



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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December 21, 2016

Dr. S. Dallas Dance
Superintendent
Baltimore County Public Schools
6901 Charles Street
Towson, Maryland 21204

RE: OCR Compliance Review No. 03-15-5002

Dear Dr. Dance:

This is to inform you of the resolution of the compliance review of the Baltimore County Public Schools (the District) initiated by the U.S. Department of Education's Office for Civil Rights (OCR) under Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131 et. seq.

OCR enforces Section 504 and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces Title II and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. As a recipient of Federal financial assistance and a public entity, the District is subject to Section 504, Title II, and their implementing regulations.

The compliance review assessed whether students with disabilities in the District are afforded the same opportunity as students without disabilities to access career and technical education opportunities offered at the District's Eastern Technical High School (Eastern) and Western School of Technology and Environmental Science (Western), referred to collectively as "the Schools." OCR also assessed whether the District has policies, procedures, and practices regarding recruiting and enrolling students that discriminate by excluding qualified students with disabilities from the Schools' career and technical education program. Additionally, the review examined the Schools' policies, procedures, and practices as they relate to the provision of a free appropriate public education (FAPE) for students with disabilities who attend the Schools. OCR also obtained information from the District, conducted interviews of District and School personnel, reviewed students' educational records and application records, and visited

the Schools from April 13 through April 15, 2016. In addition, OCR obtained information from staff at the District's middle schools through the administration of a survey.

As a result of its investigation, OCR found insufficient evidence of a violation of Section 504 and Title II regarding two of the issues under review. Specifically, OCR found insufficient evidence of different treatment in the opportunities provided to students with disabilities to access educational opportunities at the Schools and insufficient evidence of discrimination in the Schools' policies, procedures, and practices as they relate to the provision of FAPE to students with disabilities who attend the Schools.

During the course of OCR's investigation, the District requested to resolve the issue of whether the District has policies, procedures, and practices in place that have a discriminatory disparate impact on students with disabilities by excluding qualified students with disabilities from the Schools' programs. Prior to concluding the investigation of this issue, the District signed the enclosed Resolution Agreement on November 17, 2016, which when fully implemented, will resolve this issue.

OCR's findings and conclusions are discussed below, including the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Resolution Agreement.

Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.4(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. The Section 504 regulation also prohibits recipients of Federal financial assistance from utilizing criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disabilities.

The Title II regulation, at 28 C.F.R. § 35.130, provides that a public entity may not afford a qualified disabled person with an opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded to others. Title II has been interpreted to adopt the standards of Section 504 in areas where Title II has not adopted a different standard. Since Title II does not specifically address discrimination in public elementary and secondary education programs, OCR has applied the Section 504 standards in conducting this investigation.

To determine whether individuals with disabilities are subject to unlawful discrimination as described above, OCR applies a different treatment analysis and a disparate impact analysis. In a different treatment analysis, OCR first determines whether there is sufficient evidence to establish an initial or prima facie case of discrimination. Specifically, OCR determines whether a recipient treats individuals with disabilities less favorably than similarly situated individuals

without disabilities. If so, OCR then determines whether the recipient has a legitimate, nondiscriminatory reason for the difference in treatment. Finally, OCR determines whether the reason given by the recipient is a pretext, or excuse, for unlawful discrimination. In a disparate impact analysis, OCR considers whether a neutral qualification standard or selection criterion screens out individuals with a disability on the basis of disability when these individuals satisfy other requirements. If so, the recipient may then prove that such a standard is educationally necessary and there are no alternatives with a lesser impact, or prove that an individual with a disability could not meet the standard with reasonable accommodation or modification.

In addition, the Section 504 regulation contains several requirements related to the rights of qualified students with disabilities. Specifically, Section 504, at 34 C.F.R. § 104.33, requires a recipient that operates a public elementary or secondary education program or activity to provide a free appropriate public education to each qualified nondisabled person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. A recipient that operates a public elementary or secondary education program or activity must also conduct an evaluation in accordance with the requirements of Section 504 regulations of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement. In interpreting evaluation data and making placement decisions, a recipient must (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with the Section 504 regulation's requirements. 34 C.F.R. §§ 104.35 (a), (b), and (c).

The Section 504 implementing regulation, at 34 C.F.R. § 104.36, requires that a recipient that operates a public elementary or secondary education program or activity must also 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 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.

Factual Background

The District is the 25th largest school district in the U.S. and is third largest in Maryland. The District is comprised of 161 schools: 106 elementary schools; 27 middle schools; 24 high schools; and four special education schools. Of the 24 high schools, there are 15 magnet high school programs. Eleven of these magnet programs are housed within a regular high school. Four are purely magnet high schools. These are George Washington Carver Center for Arts and

Technology, Sollers Point Technical High School, and those that are the subject of this review, Eastern Technical High School and Western School of Technology and Environmental Science.

Enrollment data for the District during the 2015-2016 school year shows that for all grade levels, 14.9% of the students enrolled in the District received disability-related services. The percentage enrollment of students with disabilities at all District high schools was 16.8%. By contrast, the enrollment of students with disabilities at the Schools was lower than both the District-wide average and the high school average. Specifically, 3.1% of students at Eastern and 7.9% of students at Western received disability-related services during the 2015-2016 school year.

District's Magnet School Recruitment, Advertising, and Application Process

Each of the high school magnet programs offered by the District is competitive, and students must apply for admission. While there are 15 magnet high schools, students may only apply to a maximum of three schools, with no more than one program selection at each. The type and number of programs offered at each magnet school varies.

The District's Rule 6400 governs the application, admission, and enrollment process for magnet programs in the District. Rule 6400 stipulates that the Office of Magnet Programs (Magnet Office) will: develop equitable recruitment strategies; assist in the recruitment of applicants which "reflects the diversity of the school system"; establish the magnet application deadline for each school year; make magnet program applications and brochures available at all District schools, at the Magnet Office, and on the District's website; and provide printed applications to each school for distribution. Rule 6400 also requires that the Office of Educational Options review and approve annually the admission criteria for each secondary magnet program to ensure the admission criteria is educationally related to the specialized curriculum or instructional strategy. This Office of Educational Options is also tasked with annually assessing the extent to which the magnet program's enrollment reflects the diversity of the District and establishing recruitment goals for groups that are underrepresented in magnet programs.

The Magnet Office is responsible for reviewing applications and determining eligibility. If an application is incomplete or an applicant is ineligible for a selected program, the parent will be notified. For secondary programs, academic grades and other performance factors, such as attendance, may be evaluated. Rule 6400 also has a section called "Priority Placements," which explains that up to 20% of available seats in the program will be filled first with qualified applicants who show exceptional commitment and promise in the specialized program, as evidenced by performance on the magnet assessment. With regard to assessments for secondary programs, Rule 6400 contains a section on Documented Testing Accommodations. This explains that students with Individualized Education Programs (IEPs), Section 504 plans or, for private school students, accommodation plans, will receive appropriate accommodations during the assessment. Admissions decisions are made by the Magnet Office. For students who are qualified by earning a total score of 80 on the admissions criteria, a random lottery is conducted to fill the available seats and to create a wait list.

OCR interviewed the Coordinator and other staff of the Magnet Office. These individuals described a very interactive process between their Office, District schools, parents, and students. The Magnet Office responds to parents' questions regarding program availability, admissions criteria, and any other questions a parent or student may have. The Magnet Office Coordinator also described the various marketing and recruitment efforts they utilize, including brochures and other printed materials, a Magnet Program Expo, and open houses at each of the magnet schools. The District also provided to OCR copies of the various recruitment materials used during the application process. OCR notes that the brochure entitled, "High School Magnet Programs," highlights in several places that "Students have access to special education, 504, and ESOL support services in all magnet programs."

In interviews with Magnet Office staff, as well as with administrators and staff members at Western and Eastern, the Magnet Expo was described as a large event open to all parents and students in the District. The Expo highlights all of the magnet programs in the District at the various grade levels. In addition, various offices, including the Magnet Office and Office of Special Education, have information tables at the Expo, and they field questions from parents and students. Laptops are also available at the Expo so that parents may submit magnet program applications at that time.

In addition to the Expo, Magnet Office staff and staff members from the Schools described Open Houses held for prospective students and their parents. At the Open House night, School administrators and staff explain the program offerings at the School, explain the magnet application process, and field specific questions, such as what services are available to students with disabilities. Parents and students may take a tour of the facilities. In addition to School staff, Magnet School staff said that they attend the open houses and answer questions from prospective students.

Application Process

The high school magnet school application process takes place in the fall of each school year, with applications due in November. Students can apply to enter in different grades, although some programs require entry in the 9th grade. Eastern offers 6 programs that require 9th grade entry and 4 programs that offer either a 9th or 10th grade entry; Western offers 7 programs that require enrollment in the 9th grade and 4 programs that offer entry in either the 9th or 10th grade.

OCR reviewed the application form, which may be completed online or submitted in writing. The form requests information about the applicant, including which school, which program and whether the student receives testing accommodations as part of a "documented educational plan."

The application form also contains a notice of non-discrimination, which includes a prohibition against disability discrimination. The application also notes that student performance from the previous and current school year will be evaluated as part of the application process.

Specifically, all coursework completed in 7th grade and the first quarter of 8th grade is considered, as is a student's attendance record. Non-District students must submit relevant report cards. A Frequently Asked Questions document states that documented testing accommodations and modifications will be provided during the magnet assessment process.

Assessment Process

After a student submits an application, the student must take the assessment for the selected program(s). Each magnet school has its own assessment and testing schedule, although all assessments take place in January. The specific admissions criteria vary by program, although rubrics of all programs are available online. In addition, a Magnet Assessment Guideline is available online and students may access it and take practice assessments for their selected program(s).

The District's Magnet Office receives all magnet school applications, and lists of students are sent to the respective school(s). The Magnet Office Specialist explained that each magnet liaison at a student's current school is also notified, and if a student indicated that he/she receives accommodations due to a disability, information regarding that student is requested. In addition, a list of students is sent to the District's Office of Student Data, which also reviews the list, indicates if a student has a Section 504 plan or an IEP, and specifies the accommodations indicated on the Student's plan. This information is shared with the respective magnet school, and the IEP Chair at each school completes the Magnet Assessment Accommodations Form (Accommodations Form). The IEP Chair from Eastern informed OCR that she reviews the accommodations on a student's plan and also meets with the student prior to the assessment to review the accommodations. The Assistant Principal at Western also explained that on the day of the assessment, the accommodations a student is to receive are reviewed with the student prior to the exam. Students are provided whatever accommodations they need. The Accommodations Form has a list of 12 commonly used accommodations and additional space for other accommodations. The accommodations included in a student's plan are noted on the form along with a place to note whether the accommodation is applicable to the assessment.

On the day of the assessment, different testing areas are set up for students who need various accommodations. For example, students who need scribes or readers are in one area of the library. Students who need a distraction-free environment are in a different classroom. If a student declines the use of an accommodation, it is noted on the Accommodations Form and signed by the student and the staff member proctoring the test. OCR reviewed a floor plan indicating where the various accommodations are provided on the assessment day.

Staff at both Schools reported that there were generally no problems providing required accommodations. They explained, however, that there have been a few examples of a student whose plan changed between the time that the school initially received the accommodation information and the date of the assessment, and the school was not informed of the change. In such instances, the student is allowed to take the assessment again with the accommodations,

in accordance with the new or revised plan. Overall, District officials indicated that if there is any question about whether a student received the appropriate accommodations, they will allow the student to take the assessment again because they do not want a student to perform poorly due to a lack of accommodations. OCR reviewed 117 files of students who applied to either School during the 2015-16 school year, including 43 students identified as having a disability. All 43 students received testing accommodations, and most of them received two or more accommodations.

Eastern has one assessment for all programs, except for the automotive service technology and construction management programs. The assessments for these two programs include a different math component and a skills demonstration. The overall assessment contains components on English and math skills. Students record answers using a Scantron form, and they also complete a required essay. As to how the assessment was developed, neither Eastern's Principal or Assistant Principal was clear as to how the test was developed. From interviews with Eastern staff, it did not seem that the assessment had been reviewed or evaluated in the past six years.

At Western, each program has its own assessment and possible other criteria, such as interviews, demonstrations, or auditions. For example, students applying to the culinary arts program must bake a biscuit and they are evaluated during each step of the process and given a numerical score. In addition, programs may also consider current mathematics enrollment, grades, grade point average, and attendance. The Principal explained that the individual program assessments are based on what the School believes is important in that particular program and the assessment measures the skills needed for the student to be successful in the program. The assessments were developed collaboratively with the administrators and the program teachers. Once approved at the school level, the assessments were sent to the Magnet Office for approval to use. It was unclear from interviews with the School's administrators and the Magnet Office staff when the assessments were last reviewed, and whether this is done on a periodic basis, as required by Rule 6400.

The assessments are graded by each school and then returned to the Magnet Office for final scoring and admissions decisions. In general, the assessment and other evaluative criteria are assigned number values, and students are "qualified" if they score at least 80 points out of 100. There are priority placements for students who are qualified and the child of an employee. In addition, 20% of available seats in a program can be filled first by students who show exceptional talent, as evidenced by the assessment. All students who are qualified and are not admitted through the priority placement are then selected by a computerized lottery. The District's Magnet Office explained that all students are admitted to all District magnet schools, including Eastern and Western, in the same way.

Free Appropriate Public Education (FAPE) – Policies, Procedures, and Practices

In assessing whether the District ensures that students with disabilities are provided a FAPE at the Schools, OCR first looked at the District's relevant policies and procedures. The District's

Procedures for Providing Accommodations and Services to students under Section 504 of the Rehabilitation Act of 1973 (PS 114) meets the requirements of Section 504. Specifically, the Policy provides adequate definitions and provides specific information regarding the evaluation and placement process. PS 114 explains that the Student Support Team (SST) will consider information from a variety of sources including, evaluations, grades, input from teachers, and information from parents/guardians. In addition, PS 114 describes the process for developing a Section 504 plan in order to ensure FAPE to students with disabilities and delegates the oversight of the 504 process at the school level to the school's SST.

Each student identified with a disability who has a Section 504 plan is assigned a case manager who ensures the implementation of the plan and serves as a point of contact for the student and the parent. PS 114 also addresses parental notification of all decisions and provides information on a parent's procedural safeguards, including the right to request access to relevant records and to dispute placement decisions through a due process hearing. PS 114 contains a summary of student and parent rights under Section 504, which references the applicable Section 504 regulation for each right. PS 114 also provides notice of OCR-Philadelphia's contact information and states that parents who have concerns or wish to file a complaint may contact OCR.

With regard to students with disabilities who qualify for services under the Individuals with Disabilities Education Act (IDEA), OCR reviewed the District's IDEA Guide and Table of Contents (the Guide). The IDEA Guide provides very detailed information on the identification, referral, assessment, evaluation, reevaluation, and IEP development process. In reviewing the Guide, OCR notes that there is a section regarding magnet programs, which provides the following:

Placement in Charter and Magnet Schools

Districts are obligated to make an individualized determination regarding the appropriateness of a special school for each child with a disability who seeks admission, rather than excluding or limiting participation by such students based on the sole criterion of the presence of a disability. Whenever a magnet school placement is considered, a staffing team must be convened to determine whether the placement is appropriate and to determine whether a child's individual needs can be met appropriately at the school. Districts are not required by Section 504 to alter the basic nature of a specialized program in order to provide some or more participation by students with disabilities.

This paragraph indicates that if a student with a disability applies to a magnet school, an individualized determination must be made regarding the appropriateness of the special school. It also implies that a team must determine whether a student's needs can be met at the school. OCR interviewed District witnesses about this process, referencing this section from the IDEA Guide, as well as the general process for providing FAPE to students with disabilities. Each witness, when asked about the referenced section, indicated that he/she was not familiar with any process where a placement team determines whether a student with a disability can be placed in a magnet program, including the Schools. Each witness stated that if a student

with a disability applies, meets the eligibility criteria, is offered admission, and accepts, then that student can attend the respective school and is provided a FAPE.

The IEP Chairs at the Schools explained that once they know the students who are enrolled for the upcoming year, they check to see if each student has a disability. The IEP Chair at Eastern explained that she attends team meetings for incoming students with disabilities in the last quarter of the 8th grade. This ensures a seamless transition for the student. A placement team meeting is also convened during the first quarter of the first year at the School. At this meeting, the IEP Chair shares input from each teacher. OCR reviewed the special education files of students from Eastern and notes that the documents contained in each file substantiate the actions reported by the IEP Chair. Specifically, OCR noted teacher input forms which requested the student's current grade, areas of strength, areas that need improvement, and whether the student was using his/her accommodations.

The Western IEP Chair reported a similar process describing that once a student is admitted, a transition team meeting occurs. This is done over the summer, prior to the student matriculating at Western, to look at the student's needs, ensure that the accommodations and services provided in middle school are still appropriate, and review if anything additional is needed to ensure the student's success.

OCR asked the IEP Chairs at both schools and other School administrators if there have been any concerns with the provision of a FAPE so that a student chose not to enroll or after enrollment, a student transferred out of either School. The IEP Chairs and other School administrators did not know of a circumstance when a student with a disability could not be accommodated at the Schools nor were they aware of any students who transferred from either School due to problems with providing a FAPE.

OCR also interviewed the District's Section 504 Coordinator for its magnet programs. This individual stated that once a student is admitted, the IEP team and SST teams start working immediately to review the student's plan. The Coordinator said she participates in Section 504 meetings at both Schools and occasionally, she may attend an IEP meeting. She also verified that the process for providing FAPE at the Schools is the same as it is in any school in the District. She described that students with Section 504 plans are assigned a case manager, and the counselors are also very involved in ensuring the implementation of the plan.

After reviewing the District's applicable policies and procedures and interviewing all staff responsible for the provision of FAPE to students with disabilities at the Schools, OCR reviewed special education files from each School, including files of students in various grade levels at each School that had Section 504 plans or IEPs. OCR reviewed the files to identify expected documentation, such as copies of plans, minutes of meetings, notice to parents, evaluation reports, and other relevant documentation. OCR noted that all files contained the pertinent documentation. OCR next reviewed the files to note if the student was identified as having a disability in elementary school, middle school, or high school and found examples of all of these. OCR noted that among students who had IEPs, the identified disabilities of these

students varied and included learning disabilities, Attention Deficit Disorder (ADD), Traumatic Brain Injury (TBI), Autism, Speech Impairment, and Hearing Impairment. OCR also noted that two students at Western initially entered with a Section 504 plan. Due to parental concerns in one case and the SST's concern in the second case, the students were referred for additional evaluations. As a result, both students were found eligible for IEPs which were developed for each student. In reviewing these files, OCR also considered whether there was evidence of any parent complaints or concerns with the implementation of students' IEPs. No such concerns were noted in these files.

OCR also reviewed files of the students at both Schools who have Section 504 plans. These students' disabilities included Asperger's Syndrome, anxiety, ADD/ADHD, autism, cerebral palsy, physical impairments, and vision impairment. OCR considered whether the files contained information indicating concerns with implementation of the Section 504 plan, as well as whether the procedural requirements of Section 504 are followed. Overall, the files contained no information indicating parental concerns with implementation. The files reflected procedures consistent with Section 504. Specifically, OCR noted documentation of reevaluations conducted in high school to determine whether a student's need for services had changed in any way.

OCR's file reviews verified the information provided by the District in its policies and procedures, as well as through interviews. The information in the files demonstrated that disability-related plans are reviewed prior to a student matriculating at the Schools. The files showed collaboration among the teams at the Schools with parents and with the multi-disciplinary teams at the middle schools. As indicated above, if a change was noted in a student's need for services, for either fewer or more supports, each school would initiate the reevaluation process and convene the placement team to determine if a change was needed. There was no evidence in any of the files or in other information gathered during this review to indicate that the Schools cannot provide a FAPE.

Analysis

OCR examined whether students with disabilities in the District are afforded the same opportunity as students without disabilities to access career and technical education opportunities offered at the Schools. OCR also examined whether the District provides students with disabilities who are admitted to the Schools a FAPE.

In looking at the access provided to students with disabilities, OCR found insufficient evidence that students with disabilities are treated differently in the recruitment, application, and admissions process at the Schools. The evidence gathered in this review demonstrates that District-wide marketing, including published brochures, online advertisement and other information materials, and multiple events, such as the Magnet Program Expo and open houses at the Schools, are available to all students and parents. During the application process, students are found eligible for programs based on various criteria, such as grades and attendance, which are applied to all students. Each school has its own assessment process, for

which disability-related accommodations are provided to students with documented needs. OCR's file reviews from the most recent applicant pool showed that students who need accommodations are provided them during the assessment process. The Magnet Office, in conjunction with the Schools, has developed a very detailed process to ensure that students with disabilities receive necessary accommodations, which is well-documented.

After the assessments are conducted, the Magnet Office does the final scoring and determination of eligibility, with a score of 80 on the admissions criteria constituting a student being qualified. After priority placement is complete (i.e., qualified students with a parent who works at the school or an admissions criteria score in the top 20% of available seats in the program), the admissions selection is completed by lottery. The lottery is conducted by computer, and OCR found no evidence that students with disabilities were treated differently by the use of the lottery. In addition, our reviews of the files of students with disabilities at the Schools demonstrated that students with a variety of disabilities are enrolled at each school. This further supports that the programs at the Schools are open to all students who meet the admissions criteria, regardless of disability.

OCR's review also found that if a student with a disability applies and is admitted to either School, then a FAPE is provided. The District has policies and procedures regarding how it provides FAPE (PS 114 for students with Section 504 plans and the IDEA Guide for students with IEPs). OCR reviewed these policies and finds that they are consistent with the process requirements outlined in Section 504 and OCR policy.

OCR's investigation established that the District has a process in place whereby student plans are reviewed prior to the start of the school year to determine if the level of supports is appropriate. In addition, staff described the process by which they review student plans and conduct additional assessments, as needed. There were several examples in the file review conducted by OCR of students who, during their enrollment at the respective School, had their placement changed to modify the level of services. OCR also found no evidence in the student files of problems with students receiving FAPE while enrolled at the Schools.

OCR found, based on a preponderance of the evidence, that the District does not treat students with disabilities differently than students without disabilities in providing the opportunity to access career and technical education opportunities offered at the Schools. OCR also found that once admitted at the Schools, students with disabilities are provided a FAPE.

As noted previously, there is a discrepancy between the percentage of high school students with disabilities District-wide and the percentage of students with disabilities enrolled at the Schools. Due to this, our review also looked at whether the District has policies, procedures, and practices in place that, while facially neutral, have a discriminatory disparate impact on students with disabilities by excluding qualified students with disabilities from the Schools' programs. Prior to OCR concluding its investigation of this issue, the District expressed an interest in resolving this issue by entering into a Voluntary Resolution Agreement with OCR. The enclosed Resolution Agreement addresses the issue of whether the District has policies,

procedures, and practices in place that have a discriminatory disparate impact on students with disabilities by excluding them from the Schools' programs.

Conclusion

OCR procedures provide that a compliance review 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 issues identified at the outset, the issues investigated, and are 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.

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District signed the enclosed Resolution Agreement on November 17, 2016, which, when fully implemented, will resolve the outstanding issue noted above. The provisions of the Agreement are aligned with the issue raised in this compliance review and the information discussed above that was obtained during OCR's investigation, and are consistent with applicable law and regulation. OCR will monitor the District's implementation of the Agreement until the District is in compliance with the statutes and regulations at issue in the compliance review. Failure to implement the Agreement could result in OCR reopening the compliance review.

The Agreement requires the District to complete a comprehensive review of access of students with disabilities to the Schools' programs, including, but not limited to, the application, assessment, and enrollment process at each School. This review will include input from the Magnet Office as well as a Magnet Task Force. The Magnet Task Force will produce a written report to the Superintendent and Board of Education, containing its findings and recommendations. The District will develop a plan, based on this information and other appropriate sources of input, to ensure equal access to the Schools for students with disabilities. The plan will: specify any related Superintendent's rules, procedures, and activities; include a comprehensive and effective system for evaluating and monitoring implementation of the plan on an annual basis; contain timeframes within which the actions will be completed; and identify the individuals responsible for overseeing each action. As a result of the Magnet Office review, the District will review and revise, as necessary, the admissions process, enrollment criteria, and any additional related rules and procedures for enrollment in the Schools, with a focus on ensuring equal access and equal opportunity for students to participate. The Agreement also requires the District to evaluate its academic counseling services at the middle school level; continue its current outreach efforts to publicize opportunities offered at the Schools; provide notice to parents of students with disabilities, as well as on-going communication, about the availability of special education and/or related aids and services at the Schools; train relevant staff regarding access for students with disabilities at the Schools; and monitor the effectiveness of its plan for access for students with disabilities.

This concludes OCR's investigation of the compliance review. This letter should not be interpreted to address the District'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 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, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint 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, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the District's cooperation in the resolution of this compliance review. If you have any questions, please contact Andrea DelMonte, the OCR attorney assigned to this compliance review, at 215-656-8554 or andrea.delmonte@ed.gov.

Very truly yours,

/s/

Wendella P. Fox
Director
Philadelphia Office
Office for Civil Rights

Enclosure

cc: Stephen Cowles, Esquire