



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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KANSAS CITY, MO 64106

REGION VII  
ARKANSAS  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

XXXXX, 2023

**SENT VIA EMAIL ONLY**

XXXXX XXXXX  
XXXXX XXXXX XXXXX, XXXXX, XXXXX  
XXXXX XXXXX XXXXX XXXXX, XXXXX XXXXX  
XXXXX, XXXXX XXXXX  
XXXXX

Re: Cozad City Schools  
OCR Complaint No. 07221342

Dear XXXXX XXXXX:

On XXXXX XXXXX, 2022, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against Cozad City Schools (the District), located in Cozad, Nebraska, alleging the District discriminated against the Complainant's XXXXX (the Student) based on disability. In response to the complaint, OCR investigated whether the District violated Section 504, Title II and 34 C.F.R. § 104.37 by restricting the Student's participation in the "XXXXX XXXXX" XXXXX program during XXXXX 2022. This letter is to acknowledge that the District voluntarily entered into a Resolution Agreement (Agreement) resolving the complaint. This decision is explained below.

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 District receives federal financial assistance from the Department of Education and is a public education system, the District is subject to Section 504, Title II, and OCR's jurisdiction. Additional information about the laws OCR enforces is available on its website at <http://www.ed.gov/ocr>.

During OCR's investigation, OCR interviewed the Complainant and the District's XXXXX. OCR also reviewed documentation, including documents related to the Student's Individualized

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

Education Program (IEP) and the XXXXX XXXXX / XXXXX Handbook. To protect individuals' privacy, the names of the Complainant, District personnel, witnesses, and other parties are not used in this letter.

### **Legal Standard**

The Section 504 regulation, at 34 C.F.R. § 104.4(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives, or benefits from, federal financial assistance. Further, the regulation implementing Section 504, at 34 C.F.R. § 104.4(b)(1)(i) and (ii), states that a recipient may not deny a qualified individual with a disability the opportunity to participate in or benefit from an aid, benefit or service; or afford a qualified individual with a disability with an opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others. The regulation implementing Title II, at 28 C.F.R. § 35.130 contains similar requirements.

Additionally, 34 C.F.R. § 104.37(a)(1) provides that a recipient shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities.

### **Preliminary Investigative Findings**

The Student is XXXXX a XXXXX XXXXX student in the District and has had an IEP since XXXXX XXXXX XXXXX. The Complainant informed OCR that she enrolled the Student in the District's XXXXX program for XXXXX 2022. XXXXX is an after-school and summer program for District students in XXXXX through XXXXX XXXXX. The Complainant told OCR that the Student started attending XXXXX on XXXXX XXXXX, XXXXX.

The Complainant informed OCR that, when she attempted to drop off the Student at XXXXX on XXXXX XXXXX, XXXXX, a staff member informed her that XXXXX could not accommodate the Student. She told OCR the staff member stated the Student required XXXXX XXXXX and XXXXX was unable to provide such services. The Complainant stated that she contacted the former District XXXXX<sup>1</sup> who informed her that other students with XXXXX were allowed to attend XXXXX, but those students did not require as much XXXXX. The former District XXXXX indicated that she would look into the matter, but never responded to the Complainant.

The District's current XXXXX was previously the XXXXX XXXXX XXXXX for the District. During an interview with OCR, the District's current XXXXX explained the incident occurred due to confusion about who to contact regarding the issue. He further stated that he would have found a way to support the Student attending XXXXX if he had been notified of the Complainant's request.

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<sup>1</sup> The XXXXX at the time of the incident is no longer employed by the District.

## **Analysis and Resolution**

The evidence obtained during OCR's investigation to date raised concerns as to whether the District failed to provide the Student an equal opportunity for participation in the XXXXX program.

Prior to OCR completing the investigation, the District voluntarily entered into the attached Agreement to address the concerns raised by OCR's investigation. The Agreement, executed by the District on XXXXX XXXXX, 2023, requires the District to issue written correspondence inviting the Student to attend XXXXX. The Agreement further requires the District to review and, if necessary, revise its policies and procedures related to discrimination based on disability, including an evaluation of policies and procedures related to disability discrimination complaints. The Agreement also requires the District to conduct training for XXXXX personnel regarding the District's obligations under Section 504 and Title II, including relevant District policies related to disability discrimination. Please consult the Agreement for further details. OCR will monitor the District's implementation of the Agreement until the District has fulfilled its terms.

OCR considers the allegations of this complaint resolved and will monitor the District's implementation of the Agreement. When OCR determines the District has fully implemented the terms of the Agreement, OCR will close this complaint. If the District fails to carry out the Agreement, OCR may resume investigating the complaint. OCR will not close the monitoring of the Agreement until OCR determines that the District has demonstrated compliance with all the terms of the Agreement and is in compliance with Section 504, Title II, and their implementing regulations, which were at issue in this complaint.

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. 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.

Please be advised that the District may 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, assists, or participates in a proceeding under a law enforced by OCR. 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, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, please contact XXXXX XXXXX, XXXXX, at (XXXXX) XXXXX - XXXXX (voice) or (XXXXX) XXXXX - XXXXX (telecommunications device for the deaf), or by email at XXXXX.

Sincerely,

XXXXX XXXXX  
XXXXX XXXXX XXXXX

Attachment (Resolution Agreement)