



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
ARKANSAS
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

January 30, 2020

Sent via email only to: XXXXXXXXXXXXX

XXXXXX XXXXX
XXXXXX XXXXX
XXXXXX XXXXX

Re: Fort Zumwalt R- II School District
OCR Case Number 07-19-1267

Dear XX XXXX,

On August 21, 2019, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received your complaint against your client, Fort Zumwalt R- II School District (District), O'Fallon, Missouri, 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.

OCR is responsible for enforcing:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance (FFA) from the Department.
- 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. Under Title II, OCR has enforcement jurisdiction over public school districts.

The District is a recipient of FFA from the Department. Consequently, it is subject to Section 504 and to OCR's jurisdiction. Additionally, the District is a public entity and is therefore subject to Title II and to OCR's jurisdiction. Further information about the Civil Rights statutes OCR enforces is available at <http://www.ed.gov/ocr>.

Specifically, the Complainant alleged the District denied her son (the Student) a free appropriate public education (FAPE) by failing to conduct an assistive technology assessment, in violation of 34 C.F.R. § 104.43.

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

The Complainant told OCR that the Student is now in 8th grade. He has a diagnosis of XXXXXXXX. He has had an IEP since Kindergarten. The Complainant said the Student needs to be able to type answers on some kind of device because of his problems with writing. She said that the Student has no Assistive Technology Plan, although assistive technology is called for in the IEP. She said the District did an assessment in 4th grade, but nothing was done to implement it. The Complainant asked the District for an assistive technology assessment, but this was not done.

OCR's *Case Processing Manual* (CPM)¹ includes a Rapid Resolution Process (RRP) which provides an expedited resolution opportunity. OCR determined it had jurisdiction over this complaint and that it was appropriate to attempt to resolve this complaint using RRP. On September 23, 2019, the District expressed an interest in resolving the complaint through RRP. Prior to OCR completing its investigation, on October 3, 2019, the District requested to resolve any compliance concerns through Section 302 of the CPM, allowing OCR to resolve the allegations, when appropriate, through a resolution agreement.

The District submitted a signed Agreement (copy attached) on January 29, 2020, that, when fully implemented, will address the complaint. The Agreement requires the District to complete an assistive technology assessment of the Student to determine the nature and duration of services that are necessary to address the student's disability-related needs in order to provide an equal opportunity to participate in school or in order to provide a free appropriate public education (FAPE.) The Agreement also requires the Student's multidisciplinary team will review the assistive technology assessment and the Student's most recent evaluation that was conducted to determine the Student's disability-related needs for special education and/or related aids and services. This review will identify the specific services and technological equipment, if applicable, that will be provided to the Student to address his disability-related needs in order to provide an equal opportunity to participate in school or in order to provide FAPE. The identified services and technological equipment, if applicable, will be documented in a Section 504 plan or IEP. 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.

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

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.

If you have any questions regarding this matter, please contact XXXXX XXXXX, Attorney, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.

Sincerely,

Megan Levetzow
Supervisory Attorney

Attachment