



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
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DATE, 2019

Sent via email only

XXXXX XXXXX, Esq.
XXXXX XXXXX, P.C.
XXXXX XXXXX
XXXXX, XXXXX XXXXX
XXXXX@XXXXX.com

Re: Deer Creek School District
OCR Case Number 07-17-1040

Dear Ms. XXXXX,

On November 18, 2016, the U.S. Department of Education, Office for Civil Rights (OCR) received a complaint filed against Deer Creek School District (District), Edmond, Oklahoma. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

OCR investigated whether the District discriminated against the Student on the basis of disability by denying him a free and appropriate public education (FAPE) during the 2015-2016 and 2016-2017 school years when it:

1. failed to identify him as a student with a disability in violation of 34 Code of Federal Regulations (CFR) §104.32;
2. failed to interpret evaluation data in conformance with 34 CFR §104.35(c);
3. failed to consider or develop a Section 504 plan to address a disability of which it had notice after determining he did not qualify for an individualized education program (IEP) for that disability, in violation of 34 CFR §104.33;
4. failed to provide him with appropriate special education, related aids and/or services in violation of 34 CFR §104.33; and
5. failed to implement his existing IEP when it failed to consistently provide him extra time on exams, extra time on assignments, and access to the resource room for testing, in violation of 34 CFR §104.33.

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 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.
- 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.

On December 27, 2016, OCR sent notification letters to the parties, including a data request to the District. On January 12, 2017, the District provided OCR with responsive data. On March 7, 2017, OCR interviewed five District staff members: the Director of Educational Services, the Assistant Principal in the Student's school, a special education teacher, a guidance counselor, and an algebra teacher. On March 15, 2017, OCR interviewed the Student's outside social worker. On March 21, 2017, OCR interviewed an outside evaluator. On March 22, 2017, OCR interviewed the Student's medical doctor.

Prior to the completion of OCR's investigation, the District expressed an interest in engaging in a voluntary resolution agreement pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), which states: *[a]llegations and issues under investigation may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation.*¹

On February 4, 2019, the District signed an Agreement (copy enclosed) that, when fully implemented, will resolve the allegations and issues in this investigation. To resolve the allegations, the District agreed to modify its Section 504 policies and conduct training within the Student's school regarding the legal requirements of Section 504. Please review the Agreement for further details.

OCR considers 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

¹ OCR's *Case Processing Manual* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

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,

Anne Bradley
Acting Supervisory Attorney

Enclosure