



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS -- REGION VII

November 13, 2015

Sent via email to XXXX XXXX

XXXX XXXX

White River School District # 47-1

P.O. Box 273

White River, South Dakota 57579

Re: Docket # 07151182

Dear XXXX XXXX:

On May 18, 2015, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the White River School District # 47-1 (District), White River, South Dakota alleging discrimination on the basis of disability. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

The complainant alleged the District discriminated against her client's daughter (Student) based on disability during the 2014-15 academic year by:

1. Excluding the Student from attending school when the Student's special education teacher was not teaching in her classroom;
2. Shortening the Student's school day by dismissing the Student at 2:00 p.m. each school day;
3. Dismissing the Student from school early because of the Student's behavior related to her disability; and
4. Failing to provide the Student's mother with a procedural safeguards notice.

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, 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.

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www.ed.gov

- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 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 these laws. Additional information about OCR and the laws we enforce is available on our website at XXXX<http://www.ed.gov/ocr>.

On June 22, 2015, OCR sent notification letters to the parties, including a data request to the District. On July 17, 2015, the District provided OCR with a response to OCR's data request. OCR conducted interviews with the District's superintendent and special education director. During the course of OCR's investigation, OCR identified deficiencies in the District's notice of nondiscrimination and anti-discrimination policies and grievance procedure that raise compliance concerns. The District expressed to OCR an interest in engaging in resolution negotiations pursuant to section 302 of OCR's *Case Processing Manual*.¹

Prior to the completion of OCR's investigation, the District submitted a signed Agreement (copy enclosed) on November 13, 2015, that, when fully implemented, will address the allegations of the above-referenced complaint. 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 the 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's client may have the right to file a private suit in federal court whether or not OCR finds a violation.

¹ OCR's *Case Processing Manual* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

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OCR is committed to prompt and effective service. If you have any questions, please contact XXXXXX XXXXX, Investigator at XXX XXX- XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXX.XXXX@ed.gov.

Sincerely,

/s/J. Earlene Gordon
J. Earlene Gordon
Supervisory Attorney

Enclosure

cc: Dr. Melody Schopp - Secretary
South Dakota Department of Education