



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VII  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

September 13, 2018

*Sent via email only*

XXXXXX XXXXX, General Counsel  
Sedgwick County Area Educational Services  
Interlocal Cooperative #618  
620 Industrial Road  
P.O. Box 760  
Goddard, Kansas 67052  
XXXXXX@sped618.org

Re: Sedgwick County Area Educational Services Interlocal #618  
OCR Case Number: 07-18-1088

Dear Ms. XXXXX:

On February 1, 2018, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against Sedgwick County Area Educational Services Interlocal # 618 (Interlocal), Goddard, Kansas, alleging discrimination on the basis of disability. This letter is to confirm that the Interlocal has voluntarily submitted a Resolution Agreement (Agreement) to resolve the complaint.

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 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, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities.

As a recipient of FFA from the Department and a public entity, the Interlocal 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>.

OCR investigated whether the Interlocal discriminated against the Student on the basis of disability by:

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

1. failing to evaluate the Student prior to changing his placement, in violation of 34 C.F.R. § 104.35; and
2. failing to provide the Student a free and appropriate public education (FAPE), in violation of 34 C.F.R. § 104.33, by:
  - a. failing to implement his BIP to address his behaviors; and
  - b. failing to provide the Student with teachers trained in the instruction of persons with the Student's disability.

To protect individuals' privacy, the names of employees, students, and other witnesses also were not used in the letter.

On March 8, 2018, OCR sent notification letters to the parties, including a data request to the Interlocal. On March 30, 2018, the Interlocal provided responsive data to OCR's data request. On May 17, 2018, OCR interviewed the school psychologist, teacher, social worker, and administrator who worked with the student during the time period relevant to the allegations.

Prior to the completion of OCR's investigation, the Interlocal requested to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*.<sup>1</sup> The Interlocal submitted a signed Agreement (copy enclosed) dated September 13, 2018, that, when fully implemented, will resolve the allegations under investigation. To resolve the allegations, the Interlocal agreed to conduct a functional behavioral assessment (FBA) of the Student and any other evaluations deemed appropriate, to convene a multidisciplinary team meeting to update the Student's IEP or Section 504 plan and develop a BIP, and to conduct internal training regarding the requirements of 34 C.F.R. § 104.33, with a specific focus on its applicability to students who exhibit behaviors that impede their learning. Please consult the Agreement for further details.

OCR considers this complaint resolved effective the date of this letter and will monitor the Interlocal's implementation of the Agreement. When OCR concludes the Interlocal has fully implemented the terms of the Agreement, OCR will close the complaint. If the Interlocal fails to carry out the Agreement, OCR may resume the investigation.

The Interlocal may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, please be advised that individual may file another complaint 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, we 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.

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

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.

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

Sincerely,

/s/ Anne Bradley

Anne Bradley  
Acting Supervisory Attorney

Enclosure