



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

May 22, 2015

IN RESPONSE, PLEASE REFER TO: 03151024

Dr. Tina Chekan
Superintendent
Propel Schools
3447 East Carson Street, Suite 200
Pittsburgh, PA 15203

Dear Dr. Chekan:

This is to notify you of the resolution of the complaint that was filed with the U.S. Department of Education (the Department), Office for Civil Rights (OCR), against XXXXXX (the School) alleging discrimination on the basis of disability. Specifically, XXXXXX (the Complainant) alleged that the School discriminated against XXXXXX, XXXXXX (the Student), on the basis of disability by failing to respond to his complaints of disability harassment and XXXXXX:

- a. XXXXXX, and;
- b. 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. OCR also enforces 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. As a recipient of Federal financial assistance from the Department and a public entity, the School is subject to the provisions of Section 504 and Title II and their implementing regulations.

Section 504 and the Title II define disability as (1) a physical or mental impairment that substantially limits a major life activity; (2) a record of such an impairment; or (3) being regarded as having such an impairment. Under the regulation implementing Title II, at 28 C.F.R. §§ 35.104: The phrase is regarded as having an impairment means— (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation; (ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

Bullying of a student on the basis of his or her disability may result in a disability-based harassment violation under Section 504 and Title II. When a school knows or should know of bullying conduct based on a student's disability, it must take immediate and appropriate action to investigate or otherwise determine what occurred. If a school's investigation reveals that bullying based on disability created a hostile environment—i.e., the conduct was sufficiently serious to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school—the school must take prompt and effective steps reasonably calculated to end the bullying, eliminate the hostile environment, prevent it from recurring, and, as appropriate, remedy its effects. OCR would find a disability-based harassment violation under Section 504 and Title II when: (1) a student is bullied based on a disability; (2) the bullying is sufficiently serious to create a hostile environment; (3) school officials know or should know about the bullying; and (4) the school does not respond appropriately.

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 Voluntary Resolution Agreement. The provisions of the Agreement must be aligned with the complaint allegations and be consistent with applicable regulations. Such a request does not constitute an admission of liability on the part of a recipient, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the School requested to resolve the complaint through a Voluntary Resolution Agreement (the Agreement), which was executed on May 22, 2015. Accordingly, OCR is concluding its investigation of this complaint. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the School's implementation of the Agreement.

This letter is not intended, nor should it be construed, to cover any other issues regarding the School compliance with Section 504 or Title II and 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 School 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 feel free to contact Sarah McCarthy, Attorney, at (215) 656-6416, or by email at sarah.mccarthy@ed.gov, or DeShawn Jones, Investigator, at (215) 656-3242, or by email at deshawn.jones@ed.gov.

Sincerely,

/s/

Vicki Piel
Supervisory Attorney and Team Leader
Philadelphia Office

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Enclosure

Cc: Jean Novak, Counsel for School (jnovak@smgglaw.com)