



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

February 10, 2021

Dr. James Marini
Interim Superintendent of Schools
Public Schools of Brookline
By email: jim_marini@psbma.org

Re: Complaint No. 01-20-1281
Public Schools of Brookline

Dear Dr. Marini:

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 Public Schools of Brookline (District). The Complainant alleges that the District retaliated against the Complainant and an advocate (Advocate) for their disability-based advocacy,¹ by discouraging others from participating in a XXXXXXX XXXXXXX XXXXXXX XXXXXXX XXXXXXX XXXXXXX. The complaint further alleges that the District retaliated against the Advocate by suggesting that individuals should not hire him. 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.

The laws enforced by OCR prohibit retaliation against any individual who asserts rights or privileges under these laws or their implementing regulations, or who files a complaint, testifies, assists, or participates in a proceeding under these laws. 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.

¹ The complaint asserts that the Complainant and Advocate have each filed complaints against the District alleging disability discrimination with agencies including OCR and the Massachusetts Department of Elementary and Secondary Education.

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

The Complainant is the parent of a student in the District; she has filed multiple complaints against the District with the Massachusetts Department of Elementary and Secondary Education Problem Resolution System (PRS). The Advocate has served as an advocate on behalf of the Complainant and families in the District, including by filing XXXXXX XXXXXX against the District with OCR. Additionally, the Complainant and the Advocate are both active members of disability-advocacy groups in the District. On XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX.

The District has a Special Education Parent Advisory Council (SEPAC), which is a parent group that advises the District’s School Committee on matters relating to students with disabilities within the District, as required by Massachusetts General Law Ch. 71B, Section 3. The SEPAC Co-Chairs confer regularly with the Deputy Superintendent for Student Services (Deputy Superintendent) about disability-related matters raised by SEPAC members. The Deputy Superintendent informed OCR that the District provides organizational support to SEPAC, including meeting space, materials, dues, and (on one occasion) legal advice.

On XXXXXX, the Deputy Superintendent responded to an email from a District parent asking about the Complainant/Advocate’s XXXXXX, writing, “Regarding the creation of XXXXXX, I do want families to know that it is not a XXXXXX. Families who wish for support should continue going to [the District’s SEPAC].”

On XXXXXX, after receiving email inquiries from multiple SEPAC board members regarding the Advocate’s ability to represent families in the District, the Deputy Superintendent XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX. She also emphasized that the District was not prohibiting any family from hiring the Advocate.

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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: Colby Brunt, Esq.