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

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

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

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

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, XXXXXXXXXX. This letter is to confirm the school district has voluntarily submitted a Resolution Agreement to OCR to resolve the complaint.


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.

www.ed.gov
During the XXXX-XX school year, the Complainant’s XXX transferred to ASTEC Schools as a XXXXX-XXXXX student from XXXXXXXXX XXXX XXXXXXX XXXXXXXX. The Complainant provided OCR a copy of her XXX’X Section 504 plan from XXXXXXXXX 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 XXXXXXXXXXX XXX XXXXXXX XX

The Complainant provided OCR with email correspondence with her XXX’X XXXXX XXXXXXXX. In an email to the Complainant dated XXXXXXXX XX, XXXX, the XXXXXXXX stated that her XXX spent most of class XXXXXXXXX XX XXXXXXXXXX XX XXXXXXXXXX XXXX XXXXXXXXX XXXXXXXX XX XXX XXXXXXXX XX XXXXXXXX XXXXXXXX. The Complainant replied that her XXX had been diagnosed with XXXX XXX XXXXXXXXXX XXX XXXXXXXXXX XXXX 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 XXX email.

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

The Complainant provided OCR with email correspondence with XXX XXXXXXXXXX. In an email dated XXXXX, XX, XXXX, XXX XXXXXXXXXX informed the Complainant that XX did not follow up on the Complainant’s XXX’X XXXXX because the Complainant had not provided her XXX’s medical diagnoses. The Complainant replied that she did not provide XXX XXXXXXXX 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 XXXXXXXXXX XXXXXXXX. XXX XXXXXXXXXX responded that XX would check with XXX XXXXXXXXXX XXXXXXXXXX XXXXXXXX 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 XXXXXXXXXX XX XXXXXXXXXX XXXXXXXXX XX XXXXXXXXXX XX XXXXXXXXXX XXX XXXXXXXXXX XXXXXXXX the Complainant’s XXX’X previous Section 504 plan during 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 XXXXXXXXX, XX, XXX, 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 XXXXXXXX XXXXXXXX XXXXX; (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.