



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

December 16, 2014

IN RESPONSE, PLEASE REFER TO: 03141226

Dr. Otto Thomas
Superintendent
Altoona Area School District
1415 Sixth Avenue
Altoona, PA 16602

Dr. Otto Thomas:

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

1. XX - paragraph redacted – XX
2. Failing to notify her of her procedural safeguards during or after the meeting.

OCR is responsible for enforcing:

- Section 504 of the Rehabilitation Act of 1973, 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), and its implementing regulation at 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities such as elementary and secondary education systems.

The District is a recipient of Federal financial assistance and a public entity and is, therefore, subject to Section 504, the ADA, and their implementing regulations.

On December 5, 2014, the Complainant notified OCR that she wished to withdraw allegation #1 because the matter had been resolved. OCR will administratively close a complaint allegation when a complainant informs OCR that they wish to withdraw it. Accordingly, OCR is honoring the Complainant's request and is administratively closing Allegation #1 effective the date of this letter.

With regard to allegation #2, the Section 504 regulations at 34 C.F.R. § 104.36 require that a recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an

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opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Title II of the ADA is interpreted consistently with Section 504 in each of these areas.

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 allegation #2 through a resolution agreement, which was executed by the District on December 11, 2014. 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 complaint 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, Title II or their implementing regulations that may exist and are not discussed herein. The Complainant 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.

Thank you for your cooperation in this matter. If you have any questions, please contact Ms. Marcia Jones at 215-656-8555 or Marcia.Jones@ed.gov.

Sincerely,

/s/

Joseph P. Mahoney
Program Manager

cc: Ms. Donna Messner

Enclosure