



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

June 21, 2019

Christine M. Johnson
Superintendent
The Public Schools of Northborough and Southborough

Via email: cjohnson@nsboro.k12.ma.us

Re: Case No. 01-17-1045 (Northborough-Southborough Public Schools)
Case No. 01-17-1157 (Northborough Public Schools)
Case No. 01-17-1158 (Southborough Public Schools)

Dear Superintendent Johnson:

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 Public Schools of Northborough and Southborough (the Districts).¹ The complaint alleged that restrictions are placed on parents and/or guardians² of students with disabilities regarding classroom visits and observations at all grade-levels in the schools of Northborough and Southborough.

As explained further below, before OCR completed its investigation, the Districts 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) 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) 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. Because the Districts receive federal financial assistance from the Department and are public entities, OCR has jurisdiction over them pursuant to Section 504 and Title II.

¹ The Northborough-Southborough Public Schools are comprised of three school districts containing ten schools that serve students from two towns. OCR docketed the complaint against all three districts since it alleged concerns at schools in each of the three districts.

² Hereinafter, "parent" and "parents" include parents, guardians, and parent agents.

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

Summary of Preliminary Investigation

During the investigation, OCR reviewed documents provided by the Complainant and Districts and interviewed the Complainant. Before OCR completed its investigation, the Districts expressed a willingness to resolve the complaint.

The Complainant alleged that parents of students with disabilities are treated differently than parents of students without disabilities regarding visiting and observing their children at school. The complaint states that parents of a student with a disability who want to visit their child are required to schedule an “observation” through the Districts’ central office, which must be done in advance. Additionally, the complaint alleges that parents of students with disabilities are accompanied by a school administrator when they visit/observe. In contrast, the complaint alleges that parents of students without disabilities can visit their children anytime, without an appointment or school administrator accompaniment, by signing in at the school’s front office. The Complainant reported to OCR that most schools in the Districts have visitation policies, but none have an observation policy.

OCR found that the Districts have several different visitation policies, based on documents that they submitted to OCR. In their narrative response, the Districts told OCR that “visit” refers to entering a school building but does not include going to a classroom while students are engaged in academic instruction. The Districts contrasted this with an “observation,” which they described as viewing academic instruction. OCR found that none of the Districts’ policies distinguish between a “visit” and an “observation,” however. Instead, as the Complainant alleged and OCR confirmed, no schools in the Districts have an observation policy, although most have visitation policies.

The Districts told OCR that they uniformly require that when any parents go into a classroom during academic instruction, they must schedule in advance, in order to minimize disruption to students, teachers, and the educational process. The Districts further stated that any individuals who observe academic instruction are required by state and federal law to sign a confidentiality agreement.

OCR found that the Districts’ various policies and handbooks have different requirements for classroom visits, however. One policy, titled “Parent Visitations – K-150” “suggest[s] ... that an appointment be made,” but also provides that if a parent arrives without an appointment, they may consult with the Principal on arrival, who “will arrange a visitation in consideration of the child or children and the school program at that time.” One school handbook that OCR reviewed states that parents can schedule visits to classrooms directly with teachers. Conversely, several schools’ policies state that visitors need approval from the administration for classroom visits, with some explicitly stating that parents are not allowed into classrooms without appointments.

OCR requested documentation regarding parent requests to conduct an observation. The Districts submitted information regarding 26 observations that were scheduled during the 2015-2016 and 2016-2017 school years. All but one of the students identified received special education services. There was no evidence from OCR’s review of the documents that the observation requested by the regular education student’s parent was handled any differently than

requests made by parents of special education students. The documents confirm that the Districts required scheduling in advance when a parent requested to observe academic instruction, although as noted, the Districts do not have a written “observation” policy.

As described above, OCR did not identify any instances of different treatment in its review of the documentation provided by the Districts. OCR determined that the Districts’ stated policy for “visits” and “observations” does not raise a compliance concern under Section 504 or Title II. However, the official policies submitted by the Districts do not clearly describe the process for requesting an observation or make clear the difference between a “visit” and an “observation.” OCR has a preliminary concern that the Districts’ stated, but unwritten, observation policy could result in unlawful different treatment if not consistently implemented by school administrators. The lack of an official policy regarding observation may be confusing to parents who are seeking to observe or have third parties observe their children in the classroom, and to administrators who are charged with implementing the Districts’ observation policy. OCR has not yet conducted interviews necessary to determine whether the Districts’ current policy and practice constitutes unlawful different treatment. The Districts have stated to OCR that they are willing to adopt a written policy that will clearly define the difference between a “visit” and an “observation,” which will resolve OCR’s concern.

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

This concludes OCR’s investigation of the complaint. This letter should not be interpreted to address the Districts’ 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 Districts 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.

If you have any questions, you may contact Civil Rights Attorney Colleen Robinson at (617) 289-0063 or by e-mail at Colleen.Robinson@ed.gov.

Sincerely,

/s/

Meighan A.F. McCrea
Compliance Team Leader

Enclosure

cc: Leigh W. Mello, Esq.