



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  
NEW YORK OFFICE

January 4, 2023

*Sent via email only to:* [sgoncalves@bloomfield.k12.nj.us](mailto:sgoncalves@bloomfield.k12.nj.us)

Salvatore Goncalves  
Superintendent of Schools  
Administration Building  
Bloomfield Township School District  
155 Broad Street  
Bloomfield, New Jersey 07003

Re: Case No. 02-22-1382  
Bloomfield Township School District

Dear Superintendent Goncalves:

By letter dated October 12, 2022, the U.S. Department of Education, Office for Civil Rights (OCR) notified you that it would investigate a complaint filed against the Bloomfield Township School District. The Complainant alleged that the District discriminated against his son (the Student) on the basis of his disability by: disciplining the Student for conduct related to his disability without determining whether the conduct was a manifestation of his disability between January and June 2022 (Allegation 1); and disciplining the Student more severely than students without disabilities during school year 2021-2022 (Allegation 2).

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

On November 28, 2022, OCR contacted the District to discuss OCR's Rapid Resolution Process (RRP) pursuant to Section 203 of OCR's *Case Processing Manual (CPM)*.<sup>1</sup> On November 28, 2022, the District communicated its willingness to voluntarily resolve the OCR complaint through

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

RRP. On January 4, 2023, 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 to convene a meeting of a group of persons knowledgeable about the Student, such as the Section 504 committee, to conduct a manifestation determination review(s) (MDR) regarding the disciplinary incidents that led to the Student's suspensions/removals from school for 10 or more consecutive school days and/or a series of removals from class or school that together totaled more than 10 school days during school year 2021-2022. If the District determines that the Student's behaviors were related to his disability or that the District's failure to implement his Section 504 plan resulted in the Student's behaviors, the District will expunge all records pertaining to the discipline it imposed on the Student for each relevant incident; and determine, whether the Student requires remedial and/or compensatory services as a result of his exclusion(s) from school. If the group of knowledgeable persons determines that the Student requires remedial and/or compensatory services, the group will develop a plan for providing such services.

The District also agreed to review all disciplinary incidents for which the Student received a sanction during school year 2021-2022 and determine on a case-by-case basis whether the sanction(s) the District imposed was consistent with (1) its Code of Conduct and (2) the sanction(s) the District imposed on other students for the same offense(s). If the District determines that the Student received a harsher consequence than set forth in its Code of Conduct or than other students who engaged in similar behavior, the District will take remedial action including expunging the records regarding each incident and providing the Complainant with written notification of the change to the Student's records.

The District further agreed to review the disciplinary files of all students with disabilities eligible to receive special education and/or related aids and services under Section 504, enrolled at Bloomfield Middle School who received suspensions of 10 or more consecutive days and/or a series of removals from class or school that together total more than 10 school days during school year 2021-2022, to determine if the District conducted MDRs for the students, in accordance with Section 504. Following this review, where appropriate, the District will convene a group of persons knowledgeable about each student with a disability eligible to receive special education and/or related aids and services under Section 504 for whom the District did not hold an MDR, to determine whether the student requires any compensatory and/or remedial services as a result of the District's not conducting an MDR(s). If the group of knowledgeable persons determines that a student requires compensatory and/or remedial services, the group of knowledgeable persons will develop a plan for providing such services. If the group of knowledgeable persons determines during the meeting that the student received exclusionary discipline during school year 2021-2022, as a result of behavior that was, at that time, a manifestation of the student's identified disabilities, the District will expunge the discipline record(s) of those infractions that were determined to be a manifestation of the student's disabilities.

The District also agreed to develop policies and procedures for conducting MDRs for students with disabilities who have Section 504 plans consistent with the requirements of Section 504, including appropriate considerations for determining whether a student's behavior is caused by or substantially related to their disability.

Additionally, the District agreed to train all District administrators and District staff members who are responsible for imposing discipline on students and providing special education and related aids and services regarding the requirements of Section 504 as they pertain to disciplining students with disabilities.

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.

If you have any questions, please contact Lisa Khandhar, Compliance Team Attorney, at (202) 987-1417 or [lisa.khandhar@ed.gov](mailto:lisa.khandhar@ed.gov); Karen McDowell, Compliance Team Attorney, at (646) 428-3735 or [karen.mcdowell@ed.gov](mailto:karen.mcdowell@ed.gov); or me, at (646) 428-3796 or [jocelyn.panicali@ed.gov](mailto:jocelyn.panicali@ed.gov).

Sincerely,

/s/

Jocelyn Panicali  
Compliance Team Leader

Attachment

cc: Nicholas Dotoli, Esq.