



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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KANSAS CITY, MO 64106

REGION VII
ARKANSAS
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

Date

SENT VIA EMAIL

XXXXXX XXXXX XXXXX, XXXXX XXXXX
XXXXXX XXXXX XXXXX XXXXX
XXXXXX XXXXX XXXXX
XXXXXX, XXXXX XXXXX
XXXXXX@XXXXX.XXX

Re: Orion Education and Training
OCR Case Number: 07211015

Dear XXXXX XXXXX:

On October 23, 2020, the U.S. Department of Education (Department), Office for Civil Rights (OCR) received the above-referenced complaint against Orion Education and Training (Orion), Clearwater, Kansas, alleging that Orion discriminated against a student (the Student) on the basis of disability. This letter is to confirm Orion has voluntarily submitted a Resolution Agreement (Agreement) to OCR to resolve the complaint.

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. The regulation implementing Title II at 28 C.F.R. § 35.134 prohibits retaliation by public entities. OCR has Title II enforcement jurisdiction over public education entities.

Because the Orion is a public education entity, it is subject to Title II and to OCR's jurisdiction. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

To protect individuals' privacy, the names of employees, witnesses, and other parties were not used in the letter.

Factual Background Information

Orion Education and Training is one a public entity that provides education services to school districts in the state of Kansas.

The Student resides in the XXXXX XXXXX XXXXX XXXXX (District). For the 2020-21 school year the District gave parents and students the following three educational options: onsite, remote, and virtual learning through Orion. For the 2020-21 school year, the Complainant choose the virtual learning option though Orion. The Student and was enrolled in Orion through the District for the 2020-21 school year.

On October 3, 2020, the Complainant sent an email to the District, Orion, and XXXXX XXXXX XXXXX XXXXX XXXXX, stating that there was a concern with the Student’s accommodations XXXXX was receiving under XXXXX Individualized Education Program (IEP). The Complainant explained in her email: “Again, there seems to be a problem with [the Student’s] modifications. XXXXX took a math test yesterday and received a 53.8%.”

On October 6, 2020, Orion’s XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX explained to the Complainant the limitations of the virtual learning program in an email.

As we discussed in a phone conversation prior to [the Student] starting the program, our program can accommodate students by allowing for extended time on tests and lessons, read aloud options for all lessons, quizzes, and tests, and access to a smaller group or individual settings for direct instruction. Your most recent request to reduce the number of questions for [the Student] by 40%-50% is very difficult at best due to the way the Odysseyware curriculum is presented. It would require complete customization of our online curriculum and would eliminate content that we are required to teach all students in order to comply with state standards.

Also, by email on October 6, 2020, the XXXXX informed the Complainant: “Due to the limitations, we have with our online software, and after extensive discussion with my direct supervisor, we do not feel Orion is the best placement for [the Student]. As of 10/7/2020, Orion Diploma Completion will no longer be an educational option for [the Student].” The Complainant was told to contact the District to determine other educational options for the Student.

The Student is currently enrolled in remote learning in the District through another service.

Following receipt of the complaint, OCR contacted Orion on March 5, 2021, and informed Orion that OCR has determined it has jurisdiction, and that this complaint could appropriately be investigated using OCR’s Rapid Resolution Process (RRP), as set forth in Section 110 of OCR’s *Case Processing Manual* (CPM).¹

Resolution

Prior to the completion of OCR’s investigation into this complaint, Orion indicated its interest in entering into a voluntary resolution agreement with OCR pursuant to Section

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

302 of the CPM. Orion signed an Agreement (copy attached) on April 2, 2021, which, when fully implemented, will resolve OCR's concerns. The Agreement requires Orion to provide training to Orion staff on Orion's obligations under Title II, including Title II's prohibition against retaliation. For more information, please consult the Agreement.

OCR considers this complaint resolved effective the date of this letter, and will monitor the Orion's implementation of the Agreement. When OCR concludes Orion has fully implemented the terms of the Agreement, OCR will close the complaint. If Orion fails to carry out the Agreement, OCR may resume its investigation.

Public entities are prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title II. Complaints alleging such retaliation may be filed with OCR. A complainant may also have the right to file a private suit in federal court whether or not OCR finds a violation.

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, it will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

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.

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

Sincerely,

J. Earlene Gordon
Supervisory Attorney

Attachment