



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 9, 2022

IN RESPONSE, PLEASE REFER TO: 03211182

Dr. James Hanak
Founder and CEO
Pennsylvania Leadership Charter School
1332 Enterprise Drive
West Chester, PA 19380

Via e-mail: jhanak@palcs.org

Dear Dr. Hanak:

This is to advise you of the outcome of the above-referenced complaint that the U.S. Department of Education's Office for Civil Rights (OCR) received against the Pennsylvania Leadership Charter School, which we shall refer to as "the School" in this letter. The Complainant alleged that the School discriminates on the bases of disability, sex and age by failing to designate and identify Section 504, ADA, Title IX and Age Discrimination Act coordinators.

OCR enforces:

- Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex by recipients of Federal financial assistance from the Department;
- the Age Discrimination Act of 1975 (the Age Act) and its implementing regulation at 34 C.F.R. Part 110, which prohibit discrimination on the basis of age by recipients of Federal financial assistance from the Department;
- 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 by recipients of Federal financial assistance from the Department; and
- Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which 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 these laws and their implementing regulations.

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

OCR applies a preponderance of the evidence standard to determine whether the evidence is sufficient to support a particular conclusion. Specifically, OCR examines the evidence in support of and against a particular conclusion to determine whether the greater weight of the evidence supports the conclusion or whether the evidence is insufficient to support the conclusion.

In reaching a determination, OCR reviewed documentation provided by the Complainant and the School and interviewed School personnel. After carefully considering all of the information obtained during the investigation, OCR determined that there is sufficient evidence to support the Complainant's allegation of discrimination. OCR's findings and conclusions are discussed below.

Legal Standard

The Age Act regulation at 34 C.F.R. 110.25 (a)-(b) requires that a recipient designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Act, and shall notify its beneficiaries of information regarding the provisions of the Act and its regulations; and identify the responsible employee by name or title, address and telephone number.

The ADA regulation at 28 CFR 35.107 (a) requires that a public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by the part. The public entity is make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to the regulation.

The Section 504 regulation at 34 C.F.R. 104.7(a) requires a recipient that employs fifteen or more persons to designate at least one person to coordinate its efforts to comply with the regulations.

The Title IX regulation at 34 C.F.R. 106.8 (a) requires that a recipient designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, referred to as the "Title IX Coordinator." The recipient must also notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students and employees of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.

Factual Findings

- The School maintains and publishes a Title IX grievance procedure, which identifies the School's Title IX Coordinator by name or title and contact information and advises that questions regarding Title IX or the application of the policy can be directed to the Title IX Coordinator. The School stated that its Title IX grievance procedure is published on its internal site and is only accessible to staff and students. The

grievance procedure does not appear on the School's public website nor is it included in its Parent/Student Handbook.

- The School provided OCR with copies of its Labor Law Posting, its 504 Referral Form and its Teacher Input Form. The documents provided do not identify the School's Age Act, Title IX, Section 504 or ADA Coordinators or provide information as to how to contact them. Further, the document is for employees of the School rather than students and parents.
- The School's website and Parent/Student handbook do not include prominent notice of the School's Age Act, Title IX, Section 504 or ADA Coordinators or provide information as to how to contact them.
- The School's Supervisor of Special Education and Human Resources Director acknowledged that the School does not widely or prominently identify its designated subject matter coordinators in its publications or on its website.

Analysis

Documentation provided by the School and OCR's review of the School's website, student handbook and other publications provided by the School establishes that the School does not prominently identify its designated subject matter coordinators in its publications or on its website. Further, School personnel acknowledged that the School does not publish or provide notice of its designated subject matter coordinators in these or other sources and publications. Accordingly, based on a preponderance of evidence, OCR concludes that, as was alleged, the District has not sufficiently designated and identified Section 504, ADA, Title IX and Age Discrimination Act coordinators.

Conclusion

On May 4, 2002, the School signed a Resolution Agreement with OCR to resolve the concerns identified in our investigation. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the implementation of the Agreement.

This concludes OCR's investigation of the complaint and should not be interpreted to address the School'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. The Complainant also has the right, pursuant to the regulation at 34 C.F.R. § 110.39 implementing the Age Act, to file a civil action for injunctive relief in federal court following the exhaustion of administrative remedies. Administrative remedies are exhausted if: (1) 180 days have elapsed since the complainant filed the complaint with OCR, and OCR has made no finding, or (2) OCR issues any finding in favor of the recipient. A civil action can be brought only in a United States district court for the district in which the recipient is found or transacts

business. A complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but these costs must be demanded in the complaint filed with the court. Before commencing the action, the complainant shall give 30 days notice by registered mail to the Secretary of the Department of Education, the Secretary of the Department of Health and Human Resources, the Attorney General of the United States, and the recipient. The notice shall state the violation of the Age Act, the relief requested, the court in which the action will be brought, and whether or not attorney's fees are demanded in the event the complainant prevails. The complainant may not bring an action if the same alleged violation of the Age Act by the same recipient is the subject of a pending action in any court of the United States.

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.

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.

Thank you for your cooperation during this investigation. If you have any questions, please contact investigator Josh Galiotto at 215-656-8587 or by e-mail joshua.galiotto@ed.gov.

Sincerely,

/s/

Christina M. Haviland
Supervisory Attorney

Cc: Deborah Woodruff Kulp