



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

ONE PETTICOAT LANE  
1010 WALNUT STREET, SUITE 320  
KANSAS CITY, MO 64106

REGION VII  
ARKANSAS  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

DATE

*Sent via email only to: XXXXX*

XXXXX. XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX

Re: Fouke School District  
OCR Case Number: 07211154

Dear XXXXX XXXXX

On May 10, 2021, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against the Fouke School District (District) in Fouke, Arkansas, alleging the District discriminated against the Complainant’s grandson 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.

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education 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.

The Section 504 regulation, at 34 C.F.R. § 104.35(a), requires a school district to evaluate any student who needs or is believed to need special education or related services due to a disability. A district must conduct an evaluation before initially placing the student in regular or special education and before any subsequent significant change in placement.

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 OCR has jurisdiction, and that this complaint could appropriately be investigated using OCR’s

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

Rapid Resolution Process, as set forth in Section 110 of OCR’s *Case Processing Manual*.<sup>1</sup>

### **Factual Background Information**

The Complainant’s grandson began school in the District as a XXXXX for the 2020-21 school year. The Complainant advised OCR that she informed the Principal of her grandson’s XXXXX diagnosis and requested her grandson be put on a Section 504 Plan in October 2020. The Complainant told OCR her grandson was constantly getting in trouble at school and provided OCR with 11 office referral forms her grandson received during the 2020-21 school year.

The Complainant informed OCR she met with the Principal in February 2021, and the Principal told her that he and her grandson’s teachers decided her grandson did not need a Section 504 Plan and that they would try some adjustments to see if the grandson’s behavior improved. The Complainant further stated the Principal told her that if her grandson’s behavior did not improve, they could meet again during their spring break. However, the Complainant said the meeting to take place during spring break was cancelled.

The District advised OCR that it did not have a Section 504 Plan for the Complainant’s grandson or any record of a written request from the Complainant to evaluate her grandson for a Section 504 Plan. The District, however, provided OCR with a copy of an email between the District Local Education Agency (LEA) Supervisor and the Principal dated XXXXX XXXXX XXXXX. In the email, the LEA Supervisor wrote that the Complainant said her grandson was denied a Section 504 Plan and suggested that if the Principal had denied the Complainant’s request for a Section 504 Plan, that he reconsider. In response, the Principal emailed that he would talk with the committee and let the LEA Supervisor know if they planned to reconsider if the Complainant’s grandson qualifies for a Section 504 plan.

The Complainant told OCR that the Principal was retiring at the end of the 2020-21 school year and that the LEA Supervisor was taking over as the new principal. The District independently confirmed this to OCR. The Complainant also told OCR that towards the end of the 2020-21 school year, the Principal informed the Complainant that her grandson could be evaluated for a Section 504 Plan for the following school year when the LEA Supervisor took over as the new principal. However, the Complainant decided to enroll her grandson in a private school for the 2021-22 school year.

### **Resolution**

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 November 4, 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

---

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

will apply the placement procedures created pursuant to Action Item 1 of the Agreement 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 XXXXX XXXXX, attorney, at XXXXX XXXXX XXXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by e-mail at XXXXX XXXXX @ed.gov.

Sincerely,

Kimberly Lynch  
Program Manager