



U. S. D E P A R T M E N T O F E D U C A T I O N  
O F F I C E F O R C I V I L R I G H T S , R E G I O N I  
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Lisa Witte  
Superintendent of Schools  
Monadnock Regional School District #93  
600 Old Homestead Highway  
Swanzy, New Hampshire 03446

Re: Case No. 01-15-1259  
Monadnock Regional School District #93

Dear Superintendent Witte:

This letter is to notify you of the determination made by the U.S. Department of Education, Boston Office for Civil Rights (OCR) in the above-referenced complaint filed against the Monadnock Regional School District #93 (the District). The Complainant alleged that the District discriminated against her son (the Student) based on his disability by failing to implement a provision in his Section 504 plan on or about XXX XXX XXXX when it denied XXXXXXXXXXXXXXXXXXXX XXX X XXXXX XXXXXX during an in-school suspension. As explained below, prior to OCR completing its investigation, the District requested to resolve the complaint by entering into the enclosed voluntary resolution agreement.

OCR accepted this complaint for investigation pursuant to our authority under Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35. Under the ADA, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The District is a recipient of financial assistance from the Department and is a public elementary and secondary education system. Therefore, OCR has jurisdictional authority to investigate this complaint under both Section 504 and the ADA.

OCR investigated the following legal issue:

Whether the District denied the Student a free appropriate public education (FAPE), in violation of 34 C.F.R. §§ 104.33 and 28 C.F.R. Section 35.130, by failing to implement a provision in the Student's Section 504 plan concerning XXXXX XXXXXXXXXXXXThe regulation implementing Section 504, at 34 C.F.R. § 104.33, requires recipients to provide a FAPE to each qualified

individual with a disability in the recipient’s jurisdiction. In accordance with the regulation implementing Section 504, at 34 C.F.R. § 104.33(b), an appropriate education is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student with a disability as adequately as the needs of students without disabilities are met, and are based upon adherence to the evaluation and placement procedures set forth in the regulation.

In its investigation, OCR interviewed the Complainant, and reviewed information that she and the District submitted.

The Complainant stated that during an in-school suspension XX XX XXXXXX XXX XXX XXXXX the Student requested X XXXXX XXXXXX XX XXX XXX XXXXXXXXXX. The Complainant stated that the teacher assigned to the in-school suspension room denied the Student’s request, which resulted in the Student being required to leave school for the remainder of the day because XXX XXXXXXXX XXXXXX XX XXXXXX XXXXXXXX XXX XXXXXXXX. The Complainant asserted that the teacher informed her that the Student’s Section 504 plan did not apply during suspensions.

X---paragraph redacted---X

X---paragraph redacted---X

On January 28, 2015, the District voluntarily entered into the enclosed resolution agreement (the Agreement) to resolve the allegation, in accordance with Sections 207 and 304 of OCR’s *Case Processing Manual*. OCR has determined that the Agreement is aligned with the allegation and is consistent with the laws and regulations OCR enforces. OCR will monitor implementation of the Agreement, and will notify the parties in writing of the monitoring closure, once it determines that the District has fulfilled the terms of the Agreement. If the District fails to comply with the terms of the Agreement, OCR will resume its investigation.

This concludes OCR’s investigation of the complaint and should not be interpreted to address the District’s compliance with any other regulatory provision or to address any issues other than those addressed in this letter. 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 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 Complainant 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 that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions regarding OCR's determination, please contact Emma Kim, Senior Compliance Team Attorney, at 617-289-0159 or [Emma.Kim@ed.gov](mailto:Emma.Kim@ed.gov).

Sincerely,

/s/

Allen L. Kropp  
Team Leader/Civil Rights Attorney

Enclosure

cc: XXXX XXXXXXXX XXXX