



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

March 1, 2022

Dr. Ellen Solek
Interim Superintendent of Schools
Connecticut Technical Education and Career System
By email: ellen.solek@cttech.org

Re: Complaint No. 01-22-1012
Connecticut Technical Education and Career System

Dear Superintendent Solek:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education, Office for Civil Rights (OCR) received against Connecticut Technical Education and Career System, which OCR will refer to as CTECS. The Complainant alleged that CTECS discriminated against her family on the basis of disability. Specifically, the Complainant alleged that CTECS did not provide the Complainant with the notice of procedural safeguards at or after her son's XXXXXXXXXX XX XXXX Section 504 team meeting, and that CTECS informed the Complainant that it does not request accommodations for PSATs¹ for students with Section 504 plans. As explained further below, before OCR completed its investigation, CTECS expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution 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 U.S. Department of Education. 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 U.S. Department of Education. Because CTECS receives federal financial assistance from the U.S. Department of Education and is a public entity, OCR has jurisdiction over CTECS pursuant to Section 504 and Title II.

Because OCR determined that it has jurisdiction and that the complaint was timely filed, OCR opened the following allegations for investigation:

- Whether CTECS failed to provide the Complainant with a notice of procedural safeguards, in violation of 34 C.F.R. Section 104.36, and 28 C.F.R. Section 35.130; and

¹ The PSAT is the Preliminary SAT, a practice version of the SAT exam. The practice exam can be taken by 9th, 10th and 11th graders.

- Whether CTECS failed to implement Section 504 plan provisions for students at XXXXXXXXXXXXXXXX High School, specifically whether during the XXX-XXXX and XXXX-XXXX school years the School failed to request testing-related accommodations for the PSATs for students with Section 504 plans, and whether doing so denied students a free appropriate public education, in violation of 34 C.F.R. Sections 104.33(a) and (b), and 28 C.F.R. Section 35.130.

Summary of Preliminary Investigation

During the investigation, OCR reviewed documents provided by CTECS, and interviewed the Complainant and CTECS staff.

Allegation 1: Testing-Related Accommodations

In its data response, CTECS represented that it does not have a formal policy or procedure addressing the application of accommodations to standardized tests, but that it is CTECS' standard practice to provide students with Section 504 plans with the accommodations listed in their plans for standardized tests, and that it regularly submits requests to the College Board for approval of student accommodations for the PSAT and SAT. However, CTECS informed OCR that the high school does not maintain documentation of requests to the College Board for testing-related accommodations. OCR notes that CTECS did provide a copy of an XXXXXXXXXX XX XXXX log entry documenting that the College Board had been notified that the Complainant's son needed extended time.

For the XXXX-XXXX school year, there were XXXX students at the Student's school who had testing-related accommodations in their Section 504 plans and took the PSAT. For the XXXX-XXXX school year, there were XXXX.

In CTECS' narrative response, it acknowledged that on XXXXXXXXXX XXXXXX, the day of the PSAT, the school XXXXXXXXXX told the Complainant that the high school does not provide accommodations for the practice PSAT in order to see how students perform with "standard testing conditions." An email dated XXXXXXXXXX XX XXXX, from the school XXXXXXXXXX at a different high school, stated that 9th and 10th grade students take the PSAT under standard testing conditions, and that only if testing seemed rushed for 10th grade students whose 504 plans required extended time would the school apply to the College Board for extended time for the 11th grade PSAT. CTECS also produced an email from this same school XXXXXXXXXX sent the previous school year, dated XXXXXXXXXX XX XXXX, instructing recipients to send the following message to students' parents: "XXX XXXX XXXXX XXXXXXX XXXXX XXX XXX XXXXX XXXX XXXX XXXX XXXX XXXX XXXXXXX XXXXXXX XXXXXXX XXX XXX XXXXXXXXXXX XXX XXXXXX XX XXX XXXXX XXX XXX XXXXXXXXXXX XXXX XXX XXXXX XXXXXXXXXXX XXX XXXX XX XXX XXX XXXXXXX XXXXX XXXX XXXXXXXXXXXXXXXXXXX XXXXXXXXXXX XXX XXX XXXX XXXXXXX XXX XXX XXX X XXXX XXXX XXX X XXXXX XXXXXXX XXXXXXXXXXX XXX XX XX XXXXXXX XXX XXXXXXXXXXXXXXXXXXX XXXXXXX XXXXXXX XXXXXXX"

CTECS represented that after the filing of this complaint, it learned that staff at two high schools within the system were under the impression that “because the College Board requires them to attest to the consistent use of accommodations in order for an application to be approved, they have to gather feedback and information before making the request of the College Board.” CTECS stated that this misunderstanding is inconsistent with CTECS’ practice. CTECS provided a XXXXXXXXXXXX XX XXXX email from CTECS’ XXXXXXXXXXXX XXXXXXXX XXXXXXXXXXXX that was sent to Assistant Principals, Guidance Department Heads, and Special Education Department Heads, recommending that before the end of the school year, the College Board be provided updated information as to any accommodations required for 10th grade students and provided information as to the accommodations required for 9th grade students.

Allegation 2: Procedural Safeguards

CTECS represented that it provides the “Section 504 Procedural Safeguards Notice” to parents/guardians at the initial Section 504 meeting, and that it is sent with the parent invitation to the annual review meeting. CTECS provided a copy of the procedural safeguards notice, and its Section 504 Policies and Procedures, which references providing the procedural safeguards notice and provides a template team meeting notice that indicates the procedural safeguards notice should be attached.

CTECS also provided the meeting invitation for the Student’s XXXXXXXXXXXX XXXX Section 504 meeting, which was held virtually and does not reference the procedural safeguards. A XXXXXXXXXXXX XX XXXX email from the school psychologist to Complainant states, “X XXXXXX XXXXXX X XXXXXXXXXXX XXX XXXXXXXXXXX XXXXXXX XXXXXX XXXX XXXXXXXXXXXX XXXX XXXXXXXXXXXX,” and attaches the procedural safeguards.

Legal Standard

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education (FAPE) to each qualified student with a disability in its jurisdiction. An appropriate education is regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and that are developed in compliance with Section 504’s procedural requirements. OCR interprets the Title II regulation, at 28 C.F.R. §§ 35.103(a) and 35.130(b)(1)(ii) and (iii), to require school districts to provide a FAPE to the same extent required under the Section 504 regulation.

In investigating a denial of a FAPE under Section 504, OCR first looks at the services to be provided as written in a student’s plan or as otherwise agreed to by the student’s team. If OCR finds that a district has not implemented a student’s plan in whole or in part, it will examine the extent and nature of the missed services, the reason for the missed services, and any efforts by the district to compensate for the missed services in order to determine whether this failure resulted in a denial of a FAPE.

The Section 504 regulation, at 34 C.F.R. § 104.36, requires that school districts establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of students with disabilities, a system of procedural safeguards that includes notice, an opportunity for parents to examine relevant records, an impartial hearing with an opportunity for participation by parents and representation by counsel, and a review procedure. Section 504 requires districts to provide notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' right to review educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

Analysis

OCR reviewed the information provided by the District and interviewed the Complainant and CTECS staff. The information OCR has reviewed to date raises concerns that the Student's high school, as well as another high school in the system, did not appear to be requesting testing-related accommodations for the PSATs for students on Section 504 plans based solely on their grade level.

Emails sent by the school XXXXXXXXXXXX at the other high school instructed parents that their student was to take the PSAT under regular testing conditions despite those students having Section 504 plans that included testing-related accommodations. The emails indicate that this determination was based solely on the grade level of the student. CTECS also acknowledged that the school XXXXXXXXXXXX at the Student's school informed the Complainant that CTECS does not request accommodations for students on Section 504 plans for the 9th and 10th grade PSAT.

Based on emails provided by CTECS, it also appears that the school XXXXXXXXXXXX did not provide the notice of procedural safeguards to the Complainant at or before the XXXXXXXXXXXX XXXX Section 504 meeting. After OCR's involvement, the school XXXXXXXXXXXX provided the procedural safeguards to the Complainant on XXXXXXXXXXXX XX XXXX.

Conclusion

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

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address CTECS' 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. OCR would like to make you aware that

individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that CTECS 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
XXXXXXXXXX XXXXXXXX
Compliance Team Leader

Enclosure

cc: XXXXXXX XXXXX, CTECS XXXXX XXXXXXXX