



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

August 9, 2018

Sent via electronic mail to: XXXXX.XXXXX@k12.sd.us

XXXXX XXXXX

Superintendent

Viborg-Hurley School District

P.O. Box 397

Viborg, South Dakota 57070

Re: Viborg-Hurley School District
OCR Case Number: 07-18-1136

Dear Ms. XXXXX:

On March 15, 2018, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the Viborg-Hurley School District (District), Viborg, South Dakota, alleging discrimination on the basis of disability. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve the complaint.

Specifically, the Complainant alleged the District denied the Complainant's son a free appropriate public education (FAPE), when it failed to provide him the accommodations listed in his Section 504 plan, in violation of 34 Code of Federal Regulations (C.F.R.) §104.33.

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 (FFA); and
- 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. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

On March 27, 2018, OCR emailed the Complainant to clarify the allegations. OCR continued to

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

communicate with the Complainant to determine the allegations of the complaint. On May 31, 2018, OCR contacted you to inform you of the Complainant's concerns and determine if the District was interested in addressing the complaint using OCR's Rapid Resolution Process. On August 3, 2018, the Complainant informed OCR of his allegation that the District did not provide the accommodations in his son's 504 plan during the 2017-18 school year. On August 6, 2018, you requested to resolve this complaint under Section 302 of OCR case processing manual and, on August 7, 2018, you returned the enclosed, signed Agreement.

The Agreement requires the District to (1) implement each item of the student's current 504 plan for any classes the student takes at the high school ensuring his teachers receive the student's 504 plan and that each teacher documents that they fully comply with each item of the student's 504 plan; and (2) provide Section 504/Title II training to all Viborg-Hurley High School administrators, teachers and staff, including the designated contact person(s) for complaints of discrimination under Section 504/Title II and all individuals responsible for implementing Section 504/Title II. Please consult the Agreement for further details.

OCR considers the 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 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 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.

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.

OCR is committed to prompt and effective services. If you have any questions, please contact XXXXX XXXXX, Attorney, at (XXX) XXX-XXXX or (XXX) XXX-XXXX (telecommunications device), or by e-mail at XXXXX.XXXXX@ed.gov.

Sincerely,

XXXXX XXXXX,
Acting Regional Director

Enclosure

