



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

32 OLD SLIP, 26<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10005

RACHEL POMERANTZ  
DIRECTOR  
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August 16, 2022

Sent by email only to [LBerman7@schools.nyc.gov](mailto:LBerman7@schools.nyc.gov)

David C. Banks  
Chancellor  
New York City Department of Education  
Tweed Courthouse  
52 Chambers Street  
New York, New York 10007

Re: Case No. 02-22-1338  
New York City Department of Education

Dear Chancellor Banks:

On June 22, 2022, the U.S. Department of Education, Office for Civil Rights (OCR) received the complaint filed against the New York City Department of Education (NYCDOE). The Complainant alleged that her son's teacher retaliated against her son for the Complainant filing a prior OCR complaint (Case No. 02-22-1134) by rejecting a field trip permission slip, on or about June 22, 2022.

OCR enforces 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 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, NYCDOE is subject to Section 504. As a public elementary and secondary education system, the NYCDOE is subject to Title II.

On August 2 and 5, 2022, OCR contacted the NYCDOE to provide notice of the complaint and discuss OCR's Rapid Resolution Process (RRP). On August 5, 2022, the NYCDOE communicated its willingness to voluntarily resolve the OCR complaint through RRP. On August 16, 2022, the NYCDOE voluntarily entered into the attached resolution agreement to resolve the complaint, in accordance with Section 302 of OCR's *Case Processing Manual*.<sup>1</sup> The NYCDOE agreed to provide a written reminder to staff responsible for processing and overseeing the review

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

of student permission slips for field trips at the P.S. 017 Henry D. Woodworth School regarding the NYCDOE's obligations and prohibitions against discrimination and retaliation under Section 504 and Title II. OCR will monitor the NYCDOE's implementation of the resolution agreement. Upon the NYCDOE's compliance with the terms of the Agreement, Section 504 and its implementing regulation at 34 C.F.R. Part 104 and Title II and its implementing regulation at 28 C.F.R. Part 35, which were at issue in this case, OCR will close the case.

This letter should not be interpreted to address the NYCDOE'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 NYCDOE 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 NYCDOE 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.

If you have any questions, please contact Geraldo Perez, Compliance Team Investigator, at (646) 428-3835 or [geraldo.perez@ed.gov](mailto:geraldo.perez@ed.gov); or David Krieger, Senior Compliance Team Attorney, (646), at (646) 428-3893 or [david.krieger@ed.gov](mailto:david.krieger@ed.gov).

Sincerely,

/s/

Eboné Woods  
Compliance Team Leader

cc: Henry Chou, Esq.

Encl.