



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

Mr. Jeffrey J. Butler, Esq.
LaPointe & Butler, P.C.
2143 Commons Parkway
Okemos, Michigan 48864

Re: OCR Docket #15-13-1338

Dear Mr. Butler:

This letter is to notify you of the disposition of the complaint filed with the U.S. Department of Education (the Department), Office for Civil Rights (OCR) on July 17, 2013, against West Bloomfield School District (the District), alleging discrimination on the basis of disability. Specifically, the complaint alleged that the District failed to respond to repeated reports that a student (the Student) was verbally harassed by students during the 2012-2013 school year based on his disability.

OCR initiated an investigation under the authority of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104 (Section 504), and the authority of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35.

The Section 504 regulation, at 34 C.F.R. § 104.33, requires recipient school districts to provide a free appropriate public education (FAPE) to each qualified individual with a disability who is in the recipient's jurisdiction. In addition, the Section 504 and Title II regulations prohibit recipients from, on the basis of disability, excluding a qualified person with a disability from participation in, denying him the benefits of, or otherwise subjecting him to discrimination under any of its programs or activities. Disability harassment may deny a student an equal opportunity to education under Section 504 or Title II. Disability harassment under Section 504 and Title II is intimidation or abusive behavior toward a student based on disability that is sufficiently severe, persistent, or pervasive that it creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the institution's program.

The Section 504 regulation, at 34 C.F.R. § 104.7(b), also provides that a recipient shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504.

Under Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved before the conclusion of an OCR investigation if a recipient expresses an interest in resolving the complaint and signs a resolution agreement that addresses the complaint allegations. Such a request does not constitute an admission of liability on the part of a recipient institution such as the District, nor does it constitute a determination by OCR that the District has violated any of the laws that OCR enforces. The provisions of the resolution agreement are to be aligned with the complaint allegations or the information obtained during the investigation and are to be consistent with applicable regulations.

On January 17, 2014, the District signed the enclosed Resolution Agreement (Agreement) that outlines the actions it has agreed to take to resolve the allegations in this complaint, including reviewing and revising the Student's "XXXXXXXXX XXXXXXXXXXXX Plan," as appropriate, determining whether compensatory education services are necessary to compensate the Student for any instruction he may have missed as a result of the alleged disability harassment, determining whether other services (e.g. counseling, therapy) are necessary as a result of the alleged disability harassment, revising its Section 504/Title II grievance procedures, providing notification of the revised procedures to all parents, students, and District employees, and providing District administrators, teachers, and bus drivers with training on recognizing and responding to disability-based harassment and the District's revised Section 504/Title II procedures.

The District's proposed actions, when completed, will resolve the issues raised in the complaint consistent with the requirements of Section 504 and Title II. OCR will monitor the implementation of the Agreement. If the District does not fully implement the Agreement, OCR will reopen the investigation and take appropriate action.

This concludes OCR's investigation of the complaint. This letter sets forth OCR's determination in an individual OCR case; it 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.

Please be advised that the District 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, the harmed 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, it 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.

OCR appreciates the District's cooperation during the resolution of this complaint. If you have questions about the resolution or monitoring of this complaint, feel free to contact Ms. XXXX XXXXXXXXXXXXX at (216) 522-XXXX or XXXXXXXXXXXXXXXXXXXX@ed.gov.

Sincerely,

Donald S. Yarab
Team Leader

Enclosure