



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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December 11, 2020

*Sent via email only to: [LSobba@kasb.org](mailto:LSobba@kasb.org)*

Luke Sobba  
Attorney  
Kansas Association of School Boards  
1420 SW Arrowhead Road  
Topeka, KS 66604-4024

Re: USD 245 Southern Coffey County School  
OCR Case Number: 07201206

Dear Mr. Sobba,

On July 16, 2020, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against your client, the USD 245 Southern Coffey County School (District), in LeRoy, Kansas, alleging the District discriminated against the Complainant's son (the Student) on the basis of disability. On October 22, 2020, OCR informed your client that OCR was conducting an investigation to determine whether the District failed to provide the Student a free appropriate public education in accordance with Section 504 and/or Title II. This letter is to confirm the District has voluntarily submitted a signed Resolution Agreement (Agreement) to resolve the complaint.

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, prohibit discrimination on the basis of disability in programs and activities receiving Federal financial assistance (FFA). OCR has Section 504 enforcement jurisdiction over recipients of FFA from the Department. 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, prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive FFA. OCR has Title II 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 that the District discriminated against the Student on the basis of disability by failing to provide the Student a free appropriate public education in accordance with Section 504 and/or Title II.

The Complainant requested that the District evaluate the Student for a Section 504 Plan. On May 8, 2019, the District held a meeting to review the School Psychologist's Team Eligibility Identification Report for the Student. During the meeting, the District agreed to implement a 504 Plan for the Student during the 2019-2020 academic year. The District sent an e-mail to the Complainant on May 28, 2019, about the 504 Plan, with forms to be completed by the Complainant. The District sent the e-mail to an e-mail address the Complainant no longer used. When the Complainant became aware of the forms, she completed the forms and delivered them to the District on August 19, 2019.

In September 2019, the Complainant asked the Student's Principal about the implementation of the Student's 504 Plan. The Principal stated he was not aware of the 504 Plan and would investigate the matter. In October 2019, the District still had not implemented the Student's 504 plan, and the Student's teacher agreed to investigate the progress of the Student's 504 Plan. On March 2, 2020, the Superintendent and the Principal contacted the Complainant to discuss the 504 Plan. After the discussion, the District moved to online learning due to COVID-19. The District did not implement the Student's 504 Plan during the 2019-2020 academic year. The Student did not enroll in the District for the 2020-2021 academic year.

OCR's Case Processing Manual (CPM)<sup>1</sup> 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 November 5, 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.

The District voluntarily submitted a signed Resolution Agreement (Agreement) (copy attached), that, when fully implemented, will address the complaint. The Agreement requires the District to issue a memorandum to all teachers responsible for providing educational services reminding staff of their obligations to implement any student's current Section 504 Plan or Individualized Education Program (IEP), and to promptly communicate to the District's Section 504 Coordinator if a student exhibits a need for a Section 504 Plan or IEP. The District will also offer to teachers the opportunity to meet with the District's Section 504 Coordinator to discuss how to appropriately initiate a request for a Section 504 Plan or IEP and to implement a Section 504 Plan or IEP. Additionally, since the Student has left the District, the Agreement requires the District to include a copy of this Agreement in the Student's permanent District record and to reevaluate the Student in conformity with Section 504 if he returns to the District before the end of the 2021-22 school year.

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

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. A 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-XXXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at [XXXXX.XXXXX@ed.gov](mailto:XXXXX.XXXXX@ed.gov).

Sincerely,

Megan Levetzow  
Supervisory Attorney

Attachment