



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
ARKANSAS
KANSAS
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NEBRASKA
OKLAHOMA
SOUTH DAKOTA

September 8, 2021

Sent via electronic mail only, to: XXXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXX XXXXXXXX
XXXXXXXXXXXXXXXXXX
Fredericktown R-I School District
704 East Highway 72
Fredericktown, MO 63645

Re: Fredericktown R-I School District
OCR Case Number: 07211099

Dear Mr. XXXXXXXX,

On March 19, 2021, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against the Fredericktown R-I School District (District) in Fredericktown, Missouri, alleging the District discriminated against the Complainant’s son (Student) on the basis of disability. This letter is to confirm that the District has voluntarily submitted a Resolution Agreement (Agreement) to OCR to resolve the complaint.

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. 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 federal financial assistance.

Section 504 regulations require in 34 C.F.R. § 104.35(a) that a recipient that operates a public elementary or secondary education program or activity shall conduct an evaluation of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education.

Because the District receives federal financial assistance from the U.S. Department of Education and is a public entity, it 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>.

Following evaluation of the complaint, OCR informed the District that OCR has determined

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

OCR has jurisdiction, and that this complaint could appropriately be investigated using OCR's Rapid Resolution Process, as set forth in Section 110 of OCR's *Case Processing Manual*.¹

Factual Background Information

The Complainant advised OCR that on February 8, 2021, the Student entered a residential facility within the District. The schools in the District were closed from February 8-19 due to inclement weather. On February 22, 2021, the Complainant sent the District a copy of the Student's Individualized Education Program (IEP) from his prior school. The Complainant provided OCR a copy of the Student's IEP, which provided for classroom instruction seven hours a day, almost exclusively in a Special Education classroom.

On February 23, 2021, the District met with the staff from the Student's residential facility. At the meeting, which the Complainant did not attend and for which the Complainant had not received notice, the District determined that the Student would receive one-on-one homebound instruction for one hour a day. Following this meeting, the District informed the Complainant of the services the District planned to offer the Student.

Notes from the special education instructor reflect that one-on-one homebound instruction for the Student began on March 1, 2021, for one hour each day. The District provided to OCR a copy of the Notification of Meeting dated March 8, 2021, informing the Complainant the District would have an IEP transfer meeting on March 18, 2021. The Complainant informed the District that the Complainant expected the District to provide the services required in the Student's IEP.

The School District also provided to OCR a copy of the Prior Written Notice, which reflects that it was personally delivered to the Complainant on March 18, 2021. The Prior Written Notice records that the District accepted the evaluation performed on January 12, 2021, by the Student's prior district, but did not accept the Student's IEP. The Prior Written Notice states the District proposed changing the Student's services to approximately one hour a day of homebound instruction. The Complainant advised OCR that the Complainant objected to the proposal and insisted the District needed to implement the Student's prior IEP. The Complainant informed OCR that the Special Education Director at the District offered to provide one hour of homebound instruction and one hour of classroom instruction, but the Complainant requested time after the meeting to consider the changes. The meeting ended without a final decision. Documents provided by the District show that a follow-up IEP meeting was scheduled for April 7, 2021, and a revised Prior Written Notice was emailed to the Complainant on March 22, 2021.

Documents provided by the District record that on March 23, 2021, the residential facility informed the District that the Student was not an appropriate fit for the facility, and the residential facility informed the Complainant that the Complainant needed to pick up the Student by March 26, 2021. The Complainant removed the Student from the residential facility on March 26, 2021, and the Student was withdrawn from the District.

Resolution

¹ The *Case Processing Manual* is available at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

Prior to the completion of OCR’s investigation into this complaint, the District indicated its interest in entering into a voluntary resolution agreement with OCR pursuant to Section 302 of OCR’s *Case Processing Manual*. The District signed an Agreement (copy attached) on September 7, 2021, which when fully implemented will resolve OCR’s concerns. The Agreement requires the District to create placement procedures for students with disabilities before taking any action with respect to the initial placement of the person in regular or special education consistent with the procedural requirements of Section 504, 34 C.F.R. §§104.31-104.36. The Agreement also provides that if the Student re-enrolls in the District, the District will apply the placement procedures created pursuant to Action Item 1 to the Student.

OCR considers this complaint resolved 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 is 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. A complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

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.

If you have questions concerning this letter, please contact XXXXXXXXXXX XXXXXX, attorney, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by e-mail at XXXXXXXXXXX.XXXXXX@ed.gov.

Sincerely,

/s/ Megan Levetzow

Megan Levetzow
Supervisory Attorney