with disabilities.

*(3) **Accommodations for individuals with disabilities.** Students with disabilities shall be placed in the regular educational environment of any career and technology education program unless it can be demonstrated that the education of the individual with a disability, even with the use of support services, cannot be achieved satisfactorily.*

*(A) **Support services.** Support services are considered on a case-by-case basis and depend on the functional impact of the individual student's disability on learning and which laws pertain to the student's education. Decisions on what type of support services are to be utilized are a team decision. The team is made up of persons knowledgeable of the student, their disability, the course requirement as well as the local policy and laws.*

*(B) **Individual needs.** When students with disabilities are enrolled in any career and technology program, evidence must exist as to how the student's individual needs are being met.*

*(C) **Participation in and review of IEP.** A representative of the area technology center shall be on the IEP team when enrollment in a career and technology education program is considered to be an appropriate part of the student's IEP. Career and technology education instructors, whether teaching in an area technology center or in a comprehensive school program, shall have access to a copy of the IEP before the identified student enters the program. State accreditation standards: Part I, Standard VI, Student Services, 210:35-11-51 (b). Guidance and counseling services; Part II, Standard VI, Student Services, 210:35-13-74 (e).*

*(D) **Accommodation plans.** Students who have provided appropriate documentation of a disability, who have been determined under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act as a qualified individual with a disability in relation to the career and technology education program, and who require necessary accommodations in order to participate in and benefit from career and technology education will have an accommodation plan in place. This plan will be developed by a group of persons knowledgeable about the student, including the student, and will specify the agreed upon services necessary for the student to participate in and benefit from career and technology education.*

Putnam City provided services to the Student through an IEP based on a specific learning disability diagnosis. Her IEP identifies specific adaptations, modifications, supplementary services and supports for the Student. The Student was hospitalized for a week in September 2015 and was placed on antipsychotic medications which she continued to take when she returned to the Center. The Complainant stated the Center did not provide modifications or academic adjustments to the Student to assist her in catching up even after the Complainant requested that assistance.

The Center asserted it was aware of the Student's IEP and provided her with the services called for in her IEP until she was dismissed from the Center in December 2015.

Although the Center conducted its own internal investigations and determined there were no compliance concerns,¹ OCR identified compliance concerns during its investigation. The Center's Grievance procedures require a grievant to exhaust "all efforts" before filing a grievance. The Center reviews high school students' IEPs and Section 504 Plans and determines standardized services it will provide to those students instead of the individualized services prescribed by the students' IEPs or Section 504 plans. The Student began attending the Center on August 18, 2015; her instructor did not receive a Student Information Sheet for the Student until September 17, 2015. All of the services and supports identified in the Student's IEP were not listed on the Center's Student Information Sheet.

¹ Generally when allegations filed with OCR have been resolved through the recipient's internal grievance procedure, OCR's investigation will be limited to ensuring that all allegations were investigated, any remedy obtained is the same as the remedy that would be obtained if OCR were to find a violation of the complaint and there was a comparable resolution process under comparable legal standards. With regard to the subject complaint, OCR identified compliance concerns when it applied Section 504 and Title II legal standards.

Prior to the completion of OCR's investigation, the Center submitted a signed Agreement (copy enclosed) on June 16, 2016, that, when fully implemented, will address the allegations of this complaint.

OCR considers the allegations of this complaint resolved effective the date of this letter and will monitor the Center's implementation of the Agreement. When OCR concludes the Center has fully implemented the terms of the Agreement, OCR will close the complaint. If the Center 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.

Please be advised that the Center 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, you 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.

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,

/s/ Maria North

Maria North
Supervisory Attorney

Enclosure