



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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PHILADELPHIA, PA 19107-3323

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

IN RESPONSE, PLEASE REFER TO: 03221219

January 19, 2023

Dr. Jeffrey M. Taylor
Superintendent
Norwin School District
281 McMahan Drive
North Huntingdon, PA 15642
Via E-mail Only: jtaylor@norwinsd.org

Dear Dr. Taylor:

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 Norwin School District (the District). The Complainant alleged that the District discriminated against her son (Student 1) and her daughter (Student 2) on the basis of disability. Specifically, she alleged that the District denied Students 1 and 2 a free appropriate public education (FAPE) when the District failed to:

1. Identify Student 1 as a student with a disability and convene a team to formulate a Section 504 Plan for him;
2. Timely identify Student 2 as a student with a disability; and
3. Implement supports in Student 2's Section 504 plan XXXXXXXXXXXXXXXXXXXX.

OCR enforces Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit 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, 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of federal financial assistance and a public entity, the District is subject to Section 504, Title II, and their implementing regulations.

OCR has completed its investigation with respect to allegations 1 and 2 and concludes there is insufficient evidence that the District discriminated against Student 1 or Student 2, as alleged. In reaching a determination regarding allegations 1 and 2, OCR reviewed documentation submitted by the Complainant and the District and interviewed the Complainant and District staff. The basis for our determination is set forth below.

her daily. The District’s Special Education Director told OCR that later that month she attended a Zoom meeting with the Complainant, the Building Principal, and the gifted support teacher, at which time the Complainant told them that Student 2 had a health condition XXXXXXXX
XXXXXXXXXXXXXXXXXXXX that prevented her from attending school. According to the District, at the meeting the parties agreed that Student 2’s need for flexibility due to her headaches and stomach aches would be accommodated by XXXXXXXXXXXXXXXXXXXX.

The Guidance Counselor acknowledged to OCR that the Complainant told him via email and in phone communications that Student 2 was experiencing medical issues at the start of the XXXX
XXXXXXXXXXXX. He told OCR that, while they discussed the possibility of a 504 plan, ultimately they decided that XXXXX would provide Student 2 with the flexible schedule she needed due to her health issues. Accordingly, the Complainant did not request a Section 504 Plan for Student 2 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

On XXXXXXXXXXXX, Student 2’s father emailed the District stating that Student 2 was struggling in her classes. He stated that he was not sure if they needed to look into accommodations to help Student 2 manage her classes or if they should consider dropping any at that time. XX
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In a XXXXXXXXXXXX email, the Complainant requested a Section 504 Plan for Student 2. District staff responded the following day and asked the Complainant to provide Student 2’s medical documentation, which the Complainant provided on XXXXXXXXXXXX. The District forwarded a draft Section 504 Plan to the Complainant on XXXXXXXXXXXX, and included notice of procedural safeguards. The Complainant signed the Section 504 Plan on XXXXXXXXXXXX.

Allegation 2 – Legal Analysis

There is insufficient evidence to establish that the District failed to identify Student 2 as a student with a disability as alleged. Although the Complainant asserts that on XXXXXXXXXXXX, she asked Student 2’s doctor to fax information to the school nurse about Student 2’s recent XXXXXXXX
evaluation XXXXXXXXXXXXXXXXXXXXXXXX, District staff interviewed by OCR could not confirm

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Allegation 3 – Resolution Agreement

As noted above, prior to OCR’s completion of the investigation, the District expressed an interest in resolving this complaint under Section 302 of the CPM, and OCR determined that it would be appropriate to resolve preliminary concerns identified by OCR, including whether teachers were informed of Student 2’s Section 504 Plan and whether it was being implemented consistently in all classes. The District signed the enclosed Resolution Agreement that, when fully implemented, will resolve the complaint. The Resolution Agreement requires the District to convene a Team of persons knowledgeable about Student 2 to discuss how Student 2’s accommodations are to be implemented in online classes, and whether the alleged failure to implement constituted a denial of Student 2’s right to FAPE that needs to be remedied with compensatory education. As is our usual practice, OCR will monitor the District’s implementation of the Resolution Agreement.

Conclusion

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.

The Complainant has a right to appeal OCR’s determination regarding allegations 1 and 2 within 60 calendar days of the date indicated on this letter. In the appeal, the Complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the Complainant appeals OCR’s determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The

District must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

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 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.

Thank you for your cooperation in this matter. If you have any questions, please contact Gina DePietro, Team Attorney, at (215) 656-8595 or Gina.DePietro@ed.gov.

Sincerely,
/s/
Christina M. Haviland
Supervisory Attorney

cc: Sal Bittner, Esq. (via email)