



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

ONE PETTICOAT LANE  
1010 WALNUT STREET, SUITE 320  
KANSAS CITY, MO 64106

REGION VII  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

September 19, 2018

Sent via email to [XXXXX@XXXXX.com](mailto:XXXXX@XXXXX.com)

XXXXX XXXXX  
XXXXX, XXXXX, XXXXX & XXXXX, LLP  
XXXXX XXXXX XXXXX XXXXX  
XXXXX, XXXXX XXXXX

Re: Liberal U.S.D. # 480  
OCR Case Number: 07-18-1091

Dear XX. XXXXX:

On February 5, 2018, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging discrimination and retaliation on the basis of disability by the Liberal U.S.D. # 480 (District), Liberal, Kansas. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve the above-referenced complaint.

Specifically, the Complainant alleged the following:

1. The District treated the Complainant's daughter (Student) differently than other students without disabilities by:
  - a. forcing the Student to XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX hands in the special education classroom on January 30, 2018.
  - b. removing the Student from XXXXX XXXXX XXXXX and failing to consider or provide reasonable accommodations to her on or about February 26, 2018.
  - c. unilaterally contacting the Student's doctor without consent from the Student's parents and discontinuing the Student's XXXXX without consulting or notifying the parents, in early April, 2018, contrary to a medical directive provided to the District from the parents.
2. The District retaliated against the Complainant by prohibiting her from visiting the Student's special education classrooms shortly after the Complainant complained to the principal about the XXXXX XXXXX on January 31, 2018.

OCR is responsible for enforcing:

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

- 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). The Section 504 regulation at 34 C.F.R. § 104.61 incorporates by reference the Title VI regulation prohibiting retaliation.
- 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. The Title II regulation at 28 C.F.R. § 35.134 prohibits retaliation by public entities.

As a recipient of FFA and a public entity, the District is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

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.*

On September 18, 2018, the District signed an Agreement (copy attached) that, when fully implemented, will resolve the allegations and issues in this investigation. To resolve allegation 1(a), the District previously XXXXX XXXXX XXXXX XXXXX the teacher, issued a written directive to the XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX for the Student, and has agreed to assign the Student to other teachers for the 2018-19 academic year. In addition, the District will provide training to District officials and staff on the subject of Section 504 and Title II compliance, including retaliation. To resolve allegation 1(b), the District agreed to provide training to District officials and staff on the provision of FAPE, including appropriate accommodations, modifications, or supports, for school jobs or life skills activities and other academic and non-academic programs. To resolve allegation 1(c), the District agreed to provide training to District officials and staff on the privacy requirements for students with disabilities, including obtaining parental/guardian consent prior to the disclosure of education records, including health records of a student, or prior to unilateral changes in a student's medical directive provided by the parent/guardian.

To resolve allegation 2, the District rescinded its prohibition on visitation in the Student's special education classroom and allowed the complainant to visit that classroom again shortly after the prohibition last semester. The District also sent an email to school employees clarifying the District's visitation policy, which allows visitation in special education and regular classrooms, subject to policy procedures. In addition, the District agreed to provide training to District officials and staff regarding the District's classroom visitation policy and procedures. 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.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against the complainant because she filed a complaint or participated in the complaint resolution process. If this happens, the complainant may file another complaint alleging such treatment.

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.

If you have any questions, please contact XXXXX XXXXX, Attorney, at (816) XXX-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at [XXXXX.XXXXX@ed.gov](mailto:XXXXX.XXXXX@ed.gov).

Sincerely,

XXXXX XXXXX XXXXX  
Supervisory Attorney

Attachment