



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

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August 17, 2023

Dr. Esther Mongan
Superintendent
Central Community Unit School District 301

Sent via email only to: esther.mongan@central301.net

Re: OCR Docket #05-23-1246

Dear Dr. Mongan:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its complaint resolution activities for the above-referenced complaint filed against the Central Community Unit School District 301 (District). OCR investigated whether the District discriminates against students with disabilities who participate in the District's STAR program by not including their parents/guardians on emails requesting volunteers for field trips and class parties.

OCR enforces 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, 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 prohibit discrimination on the basis of disability in a program or activity operated by a recipient of federal financial assistance from the Department and by public entities, respectively. As a recipient of federal financial assistance from the Department and a public entity, the District is subject to Section 504 and Title II.

During its investigation, OCR reviewed information provided by the Complainant, interviewed the Complainant, and reviewed documentation provided by the District. Prior to the completion of OCR's investigation, the District expressed interest in resolving the complaint allegation and OCR determined it was appropriate to do so pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). On August 7, 2023, the District submitted to OCR the enclosed resolution agreement, which when fully implemented will address the evidence obtained and all of the allegations investigated. This letter summarizes the applicable legal standards, the information gathered during the investigation to date, and OCR's compliance concerns.

Legal Standard

The Section 504 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, denied the benefits

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of, or otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department. The Section 504 regulation, at 34 C.F.R § 104.4(b), in relevant part, states that a recipient may not, on the basis of disability, deny a qualified person with a disability the opportunity to participate in or benefit from an aid, benefit, or service or afford a qualified person with a disability an opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others.¹

In determining whether a recipient subjected a student to different treatment on the basis of disability, OCR considers whether the recipient treated similarly situated students differently on the basis of disability. If evidence of different treatment is found, OCR then determines whether the reasons offered by the recipient for the different treatment are legitimate or a pretext for unlawful discrimination. Additionally, OCR examines whether the information shows that the recipient treated the student in a manner that is inconsistent with its established policies, practices and procedures or whether any other evidence of discrimination based on disability exists.

Facts

The District offers a Specialized, Targeted Academics & Rewarding (STAR) Program at Howard B. Thomas Grade School (School) to students in third through fifth grade. The STAR Program provides a smaller, structured, classroom setting with intense specialized instruction and integrated related service support outside of the general education setting. According to the District, STAR Program students are assigned to a “buddy classroom” – a general education classroom at the STAR student’s chronological grade level – for “specials” (music, physical education, art, lunch, recess, and assemblies) and other school-sponsored activities like parties and field trips.

The complaint alleges that the District discriminated against students with disabilities who participate in the District’s STAR program by not including their parents/guardians on emails requesting volunteers for field trips and class parties in fall 2022. The District does not have a uniform procedure for schools to solicit parent/guardian volunteers for school-sponsored events like classroom parties and field trips and District schools have discretion in their volunteer solicitation process. The District told OCR that each general education classroom at the School has two parties per school year requiring a total of six parent/guardian volunteers (three per party) per classroom. If more than six parents/guardians express an interest in volunteering, the classroom teacher randomly draws names from the parents/guardians who expressed interest to select volunteers. Field trip chaperones are selected in the same manner except that parents/guardians that had been selected to volunteer at a classroom party are ineligible to chaperone field trips. Given the limited number of parent/guardian volunteer opportunities, parents/guardians generally are limited to one volunteer opportunity per year.

The District told OCR that District staff, including teachers, communicate with parents/guardians in a variety of ways, primarily through an online forum called “Parent Square.” According to the District, Parent Square provides parents with mass notifications, one-to-one and group messaging between parents and staff, as well as volunteer and supply “sign-up” forms.

¹ The standards adopted by Title II were designed not to restrict the rights or remedies available under Section 504.

The District acknowledges that at the beginning of the 2022-2023 school year, the parents/guardians of STAR Program students were not included on Parent Square distribution lists for the general education classroom that was their assigned “buddy classroom.” As a result, parents/guardians of the STAR Program students were not included on a communication sent by the School’s general education teachers through Parent Square regarding classroom parties. This mass notification included a volunteer sign-up form for a winter and spring classroom party.

The District asserted to OCR that immediately upon learning that the parents/guardians of STAR Program students had not been included in the general education classroom Parent Square distribution lists, the STAR Program parents/guardians were added to the distribution list. The District provided evidence documenting that the School provided a STAR Program parent with an opportunity to volunteer at a classroom party and as a field trip chaperone when the parent expressed interest in volunteering. However, email correspondence provided by the District indicates that classroom party volunteers were selected at the beginning of the year, before STAR Program parents/guardians were included on the email distribution list.

Analysis and Conclusion

Based on the information gathered during OCR’s investigation, OCR has concerns regarding the District’s failure to include STAR Program parents/guardians on a Parent Square notification requesting volunteers for classroom parties at the beginning of the 2022-2023 school year. Although the District asserts they added the STAR Program parents/guardians to the Parent Square distribution list for their assigned “buddy classroom” upon being informed that they were not included, volunteers for the classroom parties had already been selected based on the initial notification, which STAR Program parents did not receive, and therefore students in the STAR Program were not given the same opportunity to have their parents/guardians participate in and be present for these events.

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. Prior to the conclusion of the investigation, the District expressed an interest in resolving the allegation and signed the enclosed resolution agreement. When fully implemented, the resolution agreement will address the evidence obtained and all of the allegations investigated. OCR will monitor the implementation of the agreement until the District is in compliance with the terms of the agreement and the statutes and regulations at issue in the case. OCR will monitor its implementation until the District is in compliance with the terms of the resolution agreement and the statutes and regulations at issue. Upon determining the District’s compliance, OCR will close the case.

This concludes OCR’s resolution activities with regard to the complaint and 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.

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 a 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.

The Complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

OCR would like to thank the District for the cooperation and courtesy extended to OCR during our investigation. In particular, we wish to thank Michelle Todd and Lindsay Hill, District Counsel. OCR looks forward to working with the District during the monitoring of the resolution agreement. If you have any questions regarding this letter, please contact Emily Martin, at (312) 730-1560 or by email at Emily.Martin@ed.gov.

Sincerely,

Melissa Katt
Supervisory Attorney

Enclosure

cc: Michelle Todd (*sent by email only to:* mtodd@hlerk.com)
Lindsay Hill (*sent by email only to:* lhill@hlerk.com)