



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
ARKANSAS
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

July 28, 2020

Sent via email only to: XXXXXXXXXX

XXXXXX XXXXXX, Attorney
XXXXXX
XXX XXX XXX
XXXX XXXX XXXX

Re: Independence 30 School District
OCR Case Number: 07-20-1117

Dear Ms. XXXXXXXX,

On January 28, 2020, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against your client, the Independence 30 School District (District), in Independence, Missouri, alleging the District discriminated against the Complainant's son (the Student) on the basis of disability. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve the complaint.

OCR enforces 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, which prohibit discrimination on the basis of disability in programs and activities receiving Federal financial assistance (FFA). Under Section 504, OCR has enforcement jurisdiction over recipients of FFA from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive FFA. Under Title II, OCR has enforcement jurisdiction over public school districts.

As a recipient of FFA from the Department and a public entity, the District is subject to Section 504, Title II, and OCR's jurisdiction. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

The Complainant alleged the District discriminated against the Student on the basis of disability, in connection with:

1. the Student's need for breaks;
2. whether there was a significant change in placement without a re-evaluation; and/or
3. the Complainant's request for a 504 meeting for the Student in February 2020.

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 was in another school district in the 2018-19 school year, which created a 504 Plan dated May 22, 2019. The District began the 2019-20 school year with that Plan in place. The Complainant requested the District to send her the 504 Plan it was using, but said the District did not send it to her. The 504 Plan calls for: 1) large assignments will be split into sections; 2) check in regularly with a trusted adult; and 3) take breaks as needed. The Complainant stated the Student is not getting his breaks.

In February 2020, the Student was given ten days out-of-school suspension (OSS). The District held a suspension hearing on February 12, 2020 to determine if the Student should get a long-term suspension. The school told the Complainant that after the hearing, they would have a manifestation hearing if a long-term suspension was decided upon.

After the hearing, the District sent the Complainant a letter dated February 13, 2020. The letter stated that the Student was to be placed on probation and receive a change of educational placement to XXXX XXXX. The letter also stated that as a condition of the probation, the Student is not to be on the property of any school or facility of the District, or be at any school sponsored activity at any location that involves representatives of schools within the District.

The Complainant stated that she sought clarification of this letter because she was not sure if a manifestation hearing was conducted, and what discipline had been imposed. The Complainant called the District and was told that the letter was incorrect regarding the discipline and a new letter would be issued. However, the District did not send her a new letter and she has not received a written statement of what was determined at the February 12, 2020 hearing.

The District informed OCR that during a 504 team meeting on February 12, 2020, the Student's assigned school was changed by his 504 team, which included the Complainant, based on the team's review of the data discussed at the meeting. This decision was not a disciplinary change in placement, but a change made by the team in order to educate the Student in his appropriate placement.

There was no written record of an amendment to the Section 504 Plan, and the Complainant did not believe that the meeting was a placement hearing. The Complainant stated that she has since requested a Section 504 meeting, but no meeting has been scheduled or held.

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. Prior to OCR completing its investigation, on July 8, 2020, the District requested to resolve any compliance concerns through Section 302 of the CPM, which allows OCR to resolve the allegations, when appropriate, through a resolution agreement.

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

The District submitted a signed Resolution Agreement (Agreement) (copy attached), that, when fully implemented, will address the complaint. The Agreement requires the District to conduct a Section 504 Meeting to evaluate the Student and to consider placement and accommodations and whether compensatory services are needed. 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.

If you have any questions regarding this matter, please contact XXXX XXXX, Attorney, at (816) 268-0562 (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXX XXXX

Sincerely,

Megan Levetzow
Supervisory Attorney

Attachment