



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

32 OLD SLIP, 26TH FLOOR
NEW YORK, NEW YORK 10005

RACHEL POMERANTZ
DIRECTOR
NEW YORK OFFICE

September 23, 2022

Sent via email only to: jalicea@scsd.us

Jaime Alicea
Superintendent of Schools
Syracuse City School District
725 Harrison Street
Syracuse, New York 13210

Re: Case No. 02-22-1207
Syracuse City School District

Dear Superintendent Alicea:

By letter dated May 11, 2022, the U.S. Department of Education, Office for Civil Rights (OCR) notified you that it would investigate a complaint filed against the Syracuse City School District. The Complainant alleged that the District discriminated against students with disabilities by placing high school students with disabilities in the GED program without first:

- conducting an evaluation or reevaluation prior to a significant change in placement, as required by the regulation implementing Section 504 of the Rehabilitation Act of 1973 (Section 504), at 34 C.F.R. § 104.35(a);
- ensuring that the placement decision was made by a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options, as required by the regulation implementing Section 504, at 34 C.F.R. § 104.35(c); and
- demonstrating that the education of the student in the regular educational environment, even with the use of supplementary aids and services, cannot be achieved satisfactorily, as required by the regulation implementing Section 504 at 34 C.F.R. § 104.34(a).

OCR enforces 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 Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. As a recipient of Federal financial assistance from the Department, the District is subject to Section 504. As a public elementary and secondary education system, the District is subject to Title II.

On June 20, 2022, the District advised OCR that in the spring of 2022, the District's Office of Special Education identified certain compliance issues relating to the placement of high school students with disabilities who were enrolled in the District's GED programs without the District's first convening Section 504 or Committee on Special Education (CSE) meetings (collectively, "the Students") in school years 2020-2021 and 2021-2022. The District advised OCR that in response to this internal finding, the District created and began implementing a plan of corrective action in spring 2022.

Pursuant to Section 203 of OCR's *Case Processing Manual*, on August 10, 2022, OCR contacted the District to discuss OCR's Rapid Resolution Process (RRP)¹ and the District communicated its willingness to voluntarily resolve the OCR complaint through RRP. On September 21, 2022, the District voluntarily entered into the attached resolution agreement to resolve the complaint, in accordance with Section 302 of OCR's *CPM*. The District agreed that it will convene a group of persons knowledgeable about the Students, such as the Section 504 committee or CSE, to evaluate and determine the appropriateness of the Students' current placements and whether the Students require any remedial and/or compensatory services. If the group of knowledgeable persons determines that the Students should receive different placements and/or require remedial and/or compensatory services, the group will develop a plan for identifying and assigning the Students to new placements and for providing remedial and/or compensatory services to the Students, by December 31, 2022. The District also agreed to provide training to staff members and administrators who are responsible for evaluating high school students and making determinations regarding educational placements and special education and/or related aids and services, as well as staff members and administrators responsible for making placement decisions related to the GED programs. OCR will monitor the District's implementation of the resolution agreement. Upon the District's compliance with the terms of the Agreement, and Section 504 and its implementing regulation at 34 C.F.R. Part 104, and Title II and its implementing regulations at 28 C.F.R. Part 35, which were at issue in this case, OCR will close the case.

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 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 against the District 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, 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.

¹ *CPM* (July 18, 2022) at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

If you have any questions, please contact Lisa Khandhar, Compliance Team Attorney, at (646) 428-3778 or lisa.khandhar@ed.gov; Stacy Bobbitt, Compliance Team Investigator, at (646) 428-3823 or stacy.bobbitt@ed.gov; or me at (646) 428-3796 or jocelyn.panicali@ed.gov.

Sincerely,

/s/

Jocelyn Panicali
Compliance Team Leader

Attachment

cc: Melinda Bowe, Esq.