



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

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December 23, 2016

Dr. Dennis Peterson
Superintendent
Minnetonka Public School District 276
5621 County Road 101
Minnetonka, MN 55345

RE: OCR Case No. 05-16-1387
Minnetonka Public School District 276

Dear Superintendent Peterson:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed on June 27, 2016, against the Minnetonka Public School District 276 (District) alleging discrimination on the basis of disability and retaliation.

Specifically, the complaint alleged that:

1. Between XXXXXXXXXXXX 2015, and the present, the District discriminated against a District student, Student A, on the basis of disability (XXXXXXXXXXXXXXXX, XXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX) by failing to promptly and equitably respond to harassment of Student A by two XXXXXX XXXXX teachers at XXXXXX XXXXXXXXXXXX School (School).
2. In XXXX 2016, the District retaliated against Student A for advocacy by Student A's mother (Parent A) on behalf of Student A as a student with a disability by failing to convene Student A's Individualized Education Program (IEP) team to consider Student A's classroom teacher for the 2016-17 school year.
3. In XXXX 2016, the District discriminated against Student A by failing to convene Student A's IEP team to consider Student A's classroom teacher for the 2016-17 school year.

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, 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 (Title II), 42 U.S.C. §§ 12131–12134, 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 the provisions of Section 504 and Title II. Additional information about the laws OCR enforces is available online at <http://www.ed.gov/ocr>.

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

During the 2015-16 school year, Student A's IEP team, which included Parent A, met on XXXXXXXX XX, 2015, XXXXXXXX XX, 2015, XXXXXXXX XX, 2016, and XXXXX XX, 2016.

Allegation 1 – Disability Harassment

Parent A alleged that between XXXXXXXX, 2015, and the present, the District discriminated against Student A on the basis of disability by failing to promptly and equitably respond to harassment of Student A by two XXXXXX XXXXX teachers at the School.

Legal Standards

The Section 504 implementing regulation, at 34 C.F.R. § 104.4(a), states that no qualified person 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 that receives or benefits from Federal financial assistance. The Title II implementing regulation provides, at 28 C.F.R. § 35.130(a), that no qualified individual with a disability may, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any public entity.³

The Section 504 regulation, at 34 C.F.R. § 104.3(j), defines a person with a disability as any person who: (i) has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment. Section 504 defines a “qualified” person with a disability as a “handicapped person who meets the essential eligibility requirements for the receipt of such services.” 34 C.F.R. 104.3(l)(4). Title II provides the same disability definition and defines a “qualified” individual with a disability as “an individual with a disability, who, with or without reasonable modification to rules, policies, or practices . . . meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.”

Disability harassment is one type of discrimination prohibited under Section 504 and Title II. Disability harassment exists under Section 504 and Title II when: (1) a student was bullied based on a disability; (2) the bullying was sufficiently serious to create a hostile environment; (3) school officials knew or should have known about the bullying; and (4) the school did not respond appropriately. A hostile environment may exist even if there are no tangible effects on the student where the harassment is serious enough to adversely affect the student's ability

³ The standards adopted by Title II were designed not to restrict the rights or remedies available under Section 504. OCR has determined that the Title II regulations applicable to the issues raised in the complaint do not provide greater protection than the applicable Section 504 regulations. Therefore, OCR applied the relevant Section 504 standards in analyzing the issues raised in the complaint.

to participate in or benefit from the educational program. The third prong of the disability-harassment standard is met where a school district employee who is acting, or reasonably appears to be acting, in the context of carrying out employment duties engages in the harassment that subjects a student to a hostile environment, regardless of whether the school district has notice of the conduct.

Any harassment, even harassment not based on disability, that adversely affects an elementary or secondary student's education may also be a denial of a free appropriate public education (FAPE) under Section 504 and Title II if the bullying creates a hostile environment and there is reason to believe that the student's Individuals with Disabilities Education Act (IDEA) or Section 504 FAPE services may have been affected by the bullying. Accordingly, under Section 504, as part of a school's appropriate response to bullying on any basis, the school should convene the bullied student's IEP or Section 504 team to determine whether, as a result of the effects of the bullying, the student's needs have changed such that the student is no longer receiving FAPE. Adverse changes in the student's academic performance or behavior may be evidence that the student's needs have changed. If the school suspects the student's needs have changed, the IEP or Section 504 team must determine the extent to which additional or different services are needed, ensure that any needed changes are made promptly and safeguard against putting the onus on the student with the disability to avoid or handle the bullying. In addition, when considering a change of placement, schools must continue to ensure that Section 504 FAPE services are provided in an educational setting with persons who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability.

When an educational institution learns that disability harassment may have occurred, the institution must investigate all alleged incidents promptly and respond appropriately. The responsibility to respond to disability harassment, when it does occur, includes taking prompt and effective action to end the harassment and prevent it from recurring and, where appropriate, remedying the effects on the student who was harassed.

The Section 504 regulation, at 34 C.F.R. § 104.8, requires recipients to notify participants, beneficiaries, applicants and others that the recipient does not discriminate on the basis of disability in violation of Section 504. The regulation, at 34 C.F.R. § 104.7(a), also requires a recipient that employs fifteen or more persons to designate at least one person to coordinate its efforts to comply with the requirements of Section 504 and its implementing regulation and take appropriate steps to notify participants, beneficiaries, applicants and employees that it does not discriminate on the basis of disability. Such notice must identify and provide contact information for each designated coordinator and must be published in any recruitment materials or publications containing general information that the recipient makes available to participants, beneficiaries, applicants or employees. The regulation implementing the ADA has similar provisions, at 28 C.F.R. §§ 35.106 and 35.107.

When determining if a school district's grievance procedures are prompt and equitable, OCR considers, among other facts, whether the procedures provide: (a) an explanation of how to report disability discrimination, including harassment, and/or file a complaint, including the name of each individual who receive reports and the address, phone number and email address for each individual designated as the school district's Section 504/Title II Coordinator(s); and (b) a description of the complaint procedures, including but not limited to: (i) designated and reasonably prompt timeframes for major stages of the investigation and for completion of the investigation of a complaint and the process for extending the timeframes; (ii) an explanation that to the extent the parties are given an opportunity to present evidence, they will be provided an equal opportunity to do so; (iii) a requirement that written notice of the outcome of the complaint will be provided to both parties; (iv) a prohibition of retaliation against persons who report disability discrimination and/or participate in related hearings or investigations, (v) a statement that the school district will discipline individuals who engage in retaliation; and (vi) an assurance that the school district will take action to stop disability discrimination, remedy its effects and prevent its recurrence.

Facts

The District's Non-Discrimination Policies and Procedures

The District's Board of Education (Board) has promulgated policies that are available to parents, students and staff online.⁴ Board Policy 521, *Student Disability Nondiscrimination*, provides that the policy of the District is to protect disabled students from discrimination on the basis of disability and to identify and evaluate learners who, within the intent of Section 504, need special services, accommodations or programs in order to receive a FAPE. The policy states that persons who have questions, comments or complaints should contact the District's 504 Coordinator regarding grievances or hearing requests regarding disability issues. The policy states that the 504 Coordinator is the School District's Americans with Disabilities Act/Section 504 Coordinator.

Board Policy 521 includes an attached administrative procedure entitled "Grievance Procedures for Complaints of Harassment and Discrimination." The grievance procedures state that the Board has designated the Human Rights Officer as the recipient of complaints under the policy, except that complaints about the Human Rights Officer should be made to the District's Superintendent (Superintendent). The procedures state further that nothing therein prohibits an individual from reporting discrimination or harassment to the Board or any other school district official. Neither Policy 521 nor the grievance procedures identify or provide contact information for the Human Rights Officer or Section 504 Coordinator.

The procedures provide that investigations should be completed within thirty days of the complaint, unless impracticable and should result in a written report, a copy of which shall be

⁴ <https://www.minnetonkaschools.org/district/leadership/board/policy>.

provided to the complainant. The procedures do not require a copy of the report to be provided to the individual(s) accused of discrimination or harassment. The procedures allow the complainant to appeal within ten school days of receipt of the decision, but not the accused, and provide that an appeal shall be decided within ten school days of receipt and that the appeal decision is final.

The procedures prohibit retaliation and state that the District will take appropriate action against individuals found to have retaliated. They also state that if a violation of the policy is found to have occurred, the District will take appropriate action, which may include a warning, suspension, expulsion, transfer, remediation or termination. The procedures do not address the process for extending the timeframes or explain that to the extent the parties are given an opportunity to present evidence, they will be provided an equal opportunity to do so.⁵

Teacher A

Student A began XXX XXXXX XXXXX year in the classroom of Teacher A, who is one of the School's XXXXXXXXXXXXXXX XXXXXXX XXXXXXXXXXX XXXXXXX teachers. Parent A claimed that, beginning almost immediately after the school year began and continuing as the year progressed, Teacher A began to harass Student A.

Parent A claimed that at a XXXXXXXXXXXXXXX XXXXX for all parents of students in Teacher A's class in XXXXXXXXXXXXXXX, Teacher A posted X XXXXX XXXX test scores for the XXXXXXXXXXXXXXX students in the classroom XX XX XXXXXXXXXXXXXXX XXXXXXXXXXXXXXX XXXXXXXXXXXXXXX. Teacher A stated that the XXXXX included X XXXXXXXXXXXXXXX XXX XXX XXXX XXXXXXXXXXXXXXX XXXXXXXXXXXXXXX each of the student's test scores. Teacher A had highlighted XX XXX XXXX XXXX XXXXXXXXXXXXXXX X XXX XX XXXX XXXXX. According to the District, the purpose of Teacher A providing the information XX XXXXXXXXXXXXXXX XXXXX was to illustrate to parents the shared weaknesses of the students in the class and to discuss instructional strategies with parents on how to address them. Teacher A told OCR she XXXXXXXXXXXXXXX XXXXXXXXXXXXXXX XXXXXXX XX XXXXXXX XXXXXXX XXXXXXXXXXXXXXX XXXXXXXXXXXXXXX XXXXXXX XXXXXXXXXXXXXXX XXX hoped that parents would work on those issues at home.

Both Parent A and Teacher A stated that only one student—Student A—had X XXXXXXXXXXXXXXX XXXXXXXXXXXXXXX XXX XXXXX XX XXXXX XX XXX, because Student A had XXXXXXXXXXXXXXX XX XXX XX XXXXXXX XXX XXXXX XX XXX XXXXX. Only a few other students had X XXXXXXXXXXXXXXX XXXXXXX XX XXX

⁵ The District also produced to OCR three other policies in response to OCR's request for copies of the District's policies and procedures regarding nondiscrimination on the basis of disability, disability harassment and retaliation: Board Policy 423, *Employee Student Relationships*; Board Policy 427, *Harassment and Violence Policy*; and Board Policy 514, *Bullying Prohibition Policy*. Because the complaint alleges teacher-on-student harassment, Board Policy 514, which only relates to student-on-student bullying, is inapplicable. Board Policies 423 and 427, moreover, do not address disability-based bullying or retaliation.

XXXXXXXX XXXXXX. Parent A believed that other parents knew that Student A was the student XXXX XXX XXXXXXXXXXXX XXXXXX XX XXX because, as Teacher A confirmed with OCR, although the names of each student were redacted, the students were listed in alphabetical order. Parent A asserted that other parents came up to her after the presentation to state that they knew XXX XXX XXXXXX belonged to Student A. Teacher A reported that she did not believe other parents could determine who the students were XXXX XXX XXXXXX, because only she had the classroom roster at the time. Parent A told OCR that, at one point during the presentation, Teacher A pointed to the XXX XX scores for Student A, gestured or looked toward Parent A and said, “XXX XX X XXX XXXXXXXXXXX XX XXXXXXXXXXX XX XXXXXX XX XXX XXXXXX XX XXXX XX XXXX XXXXXX XXXX XXXX XX XX XXXX XX XXX XXXX.” Teacher A denied that she made such a comment.

Parent A reported that on XXXXXXXXXXX XX, 2015, Teacher A voluntarily attended a non-school-sponsored XXXXXXXXXXX XXXXXX with Student A, Parent A and a teacher from the School’s XXXXXXXXXXX XXXXXXXXXXX who was also Student A’s tutor (XXXXXXXXXXXX Teacher). Both Parent A and the XXXXXXXXXXX Teacher told OCR that Teacher A repeatedly referred to Student A as being XXXXXX XXXX XXX XXXXXXXXXXX XXXX, said it was X XXXXXXXXXXX XX XXXXXXXXXXX XX XXXX X XXXXXX XXX XXXXXXXXXXX XXXXXX XXXX and made other similar comments to Parent A and the XXXXXXXXXXX Teacher about Student A. Parent A reported that Teacher A made comments such as that Student A XXXXXXXXXXX XXXX XXXX XX XXXXXXXXXXX to succeed in XXXXXXXXXXX XXXXXX and that she XXXXXXXXXXX X XXX XXXXXX XXXXXXXXXXX XXXXXXXXXXXXXX XXX XXXXXX XXXX XXX XXXX XXXXXXXXXXX XXXXXXXXXXX XXXXXX XXXXXX XXXX XXXX XXXXXXXXXXX XXXX XXXXXX XXXXXXXXXXX XXXXXXXXXXXXXX XXXXXX XXXXXXXXXXX XXXXXXXXXXX XXXXXX XXX XXXXXX XXXX XX XXXXXXXXXXX.

Teacher A confirmed that on the day of the XXXXXXX XXXX, she mentioned concerns she had with Student A keeping up with the XXXXXXX XXXXXX curriculum. Teacher A told OCR she said that XXXXXXX XXXXXXX X XXXXXXXXXXX X XXXXXX XXXXXX XXX XXXXXXXXXXX XX XX XXXXXX XX X XXXXXX XX XXXXXX XX XXXX X XXXXXX XXX XXX. According to Teacher A, she brought up XXXXXXXXXXX XXXXXX XXXXXX XXXXXXXXXXX XXXXXX XXXXXX XXXXXX XXXXXXXXXXX XXXX XXXX to emphasize that Student A would overcome some of [Student A’s] challenges over time. Teacher A denied making the other statements Parent A and the XXXXXXXXXXX Teacher reported.

According to Parent A, in late XXXXXXXXXXX, Teacher A had another student translate for Parent A that Student A XXX XXXXXXXXXXX XXXX XXXXXXXXXXX XXXX XXXXXX XX XXX XXXX XXXXXXXXXXX XXXX XXXXXXXXXXX. According to Teacher A, while sitting with Parent A, Student A and other students XX X XXXXXX XX XXX XXXXXX XXXXXXXXXXX, she asked Student A to translate to Parent A that XXXX XXX XXXX XX XXXXXXXXXXX XXXX XXX XXXXXXXXXXX. She said another student sitting nearby jumped in when Student A refused to translate and said “[Student A] XXX X XXXX XXX XXXXXX.”

Teacher A denied that she asked the other child to translate or said that Student A XXXXXXXXXXXX XXXX XXXXXXXXXXXX.

Parent A told OCR that a number of Teacher A's other actions or statements were harassing toward Student A. Parent A contended that Teacher A regularly made negative comments to Parent A about Student A's academic aptitude and performance and denied requests for Student A to turn in late assignments. Teacher A confirmed with OCR that she made comments about Student A's aptitude and performance, saying she did so out of legitimate concern with [Student A's] ability to keep up with the heightened academic demands of XXXXXX XXXXX. Teacher A and the Case Manager denied that Teacher A refused to allow Student A to XXXX XX XXXX XXXX.⁶

Parent A claimed, and Teacher A confirmed, that Teacher A regularly gave Student A work that was modified or shortened, provided him one-on-one work, including reading aloud to him during quizzes, and XXXXXX XXX XXXXXXXXXXX XXXXX XXXX XXXXXXXXXXX XXXXX, including Student A, so that XXX XXXXXXXXXXX XXXXXXXXXXX XXXXX XXXX XXX XXXXXXXXXXX XXXXXXX. According to the District and Teacher A, Teacher A gave Student A modified or shortened work in an effort to differentiate Student A's work per [Student A's] IEP, which at all times Student A was in Teacher A's classroom provided that XXX XXXXXXXXXXXXXXX XXX XXXXXXXXXXX XXXXX XXX XX XXXXXXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX XX XXXXXXXXXXX XXXXXXXXXXXXXXX. Moreover, both Teacher A and the Case Manager stated that working with students one on one when time would allow in the classroom was a proper way to provide students, including Student A, needed one-on-one attention. Indeed, the Case Manager reported that she XXX X XXXXXXXXXXXXXXXXXXX XXXXX XXX XXXX XXXXXXXXXXX X XX XXXX XX XXXXXX XXXXX XXXXXX XX XXX XX XXXX XXXXXXXXXXX XXX XXXXX XXXXXXX XXX XXXXX XXXX, and that XXX XXXXX XXXXXXX XXXXXXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX X XXXXX XX XXX XXXXXXXXXXX XX XXXX XXXX XXX XXX XX XXX. Teacher A reported that she regularly read quizzes and other work aloud with students, and did not do so only with Student A. Finally, Teacher A confirmed that for years, she has had students XXXX X XXXXX XXXXXXX in the class, and that XXX XXXXX XXXX XXXX XXXXX XXXX XXX XXXXXXXXXXX XXX XXXXXXXXXXXXXXX XXXXXXX XXX XXXXX. She says she has used that practice for years and that many parents have told her they appreciate it.

Parent A alleged that Teacher A did many things that were insensitive and caused distress to Student A, including sending home a XXXXXXXXXXX XXXX XXXXXXXXXXX XXXXXXX with students XX X XXXXXXX and having assignments, such as an assignment requiring students to XXXXX XX XXXX XXXXXXXXXXX, that were insensitive to students, like Student A, who

⁶ In the one instance Parent A specifically identified to OCR in which Teacher A refused to allow Student A to XXXX XX XXXX XXXX, both Teacher A and the Case Manager reported Student A had already XXXXXXXXXXX XXX XXXXXXX XX XXX XXXXXXXXXXXXXXX XX XXXXXXXXXXX before Parent A requested [Student A] be allowed to do so XXXXXXXXXXX.

were XXXXXXXX.⁷ Teacher A told OCR that she had used the XXXXXXXX XXXXX XXXXXXX for years before Student A came to her classroom, and that Student A regularly played with the XXXXXXX in class and did not exhibit any concern about it. Teacher A also reported that the project that Parent A claimed required XXXX XXXXXXXX did not, and that many students, including Student A, completed the project without XXXXXXXX.

Parent A's Reports of Teacher A's Conduct

Parent A and the District witnesses told OCR that Parent A regularly and promptly reported, both verbally and by electronic mail, the conduct by Teacher A that [Parent A] believed was harassing, including to the Case Manager, another special education teacher at the School (Special Education Teacher) and the School Principal (Principal). The Case Manager also reported that she regularly informed the Principal when she received a report from Parent A of purported misconduct by Teacher A. According to the Case Manager and the Principal, someone always spoke with Teacher A about the purported conduct after receiving a complaint, and in each case Teacher A gave a legitimate, non-discriminatory reason for engaging in the conduct. The District witnesses also stated that the Principal or Case Manager regularly spoke to Teacher A about ways to potentially diminish certain XXXXXXXXXXXX misunderstandings that they believed might be at the root of Parent A's concerns.

The District witnesses consistently told OCR that they did not perceive Parent A to be alleging that Teacher A's harassment of Student A was on the basis of disability. Accordingly, the District did not address any of Parent A's claims about Teacher A under Policy 521, its disability non-discrimination and anti-harassment policy. Rather, the Principal investigated the complaints in an informal manner at the building level.⁸ According to Parent A, the District witnesses and documents produced by the District, however, Parent A consistently reported that [Parent A] believed Teacher A's conduct was the result of XXXXXXXXXXXXXXXXXXXX XXXXXXXX the treatment of individuals with disabilities in XXXXXXXX XXXXX, which Parent A consistently described as a lack of respect and sensitivity toward individuals with disabilities XX XXXXXXXXXXXX XX XXXXXXXXXXX XXX.

⁷ Parent A's attorney recognized that the link to discrimination in the case of comments about XXXXXXXX is attenuated. Parent A's attorney told OCR that she believes because Student A was XXXXXXXX only because of [Student A's] disability, [Student A] did not have XXXX XXXXXXXXXXXXXXX because of [Student A's] disability.

⁸ When OCR interviewed the Principal regarding the process for handling complaints of teacher-on-student bullying based on disability, he reported that unless a complainant specifically stated a belief that a student was being harassed based on disability, he would not categorize a complaint of bullying by a teacher as harassment that would need to be reported to the Human Rights Officer under Policy 521. Rather, he would informally investigate such complaints at the building level by interviewing the complainant and the alleged harasser and making a determination if bullying occurred. Similarly, the Case Manager told OCR that because Parent A never specifically identified her complaints as disability-harassment complaints, she did not understand her to be raising such claims.

Teacher B

After meetings with Parent A on XXXXXXXX X and XXXXXXXX XX, 2015, the Principal proposed and Parent A agreed to move Student A to the classroom of another of the School's XXXXXXX XXXXX teachers, Teacher B. Almost immediately, Parent A began reporting concerns that Teacher B was harassing Student A based on disability.

As with Teacher A, Parent A reported that Teacher B was modifying Student A's work in ways that were not authorized by the IEP. Teacher B and the District, including the Case Manager, again defended those actions as attempts, albeit failed ones, at proper differentiation per the XXXXXXXXXXXXXXX XXX XXXXXXXXXXXXXXX language in Student A's IEP.⁹ Teacher B told OCR that she consulted with Student A's XXXXX XXXXX teacher, got the ideas for modifying Student A's work from her and asked and obtained Parent A's permission at a pre-transition meeting before modifying Student A's work.

Parent A also complained that Teacher B made a joke about telling other students that XXXXXXX XXX XXXXXXXXXXX XXXX XXX XXX XXXXX XXXXXXXXXXXXXXX XXX XXXX XX XXXX XXXXXXX XX XXXX XXXXX XX XXX XXXXX XXXX XXXX XXXXXXX XXXXXXX XXXXX. Teacher B denied making any such statement.

According to Parent A, Teacher B also seized control of a presentation that Parent A and Student A were to make XX XXXXXXX XXX XXXXX XXX XX XXXXX and, during the presentation, stated XX XXXXXXX in front of the entire class and Student A that Student A XXXX XXXXX XXXXXXX XXX XXXXXXXXXXX XXXXXXX and that XX XXX XXXX XXXXXXX XX X XXXXX XXXXXXXXXXX XXXXXXX. Parent A believed [Parent A] and Teacher B had agreed XX XXX XXXXXXXXXXXXXXX XXXXXXX that Parent A, who had presented the same presentation with Student A XX XXX XXXXXXXXXXXXXXX XXXXX, would present the presentation with him XX XXXXXXX XXX XXXXX. Teacher B told OCR that she understood that she and Student A would give the presentation, since Student A was XXXXX XXX XXX XXX XXXXX XXX XX XXXXXXX. According to Teacher B, she has had one other student XXXX XXX XXXXX XXXXXXXXXXX and he XXXXXXXXXXX XXXXXXX XX XXX XXXXX XX XXXXXXXXXXX XXX XXXXXXX. Teacher B told OCR that during the presentation, she stated that Student A XXX XXXX XXXXX XXXXXXX XXXXXXXXXXX XX XXX XXXXX. Teacher B told OCR that she had heard Parent A direct Student B to answer questions XXXXX XXX XXXXX by saying XXXX XX XXX XXXX XXXXX XXXX, and so believed it would be acceptable to say something similar to the class. With respect to the XXXXXXXXXXX comment, Teacher B said Teacher B was XXXXXXX XX XXXXXXX XXXX XXX XXXX XXXXXXXXXXX XXX XXX XXX XXX XXXXXXXXXXX XX XXXXXXX XXX XXXX XXXXXXXXXXX. Because it was XXXXXXX XXXXXXXXXXX XXX XXX XXXXXXXXXXX XXXX XX XXXXXXX

⁹ The IEP was amended at the XXXXXXX XX, 2015, IEP meeting to remove the language about XXXXXXXXXXX XXXXXXX XXX XXXX. OCR found no complaints about modifications by Teacher B reported after that date.

XXXXX XXXXX XXXXXXXXXXX, XXX XXXXX XXX XXXXXXXXXXXXXXX XXXXXXX. She said she did not state or mean to suggest that XXXXXXXX X XXX XXXXX.

Parent A reported that Teacher B refused to stop the presentation when Parent A expressed XXX discomfort with the comments that Teacher B had made. Teacher B told OCR that the presentation was almost over when Parent A asked to stop, and Teacher B was worried that stopping would put Student A through unnecessary discomfort of completing the presentation over again. She asked Student A if XXXX would like to stop or continue, and when XXXX said XXXX would like to continue, they completed the presentation.

Parent A stated that Teacher B failed to add Student A's name to XXX XXXXX XXXX or XXX XXXXXXXXXXXX XX XXX XXXXXXXXXXXX XXXX XXX XXXXXXX for months after Parent A reported XXXX XXXX XXX XXXXX. According to Teacher B, she immediately added Student A's name to the XXXXX XXXX when XXXX joined the class, but printed copies of an old version of the XXXX to use at X XXXXXXXXXXXX XXXXXXX XXX XXXXXXX on the occasion Parent A saw the XXXX. Teacher B also stated that she put XXXXXXX XXXXXXXXXXXX XX XX XXX XXXXXXXXXXXX XX XXX XXXXXXX XXXX up at the beginning of the school year. She did not immediately add XXX XXXXXXX of either Student A or another student who transferred in mid-year (non-disabled), but added both XXXXXXXXXXXX immediately after Parent A complained XXXXX XXX XXXXXXXXXXXX XXXXX.

Parent A reported that Teacher B was singling out Student A for being slow and putting him in embarrassing situations such as having to work during XXXXX XXXX XXX XXXXXXX XXXX when other students XXXX XXXXXXX XX XXX XXXXX XXXXXXX XX XXXX, and having to read out loud XX XXXXX XX XXXXX XXXXXXX. Teacher B told OCR that she regularly used XXXXX XXXX XXX XXXXX XXXX to provide one-on-one assistance to students, however, including Student A. According to Teacher B, she sometimes had students, including Student A, read aloud XX XXX. At times, eighty percent of the class may be working on makeup work during XXXXX XXXX.

Parent A reported that Teacher B was having XXXXXXX XXXXXXXXXXX XXX XXXX XXXX XXXXXXX XXXXXXX in class. Teacher B confirmed that for many years she had given students the option to XXX XXXX XXXX X XXXXXXX XX XX XXX XXXX XXXX XXX while completing an assignment, and had never received a complaint about the practice before.

Parent A also contended that Teacher B XXXX XXXX XXXXXXXXXXXXXXX XXXX XXX XXXXX XXX XXXXX XXX XX XXXX XX XXXXXXX XXXXXXX because XXXX "takes too long" and gave Student A XXXXX XXX XXXXX XXXXXXXXXXX after directing him to XXXX XXXXX XXXXXXXXXXX XXXX. Teacher B denied those claims.

According to Parent A, after Student A left Teacher A's class, the parent of another student in Teacher A's class told Parent A that Teacher A told the class XXXX XXXXXXX XXXXX

XX XXXXX XXX XXXXXXXX X, XXXXXXXX XX XXXXXXXX XX XXXX XXXXXXXX
XXXXXXXXXX XXXXXXXXX XXX XXX XXX XXXXXXXXXX XXX XXXXXXX XX
XXX XXXXXXXX XXXXXXXXXX XXXX. The Principal told OCR that, after Parent A
reported this concern to him, he called the other parent (Parent B) in to speak to him within
days of the report. According to the Principal, Parent B said she had misquoted Teacher A to
Parent A, and would speak to XXX about her mistake. Accordingly, the Principal believed
the issue was resolved. Teacher A denied that she talked to her students or parents at any
time about XXX XXXXXXXX X XXXX XXX XXXXXXXXXX.

Parent A's Written Complaint About Teachers A and B

On XXXXXXXX XX, 2015, Parent A submitted a written complaint to the Principal
detailing the concerns outlined above.¹⁰ According to the Principal, he assessed the complaint
utilizing the informal building-level process for assessing teacher/student conflicts, rather
than the District's Section 504 grievance procedure, and found no violation. Parent A
received a written response regarding his determination on XXXXXXXX XX, 2015.

Parent A escalated XXX complaint to the District level after receiving the Principal's
informal findings. Through XXXXXXXX and XXXXXXXX, Parent A and the Principal and
Superintendent met to discuss Parent A's concerns and to negotiate relief for Student A.
Parent A obtained an attorney in XXXXXXXX 2016, and the attorney submitted a written
complaint regarding Parent A's allegations to the Principal, the Superintendent and the
members of the Board. The complaint clearly identified Parent A's concerns as relating to
Teacher A's and Teacher B's "XXXXXXXXXX XXXXXXXX XXXXXXXX X XXX XXX
XXXXXXXXXX XX XXX *disability*." (Emphasis added). There is no evidence that the
District addressed the report as a report of disability harassment under the relevant Section
504 grievance procedures.

The complaint letter identified the Case Manager and the XXXXXXXXXX Teacher as
"important witnesses" who should be interviewed as part of any investigation. The
XXXXXXXXXX Teacher and Principal told OCR that no School or District staff interviewed
the XXXXXXXXXX Teacher. The Case Manager similarly reported that she was never
formally interviewed. The complaint sought specific relief from the District, including
training for the XXXXXXXX XXXXXXXXXX teachers on civil and educational rights of
children with disabilities and training for students and classroom teachers by a local
disability advocacy program that XXXX XXXXXXXX XX train children and adults in the
classroom.

¹⁰ Parent A sent the written complaint, because [Parent A] had not received a response from the Principal after a meeting on XXXXXXXX XX, 2016, when [Parent A] raised concerns about Teacher A in person. The Principal attributed his delay to a serious family emergency during the time period between the meeting and the written complaint that required him to be out of state for a significant amount of time.

The District agreed to provide the additional staff training and the XXXXXX training for students and staff. Shortly before the end of the school year, the local disability advocacy program presented its XXXXXX training, and the District's new Special Education Director apologized to Student A for XXX experiences. The District notified Parent A prior to the end of the school year that the XXXXXX XXXXXXXXXX XXXXXXXXXX staff would receive training on disability rights and responsibilities and student privacy over the summer, and OCR reviewed training materials that were used during such a training for XXXXXXXXXX staff in XXXXXXXXXX 2016. The training covered the history of disability law XX XXX XXXXXX XXXXXX, the basic requirements of Section 504, the special education process in the District and teacher responsibilities thereunder and how teachers can respond with appropriate support to students' special needs. The training did not address the District's Section 504 grievance procedures or when those procedures apply to complaints of teacher-on-student bullying. The training also did not address XXXXXXXXXX XXXXXXXXXX XXXXXX XXXX XXXXXX XXXXXXXXXX XXXXXXXXXX XX XXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXX XXXXXXXXXX XXXXXXXXXX.

Analysis

Disability Harassment

OCR determined that there is insufficient evidence to support a finding that the first prong of the disability-based harassment standard has been met. There is insufficient evidence that District staff harassed Student A because of [Student A's] disability. As an initial matter, although some evidence supports finding that certain remarks made by Teacher A and Teacher B may have been inappropriate or insensitive, such as Teacher A stating that X XXXXX XXXXXX XX X XXXXXX XX XXXX XXX XXXXXXXXXX X, XXXX XX XXX XXX XXXXXXXXXX XX XXXXXXXXXX XX XXXXXXXXXX XXXXXX XXX XXXX XXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX, there is insufficient evidence to determine that Teacher A ever made such statements to or in the presence of Student A. Such comments cannot form the basis of a claim of harassment of Student A.

With respect to Parent A's other claims, in some cases the evidence was insufficient to support a finding that the alleged conduct occurred at all. Specifically, there was insufficient evidence to support finding that Teacher B XXXX X XXXX XXXXXX XXXXXXXXXX XXXXXX XXXXXXXXXX XXXXXXXXXX XXX XXXXXXXXXX; that Teacher B would not allow Student A to XXXX XX XXXXXXXXXX XXXXXXXXXX XX XXXXXXXXXX XX XXXXXX XX XXXX XXXXXXXXXX X XX XXXX XXXXXX XXXXXXXXXX XXXX XXX XXXX XXX XXXXXX XXX XXXXXX XXXXXXXXXX; or that Teacher A told her class XXXX XXXXXXXXXX XXX XXXX XXXX XXX XXXXXXXXXX XXX XXXX XXXXXXXXXX XX XXX XXXXXXXXXX XX XXX XXXXXXXXXX XXXXXXXXXX XXXX. In each case, Teachers A or B denied the allegations to OCR, OCR found the denial credible and OCR found no other evidence corroborating the allegations.

In many other cases, OCR determined that the incident alleged generally occurred, but that there was insufficient evidence to find that it occurred as stated by Parent A. There is insufficient evidence to find that Teacher A XXXXXXXX XX XXXXXX X XX XXXX XX XXXXXXXXXXXX XXXXXX when sharing data about students, even if there was evidence that the data-sharing occurred. With respect to the incident where Teacher A had another student translate something to Parent A for Teacher A, there was insufficient evidence to find that Teacher A said Student A had XXXXXXXX XXXX XXXXXXX XXXX XXXXXXXX as opposed to that XXXX had XXXX XXXX XXXX XXX. There was also insufficient evidence to find that Teacher A directed the student to translate for her, as opposed to the other student doing so of his or her own accord. Similarly, there is insufficient evidence to establish that Teacher B stated to her class that Student A XXXXX XXXXXXX XXXXXXX XXX XXXXXXXX XXXXX or XXXXXXXX XXX XX X XXXXX XXXXXXXXXXX XXXXXXXX, as opposed to stating that Student A XXX XXXX XXXX XXX XXXXXXXXXXX XXXXXXXXXXX XXX XXXXXXXXXXXX XX X XXXXXXXXXXX XXXXXXXX XX XXXXXXXX XXX XXXXXXX XXXX XXX XXXXXXXXXXXX XX XXXXX XXXXXXXX. There also was insufficient evidence to find that Teacher B for months failed to XXX XXXXXXX XXX XXXX XX XXX XXXXX XXXX or XXXXXXXXXXXX XX XXX XXXXXXXXXXX XXXX. In each case, Teachers A or B denied that the incidents occurred as Parent A claimed they did, and provided credible explanations for what the teachers stated occurred. In some cases (such as XXX XXXXXXXXXXXX and XXXXX XXXX example), Teacher B's version of events was corroborated by another District witness (there, the Case Manager). OCR found no evidence corroborating the versions of the events described by Parent A. There was thus insufficient evidence for OCR to conclude that the incidents occurred as alleged.

Once OCR identified the relevant conduct that the evidence supported finding occurred, OCR determined that there was insufficient evidence to conclude that the conduct was based on Student A's disability. In each instance, the District and its witnesses provided credible legitimate, non-discriminatory reasons for the conduct alleged and denied that the conduct was based on Student A's disability. For instance, with respect to the XXXXXXXXXXX XXXXXXXX, Teacher B stated that her reason for XXXXX XXX XXXXXXXXXXX XXXXXXX XXXX XXXXXXX XX XXX XXXXXXX XXXXXXXXXXX XXX XXX XXXXXXX X was XXXXXXX XX XXXXXXX XXX XXXXXXX XXXX XXX XXXXXXXXXXXX. There is insufficient evidence to find that she XXXXX XXX XXXXXXX to harass Student A based on [Student A's] disability. Similarly, the District provided legitimate, non-discriminatory justifications for the other actions that OCR found occurred, and so there is insufficient evidence to find that Teacher A or B harassed Student A based on [Student A's] disability.¹¹

¹¹ The specific actions in question include, for Teacher A, comments about Student A's aptitude, the sharing of data on XXXXXXXXXXXX XXXXXXX, providing Student A modified work and one-on-one work, pairing up students to help each other on work and the use of the XXXXXXX XXXX XXXXXXX. For Teacher B, the actions in question include the comment about Student A XXXXX XXXXX XXXXX XXX XXXXXXXXXXX XXXXXXXXXXX, requiring the first-day presentation XX XX XX XXXXXXX, refusing to stop the

Denial of FAPE

OCR also determined that there is insufficient evidence to establish that Teachers A and B's conduct denied Student A a FAPE. The evidence shows that the School convened Student A's IEP team four times throughout the 2015-16 school year, and that the team discussed the impacts of the alleged bullying on Student A. OCR found no evidence in the IEP notes related to those meetings of adverse changes to Student A's performance or behavior as a result of the bullying. The evidence also shows that the Case Manager and Principal repeatedly redirected Teachers A and B to stop conduct that the Parent identified as objectionable, even if the School found insufficient evidence that the conduct was discriminatory or harassing. Although the team did not change Student A's placement during the 2015-16 school year, when Student A's teacher assignment was changed to respond to Parent A's concerns, Student A continued to receive a FAPE in the same educational setting as before.¹² Based on the foregoing, there is insufficient evidence to establish a denial of a FAPE. Even if there were, the evidence about the IEP team's and administration's response in addressing the alleged conduct at IEP team meetings and with the alleged harassers would lead OCR to find insufficient evidence that the District failed to adequately respond to the denial.

Concerns with the Investigation

Although OCR determined that there was insufficient evidence to support a finding of disability-based harassment or a denial of a FAPE, evidence obtained during the investigation raised concerns that the District did not promptly and adequately investigate those concerns and that District staff was not aware of how to identify claims of disability discrimination.

Prior to the conclusion of OCR's investigation, the District asked to resolve those concerns in accordance with OCR's *CPM*. Subsequent discussions with the District resulted in the District signing the enclosed agreement (Agreement) which, when fully implemented, will resolve the concerns. The provisions of the Agreement are aligned with the complaint allegation and the information obtained during OCR's investigation.

presentation when Parent A requested it, delaying adding Student A's XXXX XX XXX XXXXXX XXXX and XXXXXXXXXXXX XX XXX XXXXXXXXXXXX XXXX, providing Student A modified work and one-on-one work and having Student A complete work during XXXXXX XXXX XXX XXXXXX XXXX, including reading aloud to Teacher B. The legitimate, non-discriminatory reasons for the conduct and the denials by Teachers A and B are detailed in the facts section above.

¹² In other words, Student A continued to receive FAPE services in an educational setting with persons who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability.

Allegation 2 – Retaliation

Parent A alleged that in XXXX 2016, the District retaliated against Student A for Parent A’s advocacy on behalf of Student A as a student with a disability by failing to convene Student A’s IEP team to consider Student A’s classroom teacher for the 2016-17 school year.

Legal Standard

When investigating a retaliation claim, OCR must determine whether: (1) the individual engaged in a protected activity; (2) the recipient had notice of the individual’s protected activity; (3) the individual was subjected to an adverse action contemporaneous with or subsequent to the protected activity; and (4) there was a causal connection between the protected activity and the adverse action. If one of the elements cannot be established, then OCR finds insufficient evidence of a violation. While OCR would need to address all of the elements in order to find a violation, OCR need not address all of these elements in order to find insufficient evidence of a violation, where the evidence otherwise demonstrates that retaliation cannot be established. If all of these elements establish a prima facie case, OCR then considers whether the recipient has identified a legitimate, non-retaliatory reason for taking the adverse action, and whether the reason asserted is a pretext for retaliation.

Facts

Parent A claimed that [Parent A] was concerned Student A’s XXXXX XXXXX teacher would continue the alleged pattern of discriminatory and harassing behavior in which Parent A believed Teacher A and Teacher B had engaged. Parent A stated that [Parent A] asked the School if Student A’s IEP team could meet to address and decide to which teacher’s classroom to assign Student A for the 2016-17 school year. According to Parent A, in XXXXXXXX 2015, the Principal agreed that the IEP team would meet to decide Student A’s XXXXXXXXXXXXX classroom teacher. Parent A indicated that after her advocacy increased for Student A in XXXXXXXX, including the escalation of her complaints to the Superintendent and the Board and her obtaining an attorney, the Principal reversed his decision in XXXX 2016 and said that the IEP team could not meet to decide the teacher for the next school year. The Principal denied ever telling Parent A that the IEP team could decide Student A’s XXXXXXXXXXXXX teacher.

Parent A provided OCR an extensive document with notes [Parent A] compiled thoroughly documenting the alleged conversations and written communications between herself and School and District employees between XXXXXXXXXXXX X, 2015, and XXXXXXXXXXXX X, 2016. OCR reviewed all entries, including those for the month of XXXXXXXX 2015. Despite the notes containing numerous references to statements by the Principal during that month, the notes did not refer to the Principal saying the IEP team could discuss Student A’s XXXXXXXXXXXXX teacher.

OCR reviewed other documents showing that on XXXX X, 2016, Parent A left a telephone message for special education staff inquiring about the process of convening Student A's IEP team to discuss options for XXXXX XXXXX. On XXXX X, 2016, Parent A and special education staff spoke by telephone. According to the District, when Parent A requested that the IEP team convene to discuss classroom teacher assignment, the administrator responded by sharing that "classroom teacher assignment was not an IEP team decision but that the team could meet to discuss changes to the IEP if needed in XXXXXX 2016." The District reported that special education staff encouraged Parent A to contact the Principal to discuss classroom placement.

By email dated XXXX XX, 2016, the administrator stated "As I shared with you earlier this week, classroom teacher assignment is not an IEP team decision. This is a conversation that needs to occur with the building principal who is responsible for teacher staffing and classroom assignments." The email stated that the District would "of course, take reasonable efforts to ensure that any teacher assigned has an understanding of [Student A] and [Student A's] specific needs." The administrator again encouraged Parent A to reach out to the Principal.

Analysis

The evidence supports finding that Parent A engaged in protected activity when, between XXXXXXXX 2015, and XXXX 2016, [Parent A] increased her advocacy for Student A as a student with a disability in the District. The evidence also supports that the District had notice of Parent A's protected activity, as [Parent A] engaged in the activity directly with District and School employees. OCR found that there is insufficient evidence, however, to establish the third prong of the prima facie case for retaliation. Specifically, there is insufficient evidence to conclude that District or School staff, including the Principal, initially told Parent A in XXXXXXXX that the IEP team would be able to meet and determine Student A's XXXXXXXXXXXX teacher, thus creating an adverse action when the Principal changed his mind in XXXX. Rather, the evidence OCR reviewed showed that Parent A first contacted the School about the IEP team meeting to discuss the issue in XXXX 2016, and that the District's special education administrator told Parent A that teacher assignment was not an IEP team decision. Accordingly, the third and fourth elements of the prima facie case cannot be established, and OCR finds insufficient evidence of retaliation.

Allegation 3 – Disability Discrimination

Parent A alleged that the District's XXXX 2016 denial of her request to have Student A's IEP team meet to consider Student A's classroom teacher for the 2016-17 school year constituted discrimination against Student A on the basis of disability. Specifically, Parent A alleged that the District failed to provide a reasonable modification to the rule that parents must complete a particular form before they can participate in the process of choosing an appropriate educational placement for their children.

Legal Standards

The regulations implementing Title II delineate specific areas of prohibited discriminatory conduct by public entities, including prohibitions that a public entity may not: (1) deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit or service; or (2) afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others. The Title II regulations further require public entities to “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.”

Facts

According to Parent A and District witnesses, the School has a procedure by which parents may submit input on a student’s teacher for the following year through a parent input form. For teacher assignments for the 2016-17 school year, the deadline for turning in the form was XXXXX XX, 2016. Parent A did not complete a parent input form, because [Parent A] stated that until XXXX 2016, [Parent A] understood that the IEP team would meet to discuss Student A’s XXXXXXXXXXXX teacher and so the form was unnecessary.

Parent A alleged that when the District denied the request to have the IEP team meet to discuss teacher placement for 2016-17, one of the reasons given to [Parent A] was that [Parent A] had not timely completed the teacher input form. Parent A’s attorney claimed that she requested a modification of the rule that parents must complete the form in order to provide input into teacher placement, and that she did not receive a response to that request.

OCR’s review of the documentary evidence and interviews of District staff show that when the District’s special education administrator notified Parent A that teacher assignment was not within the purview of the IEP team on XXXX X and XXXX XX, 2016, she encouraged Parent A to contact the Principal to discuss classroom placement. By email dated XXXX XX, 2016, the administrator stated “As I shared with you earlier this week, classroom teacher assignment is not an IEP team decision. This is a conversation that needs to occur with the building principal who is responsible for teacher staffing and classroom assignments.” The email stated that the District would “of course, take reasonable efforts to ensure that any teacher assigned has an understanding of [Student A] and [Student A’s] specific needs.” The administrator again encouraged Parent A to reach out to the Principal. On XXXX XX, 2016, the Principal emailed Parent A asking if [Parent A] was interested in giving him input about teacher placement. The Principal reported that he did not receive a response from Parent A. Parent A had subsequent phone conversations with special education staff, who continued to affirm that classroom placement was the Principal’s decision.

Analysis

The evidence shows that the School did have a procedure for parents to provide input for teacher assignments for their children via the parent input form. Parent A's attorney asserted that Title II should grant Parent A and Student A a modification of that procedure by allowing Student A's IEP team to provide input on Student A's teacher assignment for the 2016-17 school year. Here, Student A had not been denied the opportunity to participate in or benefit from an aid, benefit or service provided by the School. Moreover, the School had not afforded the Student A an opportunity to participate in or benefit from an aid, benefit or service that is not equal to that afforded others in violation of Title II.

Title II requires public entities to make reasonable modifications in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability. Parent A's requested modification to the School's procedure of using the parent input forms for teacher assignments was requested not to avoid discrimination on the basis of disability, but rather to remedy alleged past harassment. This is not required. Moreover, the School did provide Parent A the opportunity to provide input on Student A's teacher assignment for the 2016-17 school year despite not completing the parent input form.

On XXXX XX, 2016, the Principal emailed Parent A to inquire whether [Parent A] would be interested in providing teacher placement input, and according to the Principal, he received no response. It also is well-settled that "[T]he assignment of a particular classroom or teacher can be an administrative determination, provided that determination is consistent with the placement team's decision."¹³ By letter dated XXXXXX XX, 2016, by the Minnesota Department of Education (MDE), Parent A was made aware of that fact. Parent A has not raised any concerns with respect to the appropriateness of Student A's educational placement with OCR and, to the extent XXXX had concerns about the appropriateness of Student A's educational placement, XXXX had ample opportunity to address those concerns with the School at any of Student A's XXXX IEP meetings during the 2015-16 school year or with the MDE.¹⁴ OCR finds insufficient evidence to determine the District discriminated against Student A by failing to convene Student A's IEP team to consider Student A's classroom teacher for the 2016-17 school year.

Conclusion

Based on the foregoing, OCR closing portions of Allegation 1 and all of Allegations 2 and 3 of the complaint under Section 303(a) of the *CPM* effective the date of this letter. OCR will

¹³ See Letter to Fisher, 21 IDELR 992 (OSEP 1994).

¹⁴ Parent A did file a complaint against the District with MDE, which MDE received on XXXX XX, 2016. Parent A's MDE complaint alleged the District failed to review and revise Student A's IEP in XXXX 2016 in response to Student A's anticipated needs. Specifically, the MDE decision addressed whether the District's decision to not convene Student A's IEP team for the purpose of providing input into Student A's classroom placement for the 2016-17 school year violated IDEA. The MDE determined it did not. Parent A's MDE complaint raised no other allegations that the District denied Student A a FAPE during the 2015-16 school year.

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monitor the District's implementation of the Agreement addressing the remaining portion of Allegation 1. We look forward to receiving the initial report confirming the District's implementation of portions of the Agreement by May 10, 2017.

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 file a private suit in federal court whether or not OCR finds a violation.

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 retaliation occurs, 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, it will seek to protect, to the extent provided by law, personally identifiable information that if released could reasonably be expected to constitute an unwarranted invasion of personal privacy. This complaint is closed effective the date of this letter. If you have any questions or concerns, you may contact Jackie Wernz at 312-730-1486 or via email at Jacqueline.Wernz@Ed.Gov.

Sincerely,

Ann Cook-Graver
Supervisory Attorney