



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

June 11, 2020

Darryll McCall, Ed.D.
Superintendent
By email: darryll_mccall@wrsd.net

Re: Complaint No. 01-16-1314
Wachusett Regional School District

Dear Superintendent McCall:

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 Wachusett Regional School District (District). The Complainant alleged that the District discriminated against preschool students with disabilities who attend the District's Early Childhood Center (the Preschool) and used special education transportation vans. Specifically, the Complainant alleged that these students were dismissed from class approximately five to ten minutes prior to the end of the school day. 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 investigation, OCR reviewed documents provided by the Complainant and the District; and interviewed the Complainant.

The evidence obtained by OCR to date shows that although the District does not typically provide transportation for the District's Preschool students, it provides transportation to some Preschool students with disabilities. During the 2016-2017 school year, the District reported to

OCR that it provided transportation to 56 Preschool students with disabilities and no students without disabilities.¹

During the 2016-2017 school year, the Preschool's full-day session ran from 9:00 am to 2:50 pm. According to the District, students receiving transportation to the Preschool typically arrived at the Preschool by 8:50 am so that they could transition to the classroom and get ready for academic instruction. The District reports that students who did not receive transportation typically arrived at the Preschool between 8:55 am and 9:00 am. It is undisputed that students receiving transportation from the Preschool to their home at the end of the day typically left the classroom prior to students who do not receive transportation.² The District explained to OCR that students receiving transportation left the classroom prior to students who did not receive transportation services in order to allow their car seats to be safely installed and the students to be safely secured in the car seats.

Evidence reviewed to date indicates that the District's practices changed in March 2017 and that there are currently no discrepancies between the arrival and departure times of students receiving transportation services and those who do not receive transportation services.³

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.

¹ As of March 29, 2017, 100 students with disabilities attended the Preschool. 56 of these students received transportation services and 44 did not. 97 students without disabilities attended the Preschool, none of whom received transportation services.

² According to the District, students receiving transportation typically left the classroom between 2:45 pm and 2:50 pm, while the Complainant reports that the District typically dismissed students receiving transportation between 2:40 pm and 2:45 pm.

³ On June 1, 2020, the District provided OCR with a letter from the former principal who verified that the District changed its practices in March 2017 to ensure that all students are dismissed at the same time, regardless of whether the students receive transportation services from the District.

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,

Abra Francois
Compliance Team Leader

Enclosure

cc: Michael Joyce, Esq.
mjj@snclegal.com