



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

8<sup>TH</sup> FLOOR, 5 POST OFFICE SQUARE  
BOSTON, MA 02109-3921

REGION I

CONNECTICUT  
MAINE  
MASSACHUSETTS  
NEW HAMPSHIRE  
RHODE ISLAND  
VERMONT

February 24, 2023

Kenneth D. Saranich, Superintendent  
By email: [ksaranich@sheltonpublicschools.org](mailto:ksaranich@sheltonpublicschools.org)

Re: Complaint No. 01-22-1431  
Shelton Public Schools

Dear Superintendent Saranich:

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 Shelton Public Schools (District). The Complainant alleged that the District discriminated against his daughter (the Student) on the basis of disability. 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.

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 the District receives federal financial assistance from the U.S. Department of Education and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

OCR addressed the following legal issue:

Whether the District failed to evaluate the Student who, because of disability, needed or was believed to need special education or related services, before taking any action with respect to the initial placement of the Student in regular or special education, in violation of 34 C.F.R. Section 104.35(a) and 28 C.F.R. Section 35.130.

**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.

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

[www.ed.gov](http://www.ed.gov)

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. Implementation of an Individualized Education Program (IEP) developed in accordance with the Individuals with Disabilities Education Act is one means of meeting this standard. 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.

The Section 504 regulation, at 34 C.F.R. § 104.35(a), requires a school district to evaluate any student who needs or is believed to need special education or related services due to a disability. A district must conduct an evaluation before initially placing the student in regular or special education and before any subsequent significant change in placement.

### **Findings of Fact**

Connecticut offers its students the opportunity to attend interdistrict magnet schools, which are publicly funded schools that may be operated by local and regional boards of education, regional educational service centers, or cooperative arrangements between two or more districts. On November 19, 2019, the Connecticut Department of Education issued Guidance Related to Special Education Services and Section 504 Plans for Students at Interdistrict Magnet Schools (Connecticut Guidance).<sup>1</sup> That guidance clarified that the district where a student lives is responsible for holding planning and placement team (PPT) meetings and for inviting representatives from the interdistrict magnet school to facilitate the development of an individualized education program (IEP) or Section 504 Plan. The Connecticut Guidance also states that the interdistrict magnet school is responsible for ensuring that the student receives the services required by the student's IEP or Section 504 Plan.

Although the Student XXXXX XXXXX at any time relevant to this complaint. Instead, she XXXXX XXXXX. Currently, the Student XXXXX XXXXX XXXXX. Prior to XXXXX XXXXX, the Student had a Section 504 Plan that was developed in XXXXX. The Complainant XXXXX XXXXX would not participate in the XXXXX evaluation.<sup>2</sup> A Section 504 Plan was not developed when the Student transferred to the XXXXX.

In XXXXX, the XXXXX XXXXX XXXXX in an upcoming evaluation of the Student. The Complainant preferred that the XXXXX evaluate the Student since that is the XXXXX XXXXX. The District's Superintendent did not dispute to OCR the District's obligation to evaluate students XXXXX.

---

<sup>1</sup> <https://portal.ct.gov/SDE/School-Choice/CT-School-Choice/Interdistrict-Magnet-Schools/School-Choice-Programs/FAQ>,

<sup>2</sup> OCR notes that at this time, Connecticut had not clarified XXXXX XXXXX XXXXX.

### **Analysis**

OCR has a concern that the District may have failed to comply with Section 504 by failing to evaluate the Student for special education or related aids and services, despite the District having information that she may be a student with a disability XXXXX XXXXX. It is undisputed that the Student resides in the District, and OCR found that by XXXXX, the District was on notice that she may be a student with a disability, and in need of an evaluation regarding eligibility for services, as a result of the XXXXX XXXXX. While OCR recognizes that the Complainant requested that XXXXX XXXXX, it was the responsibility of the XXXXX district to evaluate the Student for special education or related aids and services.

### **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 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.

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 a 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  
Supervisory Civil Rights Attorney

Enclosure