



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

January 12, 2015

IN RESPONSE, PLEASE REFER TO: 03141185

Dr. Susan Ursprung
Superintendent
Donegal School District
1051 Koser Road
Mount Joy, PA 17552

Dear Dr. Ursprung:

This is to notify you of the resolution of the above-reference complaint filed with the Office for Civil Rights (OCR), U.S. Department of Education (the Department), against Donegal School District (the District). The Complainant alleged that the District discriminated against XXXXXX (the Student), on the basis of disability. Specifically, the Complainant alleged that the District discriminated against the Student on the basis of disability by:

1. Failing to implement the provisions of the Student's Individualized Education Program (IEP) pertaining to XXXXXX; and
2. Limiting the Student's participation in XXXXXX.

OCR enforces:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities.

The Section 504 regulation, at 34 C.F.R. § 104.4, prohibits discrimination against qualified individuals with disabilities by recipients of Federal financial assistance. Such unlawful discrimination includes different treatment in providing any aid, benefit, or service or denial of the opportunity to participate in or benefit from the aid, benefit, or service. The Section 504 regulation at 34 C.F.R. § 104.33(a) requires public school districts to provide a free appropriate public education to each qualified student with a disability in their jurisdiction. The provision of an appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of the student with a disability as adequately as the needs of non-disabled students are met and are based upon adherence to procedures that satisfy the requirements of 104.34, 104.35, and 104.36. The term "appropriate education" is defined under 34 C.F.R. §104.33(b) to mean the provision of regular or special education and related aids and services that (i) are designed to meet the individual educational

needs of disabled persons as adequately as the needs of persons without disabilities are met and (ii) are based upon adherence to the Section 504 regulation's procedural requirements. 34 C.F.R. Section 104.33(b)(2) states that implementation of an individualized education program (IEP) developed in accordance with the Individuals with Disabilities Education Act is one means of meeting the standard established in paragraph (b)(1)(i). The Section 504 regulation at 34 C.F.R. § 104.37 requires recipients to provide non-academic and extracurricular services and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities. The Title II implementing regulations do not set lesser standards than those under Section 504, but have been interpreted to adopt the standards of Section 504 in areas where Title II has not adopted a different standard.

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a resolution agreement. The provisions of the resolution agreement must be aligned with the complaint allegations or the information obtained during the investigation, and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the District, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the District requested to resolve this complaint through a resolution agreement, which was executed by the District on January 6, 2015. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the District's implementation of the Agreement.

Accordingly, OCR is concluding its investigation of this allegation as of the date of this letter. This letter is not intended, nor should it be construed, to cover any other issues regarding the District's compliance with Section 504 and Title II and their implementing regulations that may exist and are not discussed herein. You may have the right to file a private lawsuit 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, we 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 Marcia Jones, Equal Opportunity Specialist at (215) 656-8555 or by email at Marcia.Jones@ed.gov.

Sincerely,

/s/
Rhasheda S. Douglas
Team Leader