



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

230 SOUTH DEARBORN ST., 37<sup>TH</sup> FLOOR  
CHICAGO, IL 60604

REGION V  
ILLINOIS  
INDIANA  
IOWA  
MINNESOTA  
NORTH DAKOTA  
WISCONSIN

October 1, 2020

Mr. Scott Laird  
Superintendent  
Athens C.U.S.D. #213  
1 Warrior Way  
Athens, IL 62613

Sent via email only to [slaird@athens-213.org](mailto:slaird@athens-213.org)

OCR Docket No. 05-20-1309

Dear Mr. Laird:

On April 9, 2020, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the Athens C.U.S.D. #213 (District) alleging discrimination on the basis of disability. On May 14, 2020, OCR opened an investigation of an allegation that the District discriminated against Student A, XXXXX grader, on the basis of disability (XXXXXXXXXXXXXXXXXXXX) from XX when the District failed to implement the following provisions of Student A's XXXXXXXXXXXXXXXX Individualized Education Program (IEP):

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability by recipients of Federal financial assistance, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-12134, and its implementing regulation at 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 District is subject to these laws. Therefore, OCR has jurisdiction over the complaint allegation.

During its investigation, OCR reviewed documents provided by the Complainant and the District, and interviewed the Complainant and three District staff members. 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). On September 30, 2020, the District submitted to OCR the enclosed Resolution Agreement, which when fully

implemented will resolve the issues raised in the complaint. A description of OCR's investigation to date follows.

### Applicable Legal Standard

The regulation implementing Section 504 at 34 C.F.R. §104.33 specifically requires that a recipient that operates a public elementary or secondary education program provide a free appropriate public education to each student with a disability. A free appropriate public education is defined as regular or special education and related services that are designed to meet the student's individual needs as adequately as the needs of non-disabled students are met. The regulation further states, at 34 C.F.R. § 104.33(b)(2), that implementation of an IEP in accordance with the Individuals with Disabilities Education Act is one means of meeting this standard.

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 allegation in this complaint do not provide greater protection than the applicable Section 504 regulations in this case, and has therefore applied the relevant Section 504 standards in making its determination.

### Facts

During the 2019-20 school year, Student A was a  
XX  
XXX (School). Student A is a student with an IEP. Student A's IEP relevant to this complaint was developed during an Annual Review on XXXXXXXXXXXXXXXXXXXX. The following "Supplementary Aids, Accommodations, and Modifications" are identified in Student A's XXXXXXXXXXXXXXXX IEP:  
XX  
XX  
XX  
XX  
XX  
XXXXXXXXXXXXXXXXXXXX

The Complainant alleges that the District failed to provide Student A with accommodations and modifications identified in his IEP from the date it was developed on XXXXXXXXXXXXXXXX until  
XX  
XX. Specifically, the Complainant told OCR that Student A  
XX  
XX  
XX  
XX.

The District asserts that "XXXXXXXXXXXXXXXXXXXXXXXXXXXX" to Student A for XXXXXXXXXXXXXXXX. Specifically, Student A's teachers told OCR that

Student A

[illegible]

The Complainant requested a meeting regarding Student A's accommodations stating "we are concerned that [Student A's] IEP is being violated" on XXXXXXXXXXXXXXXXXXXX. Her email reflects that she did not believe Student A was receiving  
XX  
XX needed to be clarified. In response, Student A's case manager spoke with the Complainant on approximately XXXXXXXXXXXXXXXXXXXX. The Complainant reported concerns about Student A's XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. Additionally, on XXXXXXXXXXXXXXXXXXXX, the Complainant expressed concern about Student A's XXXXXXXXXXXXXXXXXXXX and told Student A's Case Manager that "there seems to be a need to look at [Student A's] IEP again and tweak it. I don't think this one is working well." The Case Manager responded that she would talk to her administrator about setting up a meeting to amend his IEP. The District did not notify the Complainant whether her request for a meeting to amend Student A's IEP had been denied, nor did the District schedule a meeting at that time. The District convened an IEP meeting for Student A after the Complainant notified the District that she had filed a complaint with OCR.

## Conclusion

Based on the investigation to date, OCR has identified possible concerns with the District's implementation of the provisions of Student A's IEP and the District's response to the Complainant's requests for a meeting to review Student A's IEP. Prior to the conclusion of

<sup>1</sup> In an email to the Complainant on XXXXXXXXXXXXXXXXXXXX, the Special Education Teacher wrote, “I’ll reiterate to teachers about [Student A]’s XXX – as outlined in his IEP – just to make sure we continue to do that.”

OCR's investigation, the District expressed interest in resolving the complaint pursuant to Section 302 of the CPM. In accordance with Section 302 of the CPM, a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. OCR determined that a resolution agreement with the District is appropriate under the circumstances presented by this case. The enclosed Resolution Agreement, when fully implemented, will address the allegation. The provisions of the Resolution Agreement are aligned with the allegation in the complaint and the information obtained during OCR's investigation to date and is consistent with the applicable regulations. OCR will monitor the implementation of the Resolution Agreement.

The 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.

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. The complainant may file a private suit in Federal court, whether or not OCR finds a violation.

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 privacy.

OCR would like to thank the District, as well as Ms. Christine Christensen, the attorney for the District, for the courtesy and cooperation extended to OCR during the investigation. OCR looks forward to working with the District during the monitoring of the Resolution Agreement. If you have any questions, please contact Ms. Catherine Martin, Equal Opportunity Specialist, at (312) 730-1592 or by email at [Catherine.Martin@ed.gov](mailto:Catherine.Martin@ed.gov).

Sincerely,

Dawn R. Matthias  
Team Leader

Enclosure

cc: Christine Christensen (via email to [cchristensen@millertracy.com](mailto:cchristensen@millertracy.com))  
Brandon Wright (via email to [bwright@millertracy.com](mailto:bwright@millertracy.com))