



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921

March 25, 2014

Superintendent Steven Lamarche  
Bourne Public Schools  
36 Sandwich Road  
Bourne, Massachusetts 02532

Re: OCR Complaint No. 01-13-1270

Dear Superintendent Lamarche:

This letter is to formally confirm that the Office for Civil Rights (OCR) in the U.S. Department of Education (Department) has accepted a Resolution Agreement (Agreement) from the Bourne Public Schools (District) to resolve the above-referenced complaint alleging that the District discriminated against a student (Student) on the basis of disability. The complaint stemmed from the District's refusal to hold a Section 504 team meeting in the fall of 2013 to discuss services for the Student, who lives in Bourne but was then (and is now) enrolled in the xxxx Public Schools under the Massachusetts school choice program.

OCR opened this complaint as part of our responsibility for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulation at 28 C.F.R. Part 35. Section 504 and Title II prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities. These regulations also prohibit retaliation, intimidation or the interference with the exercise of any right protected by Section 504 and Title II. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to these laws.

Very soon after we opened the complaint, and before OCR made a determination of compliance concerning the refusal to hold a Section 504 meeting, OCR and the District discussed the District's obligations toward students who are attending another district under the school choice program but who have expressed a desire to return to the District. As we stated in the notification letter, in states with school choice programs, OCR has interpreted the Section 504 regulation to allow the state (as Massachusetts has done) to give the choice district, rather than the district of residence, the responsibility for complying with the evaluation and placement requirements of the Section 504 regulation, and thus the responsibility for convening team meetings under Section 504. Nonetheless, the school district of residence must be able to make a free appropriate public education available should the students decide to return.

Following these discussions, the District offered to proactively resolve this allegation as described here and in the enclosed Agreement. The Agreement requires the District to develop a proposal describing the services the Student would receive if he re-enrolled in the District, the school where those services would be offered, and the basis for the District's conclusion that it would be safe to educate the Student at that school. The District also agreed to give the parent an opportunity to submit information to be considered in developing the proposal, and to consider the services in his current Section 504 plan in xxxxx in developing the proposal. OCR found that this Agreement, when implemented, will be sufficient to resolve this issue.

As is our standard practice, OCR will monitor the District's compliance with the Agreement. The monitoring

report is due on May 15, 2014.

Under the Freedom of Information Act, it may be necessary to release this document and related records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personal information which, if released, would reasonably be expected to constitute an unwarranted invasion of privacy.

We appreciate your cooperation in this matter and the assistance of District counsel Colby Brunt. If you have any questions, please contact Attorney Liz Bagdon at 617-289-0020 or by email at [Elizabeth.Bagdon@ed.gov](mailto:Elizabeth.Bagdon@ed.gov). You may also contact me at 617-289-0037.

Sincerely,

Anthony Cruthird  
Team Leader/Civil Rights Attorney

Enclosure

Cc: Colby Brunt, Esq.