



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VII  
ARKANSAS  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

August 10, 2021

*Sent via electronic mail only to XXXXX@XXXXX.XXXXX*

XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX

Re: Yutan Public Schools  
OCR Case Number 07211067

Dear XXXXX XXXXX,

On January 29, 2021, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against the Yutan Public Schools, Yutan, Nebraska. In the complaint, the Complainant alleged the Yutan Public Schools discriminated against her son based on disability. This letter is to confirm the Yutan Public Schools has voluntarily submitted a Resolution Agreement (Agreement) to OCR 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 at 34 C.F.R. Part 104, which prohibit discrimination based on disability in programs and activities that receive federal financial assistance. 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 federal financial assistance.

Because the Yutan Public Schools receives federal financial assistance from the U.S. Department of Education and is a public entity, it is subject to Section 504 and Title II, and OCR's jurisdiction. Additional information about the laws OCR enforces is available on its website at <https://www.ed.gov/ocr>.

### **Factual Background**

The Complainant alleged the Yutan Public Schools denied her XXXXX XXXXX son, XXXXX XXXXX XXXXX, a free appropriate public education during the 2020-2021 school year. Specifically, the Complainant alleged the Yutan Public Schools delayed developing a Section 504 plan for her son until February 2021 and failed to provide her notice of Section 504 procedural safeguards so she could challenge aspects of the 504 plan that she thought were

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

incorrect or insufficient. XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX the Complainant's son is no longer enrolled in Yutan Public Schools.

The Complainant further advised OCR she had difficulty identifying the Yutan Public Schools' Section 504 Coordinator because the notice of nondiscrimination published on the Yutan Public Schools' website did not list a 504 Coordinator. The Complainant stated during an interview with OCR that you told her the elementary school nurse is the 504 Coordinator.

The Complainant also informed OCR that, when she requested information from the Yutan Public Schools about how to file a complaint regarding students with disabilities, she was directed to the Yutan Public Schools Board of Education Policy 2006, "Complaint Procedure." Policy 2006, which includes a section regarding complaints about educational services for students with disabilities, does not appear to incorporate appropriate due process standards or provide for prompt and equitable resolution of complaints alleging actions prohibited by Section 504 and Title II, as required by the federal regulations implementing these laws.

Following receipt of the complaint, OCR contacted the Yutan Public Schools on July 7, 2021, and informed Yutan Public Schools that OCR has determined it has jurisdiction and that this complaint may be appropriately investigated using OCR's Rapid Resolution Process, as set forth in Section 110 of OCR's *Case Processing Manual*. The *Case Processing Manual* is available online at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

## **Resolution**

Prior to the completion of OCR's investigation into this complaint, the Yutan Public Schools indicated its interest in entering into a voluntary resolution agreement with OCR pursuant to Section 302 of OCR's *Case Processing Manual*. The Yutan Public Schools signed an Agreement (copy attached) on August 9, 2021, which, when fully implemented, will resolve OCR's concerns. The Agreement requires the Yutan Public Schools to take the following actions: (1) designate a Section 504/Title II Coordinator, (2) publish a notice of nondiscrimination, (3) adopt and publish grievance procedures that meet the requirements of Section 504 and Title II, (4) establish procedures to notify parents and guardians of students with disabilities of Section 504 procedural safeguards, and (5) notify the Complainant of the Yutan Public Schools' commitment to reevaluate her son, upon request, to determine his disability-related educational needs if the Complainant re-enrolls her son as a student in the Yutan Public Schools. For more information, please consult the Agreement.

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

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 OCR policy. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court regardless of whether OCR finds a violation.

The Yutan Public Schools must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. Complaints alleging such retaliation may be filed with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

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

Sincerely,

Kimberley M.J. Lynch  
Program Manager, Region VII

Attachment