

July 29, 2016

XXXXX X. XXXXXXX, Attorney
XXXXX, XXXXX, XXXXXXXXXXXXXXX
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XX. XXXXXX, XXXXXXXXXXX XXXXX

Re: Docket # 07141129

Dear Mr. XXXXXXX:

On April 23, 2014, the U.S. Department of Education, (Department), Office for Civil Rights (OCR), received a complaint against your client, the Mehlville R-IX School District (District), St. Louis, Missouri, alleging discrimination on the basis of disability. This letter is to confirm that the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

Specifically, the complainant alleged the District subjected her son (Student) to different treatment on the basis of his disability (XXXXXXXXXXXXXXXXXXXX) by: 1) not allowing him to attend school parties (Winter Holiday and Valentine's Day parties); 2) not allowing him to participate in field trips unless she also attended and 3) not providing him with the same notice that other students receive regarding school activities.

OCR is responsible for enforcing:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation at 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities.

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

During the investigation of this complaint, OCR interviewed the complainant and obtained data from the District as well as a written response to the complaint. The Student has been diagnosed with autism spectrum disorder and currently received services through an individualized education program (IEP). The complainant stated that the Student was suspended for hitting and kicking a teacher's aide and he also kicked the principal. The complainant told OCR that she received an email from the school principal on December 19, 2013, stating that the Student would not be allowed to attend the winter holiday party when he returned from his suspension. The complainant states that although the Student's suspension was over, he was excluded from the holiday party and was also later excluded from participating in the Valentine's Day party.

The District stated in its written response to the complaint that the Student was not permitted to attend the Winter Holiday party, not because of his disability, but because of his suspension. The Student had just been on a five-day suspension, the last day of which was Wednesday, December 18, 2013. The five-day suspension arose from an incident on Thursday, December 12, 2013. The Student had become upset and he kicked a staff member. A manifestation determination meeting was held on December 13, and the determination was that no pattern had been created, so the suspension was to be served in its entirety. The principal decided that because the timing of the holiday party coincided with Student's return to school after the suspension, it was not appropriate for him to attend the party. The party began only a few minutes after Student was scheduled to return to school.

The District further asserted that classroom parties for Valentine's Day were held at 2 p.m. on February 13, 2014. Per Student's IEP, his regular school day was from 9 o'clock a.m. to 11:00 a.m. He could not tolerate a longer school day, and his placement was for special education 100% of the time, because he was not doing well in the regular education setting. It was determined that it would not be appropriate to change Student's schedule just so that he could attend a party.

Prior to the completion of OCR's investigation, the District submitted a signed Agreement (copy enclosed) on July 18, 2016, that, when fully implemented, will address the allegations of this complaint. The Agreement requires the District to do the following if the Student returns to the District: 1) The District will allow the Student to attend school parties under the same eligibility requirements that are applied to other students. 2) The District will convene a meeting of the Student's Section 504 or IEP team (Team) and determine the related aids and/or services that your son needs to ensure that he has an equal opportunity to participate in field trips and extracurricular activities and nonacademic activities. The District also agrees that the Complainant will be required to accompany the Student as a condition of his participation in District sponsored field trips. The District will have the Student's Section 504 team meet and determine what he requires to participate in District sponsored field trips. 3) The District will immediately provide the Student with the same information that other students receive regarding school activities. . In addition, the District will develop written guidance for school staff regarding the District's obligations under Section 504 and Title II to include students with disabilities on all field trips which are determined to be part of the student's academic setting and submit the guidance to OCR for approval. Upon OCR's approval, the District shall train staff on the new guidance. Please consult the Agreement for further details.

OCR considers the allegations of this complaint resolved effective the date of this letter 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 this complaint. If the District fails to carry out the Agreement, OCR may resume its investigation.

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

OCR is committed to prompt and effective services. If you have any questions regarding this matter, please contact Adriene Payne, Equal Opportunity Specialist, at (816) 268-0580 (voice) or (877) 521-2172 (telecommunications device for the deaf), or by e-mail at adriene.payne@ed.gov.

Sincerely,

/s/ Karl Menninger

Karl Menninger
Supervisory Attorney

Enclosure

cc: XX. XXXXXXXXXXX XXXXXXXXX
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