



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION I
5 POST OFFICE SQUARE, 8th FLOOR
BOSTON, MASSACHUSETTS 02109-3921

December 10, 2019

Dr. Victoria Greer
Superintendent
By email: vgreer@sharonschools.net

Re: Complaint No. 01-16-1118
Sharon Public Schools

Dear Superintendent Greer:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received against the Sharon Public Schools (District). The complaint alleges that the District failed to respond to the Complainant's reports that she had witnessed several incidents of XXXXXXXXXXXXXXXXXXXXXXXX toward the Student and that she had concerns about the impact of XXXXXXXXXXXXX on the Student. As explained further below, before OCR completed its investigation, the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement (Agreement).

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. Section 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in any program or activity receiving federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Section 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive federal financial assistance from the Department.

Summary of Preliminary Investigation

During the XXXX-XXXX school year, the Student was in the XXXXXX grade at XXXXX School in the District. The Student's primary diagnosis is XXXXX and he has an Individual Education Program (IEP). During the relevant time period, he was placed in an inclusion classroom with pull-out services and assigned a full-time 1:1 aide. XXXXXXXXXXXXXXXX XX.

Throughout the XXXX-XXXX school year, the Complainant raised several allegations against XX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. Based on information from both the Complainant and District, OCR determined that the District investigated each allegation by interviewing the individuals involved and notifying the Complainant of the outcome. None of the allegations were substantiated; rather, in each instance, the District found that either staff were XXXXXXXX

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

following the Student's IEP requirements for "XXXXXXXXXXXXXXXXXX," or that the incident had not occurred as the Complainant alleged. The District also provided XXXXXXXXXXXXXXX XXXX to the Complainant per her requests.

[illegible][illegible]

During the investigation, OCR reviewed documents provided by the District and interviewed the Complainant and District staff. As part of its investigation into the District's response to the Complainant's allegations, OCR requested that the District provide its Section 504/Title II grievance procedures and policies. The District submitted two documents. The first one, which has "employee handbook" handwritten at the top, is a 2006 article entitled "Practical Application of Special Education Laws" by Kevin Welner, Counsel for Exceptional Children. The article includes a very brief summary of the differences between an IEP and a Section 504 Plan and states that complaints under Section 504 can be filed with OCR. The District also provided its Notice of Parent and Student Rights under Section 504. OCR reviewed the District's website in October 2019 and was unable to locate any procedures for filing complaints of disability discrimination. OCR spoke with the District's new Director of Student Services on October 28, 2019, who was unable to provide any Section 504 grievance procedures.

OCR determined that the District's response to the Complainant's allegations of disability discrimination was prompt, thorough, and impartial. However, OCR is concerned that the District may not have Section 504 Grievance procedures as required by 34 C.F.R. § 104.7(b).¹ Although the District did not have an official procedure for investigating disability discrimination complaints, the Principal promptly responded to the Complainant's allegations, considered information from the Complainant and interviewed the individuals alleged to have

¹ OCR will provide technical assistance to the District regarding its Section 504 grievance procedures, which should be utilized for any future complaints involving alleged disability discrimination.

discriminated, interviewed other witnesses, and notified the Complainant of the outcome of her complaints. Additionally, although the District did not substantiate any XXXXXXXXXXXXXXXX, the District XXXXXXXXXXXXXXXX to try to remedy the situation.

Prior to the conclusion of OCR's investigation and pursuant to Section 302 of OCR's *Case Processing Manual*, the District expressed an interest in resolving this complaint and OCR determined that a voluntary resolution is appropriate. Subsequent discussions between OCR and the District resulted in the District signing the enclosed Agreement which, when fully implemented, will address all of the allegations raised in the complaint. OCR will monitor the District's implementation of the Agreement.

This concludes OCR's investigation of the complaint. This letter 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 have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

Sincerely,

/s/

Meighan A.F. McCrea
Compliance Team Leader

Enclosure

cc: XXXXXXXXXXXXXXXX