



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
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MISSOURI
NEBRASKA
OKLAHOMA
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July 26, 2021

Sent via email only to: XXXXX

XXXXX XXXXX XXXXX
XXXXX - XXXXX XXXXX
XXXXX XXXXX
XXXXX XXXXX XXXXX

Re: Onaga-Havensville-Wheaton USD #322
OCR Case Number: 07211073

Dear XXXXX XXXXX

On February 10, 2021, the U.S. Department of Education, Office for Civil Rights (OCR), received the above-referenced complaint against the Onaga-Havensville-Wheaton USD #322 (District), in Onaga, Kansas, alleging discrimination on the basis of disability. This letter is to confirm that the District has voluntarily submitted a Resolution Agreement (Agreement) to OCR to resolve this complaint.

OCR notified the District in a letter dated May 12, 2021, that it would investigate whether the District denied the Student a free appropriate public education (FAPE) by failing to consistently provide the academic adjustments and accommodations included in his Section 504 Plan.

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, prohibit discrimination based on disability in programs and activities that receive federal financial assistance. OCR has Section 504 enforcement jurisdiction over recipients of federal financial assistance from the Department of Education.

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. OCR has Title II enforcement jurisdiction over public school districts.

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

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

Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education (FAPE) to students with disabilities. An appropriate education is regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and that are developed in compliance with Section 504's procedural requirements.

Preliminary Investigative Findings

The Student was in the XXXXX grade for the 2020-21 school year in the Onaga-Havensville-Wheaton USD #322 school district. The District determined the Student is eligible to receive special education and related services pursuant to Section 504. The Student's Section 504 Plan was revised several times during the 2020-21 school year. Evidence obtained during the investigation indicated that not all of the Student's academic adjustments and accommodations were consistently provided which negatively impacted the Student's success.

Resolution

Prior to the completion of OCR's investigation, the District expressed interest in voluntarily resolving this complaint pursuant to Section 302 of OCR's *Case Processing Manual*.¹ The District submitted a signed Agreement (copy enclosed) on July 23, 2021, that, when fully implemented, will address the allegations of this complaint. The Resolution Agreement requires the District to provide a memorandum to all teachers responsible for providing educational services to the Student reminding staff of their obligation to implement the Student's Section 504 Plan. The District will also identify any remaining missing assignments from the Student's Spring 2021 semester where his accommodations were not provided, and will develop a plan to allow the Student a reasonable amount of time to complete and submit the missing assignments for credit. Please consult the Agreement for further details.

OCR considers this complaint resolved effective the date of this letter and will monitor the District's implementation of the Agreement. When OCR concludes that 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.

Recipients of federal funds are prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by federal civil rights law. 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. 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.

¹ The *Case Processing Manual* is available on OCR's website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrepm.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.

If you have any questions, please contact XXXXX XXXXX Attorney, at XXXXX XXXXX - XXXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.XXXXX@ed.gov.

Sincerely,

Megan Levetzow
Supervisory Attorney

Enclosure