



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
ARKANSAS
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NEBRASKA
OKLAHOMA
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August 12, 2022

SENT VIA EMAIL

Shellie L. Guin, Attorney
Guin Mundorf LLC
4520 Main Street, Suite 520
Kansas City, Missouri 64111
sguin@gmschool.com

Re: Kearney R-I School District
OCR Case Number: 07221157

Ms. Guin:

On February 14, 2022, the U.S. Department of Education, Office for Civil Rights (OCR), received the above-referenced complaint against the Kearney R-I School District (District) alleging the District failed to timely evaluate her son (Student) in the XXXXX of XXXX. This letter is to confirm that the District has voluntarily entered into an agreement to resolve this 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.

Because the District receives federal financial assistance from the U.S. Department of Education and is a public entity, the District 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 <http://www.ed.gov/ocr>.

The Complainant advised OCR that the Student has XXXXX, and she asked the principal of XXXXX School for an evaluation of the Student for an Individualized Education Program (IEP) in XXXXX of XXXX. The Complainant told OCR that the Student had XXXXX XXXXX, XXXXX XXXXX in some classes, and was [X---remainder of sentence redacted---X]. Despite the Student's [X---redacted language---X], the Complainant said the District did not begin testing the Student for an IEP until XXXXX of XXXX. The Complainant informed OCR that an

IEP meeting was held for the Student on XXXXX XX, XXXX, and the IEP team found the Student eligible for services and began implementing his IEP.

Prior to the completion of OCR's investigation, the District agreed to resolve this complaint pursuant to a resolution agreement in accordance with Section 302 of OCR's *Case Processing Manual* (CPM), which is available online at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>. OCR determined it would be appropriate to resolve this complaint in accordance with OCR's rapid resolution process. On August 12, 2022, the District submitted a signed resolution agreement (Agreement) (copy attached) that, when fully implemented, will address your complaint.

The Agreement provides that the Student's multidisciplinary team will meet to determine appropriate compensatory services for the Student pertaining to the XXXXX academic year. Additionally, the Agreement requires the District to train officials and staff about the laws and issues pertaining to Section 504 and Title II compliance, including the District's child find obligations and evaluation procedures. OCR considers this complaint resolved effective the date of this letter. OCR will monitor the District's implementation of the Agreement. When OCR concludes the District has fully complied with the terms of the Agreement, OCR shall close this case.

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

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because that individual filed a complaint or participated in the complaint resolution process. If this happens, that individual may file a complaint with OCR alleging such treatment.

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 which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Page 3 – Shellie L. Guin – 07221157

If you have any questions, please contact Julie Riege, Attorney, at (816) 268-0566 (voice), or (877) 521-2172 (telecommunications device for the deaf), or by email at julie.riege@ed.gov.

Sincerely,

/s/ Jennifer Brooks

Jennifer Brooks
Supervisory Attorney

Attachment