



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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KANSAS CITY, MO 64106

**REGION VII**  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

May 25, 2018

*Sent via email only to XXXXX@kcpublicschools.org*

XXXXX XXXXX, Esq.  
Kansas City Public Schools  
2901 Troost Avenue  
Kansas City, Missouri 64109

Re: Kansas City Public Schools  
OCR Case Number: 07-18-1044

Dear Ms. XXXXX:

On December 1, 2017, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the Kansas City Public Schools (District), Kansas City, Missouri, alleging discrimination on the basis of disability. This letter is to confirm that the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve the complaint.

OCR investigated whether the District discriminated against the Complainant's daughter (the Student) on the basis of disability by failing to fully implement the term regarding transportation services in the Student's Individualized Educational Program (IEP) resulting in a denial of a free appropriate public education (FAPE) in violation of 34 C.F.R. § 104.33(a).

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 Federal financial assistance from the Department and a public entity, the District is subject to the provisions of Section 504 and Title II.

To protect individuals' privacy, names of employees and other parties were not used in the letter.

## **Legal Standard**

The regulation implementing Section 504, at 34 C.F.R. § 104.33, requires that a recipient of FFA that operates a public elementary or secondary education program or activity shall provide a FAPE to each qualified individual with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. A FAPE, as defined by 34 C.F.R. § 104.33(b)(1)(i), is the provision of regular or special education and related aids and services that are designed to meet the needs of individuals with disabilities as adequately as the needs of individuals without disabilities are met. OCR interprets the Title II regulation to require public entities to provide a FAPE to students with disabilities to the same extent as is required under the Section 504 regulation.

A recipient's failure to implement key aids, services or accommodations/modifications identified in the IEP or 504 plan of a student with a disability may deny the student a FAPE and, thus, violate Section 504 and Title II. However, not every failure to implement an aid, service or accommodation/modification in an IEP or Section 504 plan will result in a denial of a FAPE. OCR takes into consideration the frequency of the failure to implement and what impact the failure had on the student's ability to participate in or benefit from a recipient's services, programs and activities. Except in extraordinary circumstances, OCR does not review educational decisions about the appropriateness of specific aids and services identified in a student's IEP or 504 Plan as long as a recipient complied with the procedural requirements of the Section 504 regulation.

## **Background**

Paragraph Redacted. Paragraph Redacted. Paragraph Redacted.

## **Resolution**

The District expressed to OCR an interest in engaging in resolution negotiations pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*.<sup>1</sup>

Prior to the completion of OCR's investigation into the complaint, the District submitted a signed Agreement (copy enclosed), that, when fully implemented, will address the complaint allegation. Please consult the Agreement for further details.

OCR considers the complaint allegation 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 its investigation.

The District 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, please be advised that individual may file another complaint alleging such treatment.

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<sup>1</sup> The *Case Processing Manual* is available on OCR's website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

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.

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.

Thank you for your assistance on this matter. If you have any questions, please contact XXXXX X. 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/

Kelli Douglas  
Supervisory Attorney

Enclosure