



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

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

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

July 31, 2018

Mr. Don Kirkegaard
Superintendent
West Bend School District
735 W. Main Street
West Bend, WI 53095

Re: OCR Docket # 05-18-1205

Dear Mr. Kirkegaard:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its complaint resolution efforts with regard to the above-referenced complaint of discrimination on the basis of disability filed on February 14, 2018, against West Bend School District (the District).

More specifically, the Complainant alleges that the District:

1. discriminated against the Student on the basis of disability (anxiety and ADHD) when it failed to evaluate him for special education and related services after the Complainant provided consent for a Section 504 evaluation in September 2017; and
2. is discriminating on the basis of disability by failing to establish Section 504 evaluation procedures.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department. 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. Title II prohibits discrimination on the basis of disability by public entities. As a public entity and a recipient of Federal financial assistance from the Department, the District is subject to the requirements of Section 504 and Title II.

During its investigation, OCR reviewed documents provided by the Complainant and the District, and interviewed the Complainant and a District staff member. Prior to the conclusion of OCR's investigation, the District expressed interest in resolving the complaint in accordance with Section 302 of OCR's *Case Processing Manual* (CPM). The District signed the enclosed Resolution Agreement and submitted it to OCR on July 30, 2018, which, when fully implemented, will resolve the issues raised in the complaint. OCR will monitor the implementation of the Resolution Agreement.

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 this happens, the individual 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, 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.

OCR would like to thank you for your cooperation during our investigation.

If you have any questions, please contact Susan Johlie, Attorney, at (312) 730-1586 or by email at Susan.Johlie@ed.gov.

Sincerely,

Dawn R. Matthias
Team Leader

Enclosure