



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

January 8, 2018

XXXXX XXXXX, XXXXX
Greenfield R-IV School District
410 College Street
Greenfield, Missouri 65661

Re: Greenfield R-IV School District
OCR Case Number: 07-17-1029

Dear XXXXX XXXXX:

On November 10, 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 Greenfield R-IV School District (District), Greenfield, Missouri. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

Specifically, the Complainant alleged the District discriminated against her daughter (the Student) on the basis of disability in violation of 34 C.F.R. §104.35 by significantly changing her placement without conducting an evaluation.

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>.

Legal Standards

The Section 504 regulation at 34 C.F.R. § 104.4(a) provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a recipient, or be subjected to discrimination by a recipient of FFA.

The Section 504 regulation at 34 C.F.R. § 104.33(a) states that a recipient that operates a public elementary or secondary education program or activity shall provide a FAPE to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. The Section 504 regulation at 34 C.F.R. § 104.33(b)(1) defines an appropriate education as the provision of regular or special education and related aids and services that are designed to meet individual educational needs of persons with disabilities as adequately as the needs of non-disabled persons are met. The development and implementation of an individualized education program (IEP) or Section 504 Plan is one means by which a FAPE may be provided.

The Section 504 regulation at 34 C.F.R. § 104.35(a) requires a recipient to conduct an evaluation in accordance with the requirements of 34 C.F.R. § 104.35(b) of any person who, because of disability, needs or is believed to need special education or related services, before taking any action with respect to initial placement of the person in regular or special education, and any subsequent significant change in placement. OCR's interpretation of this requirement is that an exclusion of more than 10 days (e.g., a suspension or expulsion) is a significant change in placement. Therefore, in order to implement discipline that constitutes a significant change in placement, a recipient must first conduct a reevaluation of the student in accordance with the provisions of 34 C.F.R. § 104.35.

Preliminary Investigative Findings

The information the Complainant and the District provided established that the Student was XX years old during the 2016-17 school year. The Student is identified as a qualified student with a disability and receives special education services. The Student received XX detentions in the first quarter of the 2016-17 school year. Of the XX detentions, XX were for incomplete assignments, 1 for failure to work in class and X for failure to work in class. The Student received X detentions in the second quarter, one for incomplete assignments, one for failure to work in class and one for failure to turn in work.

Resolution

On July 18, 2017, the District expressed to OCR an interest in engaging in resolution negotiations pursuant to Section 302 of OCR's *Case Processing Manual*.¹

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

On January 8, 2018, prior to completion of OCR's investigation, the District submitted a signed Agreement (copy enclosed) that, when fully implemented, will address the allegation in this complaint. The Agreement requires the District to convene a multidisciplinary team to determine whether the Student's suspensions were a manifestation of her disability and, if so, ensure that any information related to disciplinary incidents in which the Student was involved at the School during the 2016-17 school year will not be used detrimentally against the Student. The District will also determine whether the Student suffered any educational loss due to a failure to fully implement the Student's IEP and, if so, whether the Student should receive compensatory education services.

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 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.

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.XXXXXX [@ed.gov](mailto:XXXXX.XXXXXX@ed.gov)

Sincerely,

J. Earlene Gordon
Supervisory Attorney

Enclosure