

April 15, 2015

Dr. Michael Yazurlo
Superintendent of Schools
Yonkers Public School District
One Larkin Center
Yonkers, New York 10701

Re: Case No. 02-15-1040
Yonkers Public School District

Dear Dr. Yazurlo:

This letter is to notify you of the determination made by the U.S. Department of Education, New York Office for Civil Rights (OCR) regarding the above-referenced complaint the complainant filed against the Yonkers Public School District (the District). The complainant alleged that the District discriminated against her son (the Student), on the basis of his disability, by failing to provide the Student with: (a) speech therapy; (b) occupational therapy (OT); (c) physical therapy (PT); and (d) transportation for speech therapy, OT, and PT, as required by his individualized education program (IEP), during school year 2014-2015.

OCR is responsible for enforcing 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 or activities receiving financial assistance from the U.S. Department of Education (the Department). OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Under the ADA, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The District 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 both Section 504 and the ADA.

In its investigation, OCR interviewed the complainant and a representative of the District. OCR also reviewed information and documentation that the complainant and the District submitted.

The complainant alleged that the District discriminated against the Student, on the basis of his disability, by failing to provide the Student with speech therapy; OT; PT; and transportation for speech therapy, OT, and PT, as required by the Student's IEP, during school year 2014-2015.

District fails to comply with the terms of the resolution agreement, OCR will resume its investigation.

With regard to Allegation 1(d), OCR determined that neither the Student's XXXXX IEP nor the XXXXX IEP required the District to provide transportation to the Student. Therefore, OCR did not find sufficient evidence that the District discriminated against the Student, on the basis of his disability, by failing to provide transportation to the Student for school year 2014-2015. Based on the above, OCR is closing Allegation 1(d) as of the date of this letter.

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 may not harass, coerce, intimidate, 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 document and related correspondence and records upon request. In the event that OCR receives such a request, OCR 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 any questions, please contact Genara Necos, Compliance Team Attorney, at (646) 428-3828 or genara.necos@ed.gov; Jane Tobey Momo, Senior Compliance Team Attorney, at (646) 428-3763 or jane.momo@ed.gov; or Nadja Allen Gill, Compliance Team Leader, at (646) 428-3801 or nadja.r.allen.gill@ed.gov.

Sincerely,

/s

Timothy C.J. Blanchard

Enc.