



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION II

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NEW JERSEY  
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September 29, 2014

Dean Lucera  
Superintendent  
Eastern Suffolk Board of Cooperative Educational Services  
201 Sunrise Highway  
Patchogue, New York 11772

Re: Case No. 02-14-1282  
Eastern Suffolk Board of Cooperative Educational Services

Dear Superintendent Lucera:

This letter is to notify you of the determination made by the U.S. Department of Education, New York Office for Civil Rights (OCR) with respect to the above-referenced complaint filed against the Eastern Suffolk Board of Cooperative Educational Services (the ES BOCES). The complainant alleged that the ES BOCES discriminates against students by failing to publish a nondiscrimination notice that is in compliance with the laws and regulations OCR enforces.

OCR is responsible for enforcing: Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d et seq., and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in programs and activities receiving financial assistance from the U.S. Department of Education (the Department); Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in programs and activities receiving financial assistance from the Department; the Age Discrimination Act of 1975 (the Age Discrimination Act), 42 U.S.C. § 6101 et seq., and its implementing regulation at 34 C.F.R. Part 110, which prohibit discrimination on the basis of age in programs and activities receiving financial assistance from the Department; Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities receiving financial assistance from the Department; Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35, with respect to complaints alleging discrimination on the basis of disability that are filed against certain public entities; and the Boy Scouts of America Equal Access Act (the Boy Scouts Act), 20 U.S.C. § 7905, and its implementing regulation at 34 C.F.R. Part 108, which address equal access to school facilities and certain other youth groups.

The ES BOCES is a recipient of financial assistance from the Department and is a public elementary and secondary education system. Therefore, OCR has jurisdictional authority to investigate this complaint under Title VI, Title IX, the Age Discrimination Act, Section 504, the ADA, and the Boy Scouts Act.

In its investigation, OCR reviewed documentation that BOCES submitted. OCR made the following determinations.

*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)

The regulations implementing Title VI, Title IX, Section 504, the Age Discrimination Act, and the Boy Scouts Act contain requirements for recipients to notify beneficiaries and others of its obligations under the respective regulation and/or that it does not discriminate. (See 34 C.F.R. §§ 100.6(d), 106.9, 104.8, 110.25, and 108.9, respectively.) The regulation implementing Title II of the ADA also contains a notice requirement that applies to all entities of state or local government, whether or not they receive federal financial assistance. (See 28 C.F.R. § 35.106.)

OCR determined that the ES BOCES's website contained a notice of non-discrimination indicating that the ES BOCES does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities; however, the non-discrimination notice failed to state that the ES BOCES provides equal access to the Boy Scouts and other designated youth groups. The regulation implementing the Boy Scouts Act, at 34 C.F.R. § 108.9, requires that recipients notify beneficiaries and others that it provides equal access to the Boy Scouts and other designated youth groups.<sup>1</sup>

Further, the regulation implementing Title IX, at 34 C.F.R. § 106.9(a), requires recipients to notify beneficiaries and others that inquiries concerning the application of Title IX may be referred to the recipient's Title IX coordinator or to OCR. Although the notice stated that discrimination inquiries, including Title IX inquiries, may be generally referred to a "Civil Rights Compliance Officer," it did not mention OCR.

During the course of OCR's investigation, the ES BOCES communicated its willingness to voluntarily resolve the complaint prior to the conclusion of OCR's investigation. Accordingly, on September 23, 2014, the ES BOCES voluntarily entered into a resolution agreement (attached) with OCR. OCR will monitor implementation of the resolution agreement. If the ES BOCES fails to implement the terms of the resolution agreement, OCR will resume its investigation.

This letter sets forth OCR's determination in an individual 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.

Please be advised that the ES BOCES may not harass, coerce, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this letter and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have questions regarding OCR's determination, please contact David Hensel, Compliance Team Attorney, at (646) 428-3778 or [david.hensel@ed.gov](mailto:david.hensel@ed.gov); Anthony Spinelli, Compliance Team Investigator, at

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<sup>1</sup> The regulation implementing the Boy Scouts Act, at 34 C.F.R. § 108.9, requires this by reference to the regulations implementing Title VI at 34 C.F.R. § 100.6(d).

(646) 428-3789 or [anthony.spinelli@ed.gov](mailto:anthony.spinelli@ed.gov); or Félice A. Bowen, Compliance Team Leader, at (646) 428-3806 or [felice.bowen@ed.gov](mailto:felice.bowen@ed.gov).

Very truly yours,

Timothy C. J. Blanchard

Enc.

cc: XXXX XXXX, XXX.