

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS



5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921

June 12, 2014

Dr. Joseph F. Baeta
Superintendent
Norton Public Schools
64 West Main Street
Norton, MA 02766

Re: OCR Complaint No. 01-14-1054
Norton Public Schools

Dear Dr. Baeta:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is closing the investigative phase of the above-referenced complaint against Norton Public Schools (the District). The Complainant alleged that the District discriminated against XXXXX (the Student) on the basis of disability (peanut and tree nut allergy) by failing to provide a safe environment for the Student. The Complainant identified several specific areas of concern about past or ongoing potential exposure of the Student to allergens (in the classroom, on the bus and during his participation in athletic activities). OCR is closing this complaint because, prior to OCR completing its investigation, the District entered into a voluntary resolution agreement (Agreement) that resolves the complaint allegations. A copy of the Agreement is enclosed.

OCR enforces Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504) and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability. The District is subject to the requirements of Section 504 because it receives Federal financial assistance from the Department, and it is subject to the requirements of Title II because it is a public entity operating an elementary and secondary school system.

Based on the information presented, OCR proceeded to investigate the following legal issue:

Whether the District failed to provide the Student a Free Appropriate Public Education (FAPE), by failing to adequately evaluate him, in violation of Section 504 and its implementing regulation at 34 C.F.R. Sections 104.33, 104.34 and 104.35, and Title II and its implementing regulation at 28 C.F.R. Sections 35.103(a) and 35.130.

Prior to OCR completing its investigation of the allegations presented in this complaint, the District offered to resolve this complaint voluntarily, as is permitted under Section 302 of OCR's Complaint Processing Manual. Consequently, the District agreed to take a number of steps to resolve the complaint allegations, which are set out in the signed Agreement.

The Agreement includes commitments by the District to revise its Section 504 procedures and to train staff and administrators on the District's obligations under Section 504. The Agreement also requires

the District to identify a contact person for the Complainant to report peanut exposure in the future, and a Section 504 meeting to be held with the Complainant prior to the next school year, as well as notice to the Complainant, and other parents, of how to request reasonable modifications for extracurricular and other nonacademic activities for students with food allergies. Finally, under the Agreement, the District will provide parents of District children with allergies information about the Section 504 process and the availability of an evaluation to consider their eligibility under Section 504.

OCR finds that the resolution offered by the District is aligned with the Complainant's allegations and with information obtained by OCR. In addition, the resolution offered is consistent with Section 504 and Title II. Accordingly, we are closing this investigation as of the date of this letter. Consistent with our usual practice, OCR will monitor the District's implementation of the Agreement. OCR will close the monitoring of this matter, and will notify the parties in writing of the monitoring closure, once it determines that the District has satisfied the terms of the Agreement. The District has agreed to provide OCR with an initial monitoring report by August 1, 2014.

The matters addressed in this letter are not intended and should not be construed to cover any other issues regarding the District's compliance with the regulations implementing Section 504, Title II, or the other laws enforced by OCR, that may exist but are not discussed here. This letter is a resolution letter issued by OCR to address an individual OCR case. Resolution letters contain fact-specific investigative findings and dispositions of individual cases. Resolution letters are not formal statements of OCR policy and they 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.

Please note that the Complainant may have the right to file a private lawsuit regarding the matters raised in this case, whether or not OCR identified compliance concerns. Also, under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will seek to protect all personal information to the extent provided by law that, if released, could constitute an unwarranted invasion of privacy.

OCR thanks the District for the cooperation afforded us during this resolution process. If you have any questions or concerns about the information contained in this letter, please feel free to contact Civil Rights Attorney LouAnn Pearthree, at (617) 289-0138, or via email at LouAnn.Pearthree@ed.gov. You may also contact me directly at (617) 289-0120.

Sincerely,

/s/ Nicole Merhill
for Allen L. Kropp
Team Leader/Civil Rights Attorney

Enclosure