



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

March 7, 2018

Dr. Gary Cialfi  
Superintendent  
Trumbull Board of Education  
c/o Eric Barba, esq.  
Sent via e-mail to ebarba@berchemmoses.com

Re: Complaint No. 01-18-1008  
Trumbull Board of Education

Dear Dr. Cialfi:

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 Trumbull Board of Education (the District). The complaint alleged that the District failed to provide to participate in the PTA afterschool enrichment program. 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. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Resolution 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 programs and activities that receive 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 District receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

### **Legal Standards**

Based on the information presented, OCR opened for investigation the following legal issues:

1. Whether the District failed to ensure that a qualified student with a disability was not excluded from participation in, denied the benefits of, or otherwise subjected to discrimination involving any of the District's programs, activities, or services in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b) and the Title II implementing regulation at 28 C.F.R. § 35.130.

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

2. Whether the District failed to provide a qualified student with a disability an equal opportunity for participation in non-academic and extra-curricular services and activities in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.37(a).

Under the Section 504 regulation, at 34 C.F.R. § 104.4(b)(1)(v), and the Title II regulation, at 28 C.F.R. § 35.130(b)(1)(v), a District may not aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the District's program or activity. In determining whether a District is providing significant assistance to an outside entity, OCR considers the substantiality of the relationship between the District and the other entity, including financial support by the District, and whether the other entity's activities relate so closely to the District's program or activity that they fairly should be considered activities of the District itself. OCR also looks to any indirect financial support provided by the District, provision of tangible resources such as staff, facilities, and/or materials at no cost or reduced cost; intangible benefits such as the lending of recognition and approval; selectively providing privileges and resources to the private entity; and whether the relationship is occasional and temporary or permanent and long-term. If a District provides significant assistance to an outside entity and the entity is shown to have discriminated on the basis of disability, the District must take steps to obtain compliance from the outside entity or terminate its assistance.

### **Factual Background**

### **Conclusion**

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. Subsequent discussions between OCR and the District resulted in the District signing the enclosed Agreement which, when fully implemented, will resolve the issues raised in these complaints. The terms of the Agreement are aligned with the complaint allegations and are consistent with the applicable laws and regulations. OCR will monitor the District's implementation of the Agreement and continue to do so until it has determined that the District has complied with the terms of the Agreement. Failure to implement the Agreement could result in OCR reopening the complaint.

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.

If you have any questions, you may contact Civil Rights Investigator Molly O'Halloran at (617) 289-0058 or by e-mail at [Molly.O'Halloran@ed.gov](mailto:Molly.O'Halloran@ed.gov).

Sincerely,  
/s/

Ramzi Ajami  
Compliance Team Leader

Enclosure