



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
32 OLD SLIP, 26TH FLOOR
NEW YORK, NEW YORK 10005

TIMOTHY C. J. BLANCHARD
DIRECTOR
NEW YORK OFFICE

June 8, 2020

By email only to ddooley@abseconschools.org

Dr. Daniel J. Dooley
Superintendent of Schools
Absecon Public Schools
800 Ireland Avenue
Absecon, New Jersey 08201

Re: Case No. 02-20-1128
Absecon Public Schools

Dear Dr. Dooley:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), regarding the above-referenced complaint filed against the Absecon Public Schools (the District). The Complainant alleged that the District discriminated against XXXXXXXX (the Student), on the basis of his disability, by failing to consider a request that the Student's parent (the Parent) made for bus transportation for the Student for school year 2019-2020, during a meeting to discuss the Student's Individualized Education Program (IEP) on XXXX XX, 2019.

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 and activities receiving financial assistance from the U.S. Department of Education (the Department). OCR also is responsible for enforcing 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. 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 Section 504 and the ADA.

During the course of the investigation, OCR reviewed documents that the Complainant and the District submitted. OCR also interviewed the Complainant and the Parent. OCR made the following determinations.

to the Student as a related service. With respect to transportation, the IEP stated that the Student's transportation is per the "District Policy."³

In XXXX 2019, the Complainant or the Parent provided medical documentation to the District, dated XXXX XX, 2019, which recommended "special education transportation to and from school." By letter dated XXXX XX, 2019, the Director informed the Parent that the "Child Study Team is rejecting" the medical documentation, dated XXXX XX, 2019, due to "inaccuracies of reported and recorded information"; however, the District did not provide any documentation to support that a CST convened to make this determination. The Student did not receive transportation services from the District during school year 2019-2020.

Prior to OCR's completing the investigation, on June 1, 2020, the District signed the enclosed agreement to resolve the complaint without further investigation. OCR will monitor the implementation of the resolution agreement. Upon the District's satisfaction of the commitments made under the agreement, OCR will close the case.

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 the individual has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a 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, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

³ According to District Policy, the District provides transportation to students who "live remote" from the school as defined by New Jersey law, or students whose route to school is deemed hazardous by the board. The District will also provide transportation to disabled students in accordance with their IEPs.

If you have any questions regarding OCR's determination, please contact Jonathon LeBeau, Compliance Team Investigator, at (646) 428-3790 or jonathon.lebeau@ed.gov; R. Colin Power, Compliance Team Attorney, at (646) 428-3832 or r.colin.power@ed.gov; or Anna Moretto Cramer, Compliance Team Leader, at (646) 428-3826 or anna.moretto.cramer@ed.gov.

Sincerely,

/s/

Timothy C. J. Blanchard

Encl.

cc: Brett Gorman, Esq.