



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
ARKANSAS
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

September 27, 2021

Sent via email to: XXXX@XXXXX-XXX.XXX

XXXXXXXX XXXXXX
XXXXXXXXXXXXXXXXXX
ASTEC Charter Schools
XXXX XX XXXX XXXXXX, XXXXX XXX
XXXXXXXX XXXX, XXXXXXXXXXX XXXXX

Re: The Advanced Science and Technology Education Charter Schools
OCR Complaint No: 07171170

Dear XX. XXXXXX:

On April 21, 2017, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint alleging discrimination based on disability by the Advanced Science and Technology Education Charter (ASTEC) Schools, located in XXXXXXXX XXXX, XXXXXXXX. This letter is to confirm the school district has voluntarily submitted a Resolution Agreement to OCR to resolve the complaint.

Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, prohibit discrimination based on disability in programs and activities that receive federal financial assistance. Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive federal financial assistance.

Section 504 regulations require in 34 C.F.R. § 104.35(a) that a recipient that operates a public elementary or secondary education program or activity shall conduct an evaluation of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education.

Because ASTEC Schools receives federal financial assistance from the U.S. Department of Education and is a public entity, it is subject to Section 504, Title II, and to OCR's jurisdiction. Additional information about the laws OCR enforces is available on its website at <https://www.ed.gov/ocr>.

Factual Background

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

During the XXXX-XX school year, the Complainant’s XXX transferred to ASTEC Schools as a XXXXX-XXXX student from XXXXXXXXXXX XXXX XXXXXXX XXXXXXX. The Complainant provided OCR a copy of her XXX’X Section 504 plan from XXXXXXXXXXX XXXX XXXXXXX XXXXXXX that was effective from XXX, XX, XXXX, to XXX, XX, XXXX. OCR reviewed the 504 plan, which showed the Complainant’s XXX received XXXXXXXXXXXXXX XXX XXXXXXX XXXXXXX XXX XXX XXXXXXXXXXX XXXXXXX / XXXXXXXXXXXXXXXXXXX XXXXXXX.

The Complainant provided OCR with email correspondence with her XXX’X XXXXX XXXXXXX XXXXXXX. In an email to the Complainant dated XXXXXXX XX, XXXX, the XXXXXXX stated that her XXX spent most of class XXXXXXX XX XXXXXXX XX XXXXXXX XXXXXXX, XXX XXXX XXX XXXXXXX XXX XXXXXXX XXXXXXX XX XXX XXXXXXXXXXXXXXXXXXX. The Complainant replied that her XXX had been diagnosed with XXXX XXX XXXXXXXXXXXXXXXXXXX XXXXXXX XXXXXXX XXX and was on a Section 504 plan at his previous school. In response, the XXXXXXX sent the Complainant an email stating that she could contact the school counselor to initiate the “Section 504 process.”

ASTEC Schools advised OCR that the school district trains its teachers at the beginning of each school year to notify school administration when they have reason to suspect that a student has a disability. According to ASTEC Schools, however, the XXXXX XXXXXXX XXXXXXX did not notify school administration of the Complainant’s XXXXXXX XXXX email.

The Complainant advised OCR that the Complainant discussed her XXX’X Section 504 plan and diagnoses with XXX XXXXXXXXXXX at the XXXXXXXXXXX XX XXX XXXXXXX XXXXXXX. According to the Complainant, XXX XXXXXXXXXXX told her that he would request her XXX’X Section 504 plan and medical diagnoses from XXX XXXXXXX XXXXXXX.

The Complainant provided OCR with email correspondence with XXX XXXXXXXXXXX. In an email dated XXXXX, XX, XXXX, XXX XXXXXXXXXXX informed the Complainant that XX did not follow up on the Complainant’s XXX’X XXXX because the Complainant had not provided her XXX’s medical diagnoses. The Complainant replied that she did not provide XXX XXXXXXXXXXX the medical diagnoses because XX had previously told her that XX would request that documentation, along with the Section 504 plan, from the Complainant’s XXX’X XXXXXXXXXXX XXXXXXX. XXX XXXXXXXXXXX responded that XX would check with XXX XXXXXXX XXXXXXXXXXX XXXXXXX to see if the school district had the Section 504 plan.

None of the evidence provided to OCR reflects that ASTEC Schools identified or evaluated the Complainant’s XXX for XXXXXXX XXXXXXXXXXX XX XXXXXXX XXXXXXX XX XXXXXXX XX XXXXXXXXXXX the Complainant’s XXX’X previous Section 504 plan during XXX XXXX-XX school year.

Resolution

Before the completion of OCR’s investigation of the complaint, ASTEC Schools indicated its interest in entering a voluntary Resolution Agreement with OCR under Section 302 of OCR’s

Case Processing Manual.¹ The school district signed the Resolution Agreement (copy attached) on XXXXXXXXXX, XX, XXXX, which, when fully implemented, will resolve OCR's concerns. The Resolution Agreement requires the school district to take the following actions: (1) notify the Complainant that if the Complainant reenrolls her XXX as a student at the school district, then the school district's will evaluate her XXX to determine XXX XXXXXXXXXXXX-XXXXXXXX XXXXXX; (2) review and, if necessary, revise its placement procedures to ensure that students with disabilities are evaluated; and (3) issue written guidance to school district staff and teachers advising them of the school district's policy and procedures for identifying and locating students who need or are believed to need special education or related services under Section 504.

OCR considers this complaint resolved and will monitor ASTEC Schools' implementation of the Resolution Agreement. When OCR concludes the school district has fully implemented the terms of the Agreement, OCR will close the complaint. If the school district fails to carry out the Agreement, OCR may resume its 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. A complainant may have the right to file a private suit in federal court regardless of whether OCR finds a violation.

ASTEC Schools must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. Complaints alleging such retaliation may be filed with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact Emily Smithey, Attorney, at (816) 268-0471 (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at emily.smithey@ed.gov.

Sincerely,

Kimberly M.J. Lynch
Program Manager, Region VII

¹ The Case Processing Manual is available online at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.