



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  
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May 17, 2018

Susan T. Lloyd, Ed.D.  
Superintendent  
Owen J. Roberts School District  
901 Ridge Road  
Pottstown, PA 19465

Re: OCR Complaint No. 03-18-1007

Dear Dr. Lloyd:

This is to inform you of the outcome of the above referenced complaint that was filed with the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) against Owen J. Roberts School District (the District) by XXXXXX (the Complainant) on behalf of XXXXXX (the Student). The Complainant alleged that:

1. The District discriminated against the Student on the basis of disability when it denied him a free appropriate public education (FAPE) during the 2016–2017 and 2017–2018 school years, by:
  - a. XXXXXX
  - b. XXXXXX
  - c. XXXXXX; and
  - d. XXXXXX
2. The District retaliated against the Complainant and the Student when XXXXXX.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (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 of the Americans with Disabilities Act of 1990 (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. Section 504 and Title II also prohibit retaliation. As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to Section 504, Title II, and their implementing regulations.

Before OCR completed its investigation, the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Voluntary Resolution Agreement. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Voluntary Resolution Agreement.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

### **Legal Standards**

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education (FAPE) to students with disabilities. An appropriate education is regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and that are developed in compliance with Section 504's procedural requirements.

In interpreting evaluation data and making placement decisions, the Section 504 regulation, at 34 C.F.R. § 104.35(c), requires that a school district draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; establish procedures to ensure that information obtained from all such sources is documented and carefully considered; ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and ensure that each student with a disability is educated with peers without disabilities to the maximum extent appropriate to the needs of the student with a disability.

To determine whether a health care plan satisfies a school district's FAPE obligations under Section 504, OCR examines whether the school district complied with the procedural requirements of the Section 504 regulation with respect to evaluation, placement, and procedural safeguards.

Retaliation is prohibited by the regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.7(e), which is incorporated by reference into the Section 504 regulation, at 34 C.F.R. § 104.61. Similarly, the regulation implementing Title II of the ADA at 28 C.F.R. Section 35.134 also prohibits retaliation.

### **Factual Background**

XX – paragraphs redacted – XX

### **Conclusion**

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District signed the enclosed Voluntary Resolution Agreement on May 15, 2018, which, when fully implemented, will resolve the allegations raised in this complaint. The provisions of the Agreement are aligned with the allegation and issues raised by the Complainant 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 case.

This concludes OCR's investigation of the complaint. 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.

If you have any questions, please contact Andrea DelMonte, the attorney assigned to this complaint, at 215-656-8554, or [andrea.delmonte@ed.gov](mailto:andrea.delmonte@ed.gov) or Elizabeth Cavallucci, the investigator assigned to this complaint at 215-656-6939 or [elizabeth.cavallucci@ed.gov](mailto:elizabeth.cavallucci@ed.gov) or me at 215-656-8526 or [melissa.corbin@ed.gov](mailto:melissa.corbin@ed.gov).

Sincerely,

/s/

Melissa M. Corbin  
Team Leader  
Philadelphia Office  
Office for Civil Rights

Enclosure