



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION V  
ILLINOIS  
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NORTH DAKOTA  
WISCONSIN

August 9, 2023

Dr. Jeannie Stachowiak  
Superintendent  
North Palos School District 117

VIA E-MAIL only to: [redacted content]

Re: OCR Docket #05-23-1265

Dear Dr. Stachowiak:

This letter is to inform you of the disposition of the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) the against North Palos School District 117 (District). OCR investigated whether, during the 2022-2023 school year, the District discriminated against a [redacted content] student (Student A) at [redacted content] (School) based on disability when it denied Student A a free appropriate public education (FAPE) by failing to implement certain provisions in his IEP.

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, which prohibit 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 prohibit 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.

OCR investigated the complaint by reviewing information submitted by the Complainant and the District. Prior to the completion of OCR's investigation, the District expressed interest in resolving the complaint under Section 302 of OCR's *Case Processing Manual* (CPM). OCR determined that a Section 302 agreement is appropriate in this case because the issues can be addressed through a resolution agreement. Below is a summary of the applicable legal standards and OCR's investigation to date.

### **Applicable 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 which receives federal financial assistance. The regulation implementing Title II at 28 C.F.R. § 35.130(a) provides that no qualified individual with a disability shall, on the basis of disability,

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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 such entity.

In an educational setting, Section 504 and its implementing regulation generally provide the same or greater protection than Title II and its implementing regulation. Where, as in this case, Title II does not offer greater protection than Section 504, OCR applies Section 504 standards.

The Section 504 regulation at 34 C.F.R. § 104.33 requires school districts to provide a free and appropriate public education (FAPE) to all students with disabilities in their jurisdictions, regardless of the nature or severity of the disability. An appropriate education is defined as regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of students without disabilities are met and are based on adherence to procedures that satisfy the requirements of 34 C.F.R. §§ 104.34-36. The implementation of an individual education program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of providing FAPE under Section 504.

### **Facts**

During the 2022-2023 school year, Student A was a [redacted content] student enrolled in the School. The Complainant told OCR that Student A is diagnosed with [redacted content] [redacted content], [redacted content], and [redacted content]. Student A had an IEP, which in pertinent part, provided him with extended time and small group setting on school and state-wide assessments, and self-managed allowed breaks.

The Complainant told OCR that, in or around January 2023, he became aware that School personnel may not have been implementing Student A's IEP because Student A had displayed signs of becoming [redacted content] in school without time to [redacted content]. Specifically, the Complainant told OCR that the IEP services he believed that Student A was not receiving were extended time on test, small group testing, and self-managed allowed breaks. He did not provide specific dates or instances when any particular School staff member failed to provide these services to Student A. The Complainant [redacted content] Student A from the District on or around [redacted content].

The District denied to OCR that it failed to implement Student A's IEP, including the provisions identified by the Complainant. It provided OCR documentation demonstrating its implementation of social work services throughout the school year and an email dated [redacted content], from Student A's mother stating that Student A [redacted content] The mother explained that she would explain to Student A that if he needed additional time, he would need to be pulled out of class for that test. However, in the interest of resolving the complaint allegation and, prior to the conclusion of OCR's investigation, the District expressed interest in resolving the complaint under Section 302 of OCR's CPM.

## **Conclusion and Resolution Agreement**

OCR determined that it is appropriate to resolve the allegation in this case prior to making a finding.

The enclosed Resolution Agreement is fully aligned with the complaint allegations, the evidence obtained to date, and any potential compliance concerns. It requires the District to make an offer in writing to Student A's parents that, should Student A re-enroll in the District, the District will convene a group of persons knowledgeable about Student A to discuss whether Student A is in need of compensatory services as a result of any alleged failure by the District during the 2022-2023 school year to implement the provisions in Student A's IEP regarding extended time on classroom and District assessments and self-management breaks for Student A.

This concludes OCR's resolution actions with regard to the complaint and should not be interpreted to address the District's compliance with any other regulatory provision nor to address any issues other than those addressed in this letter. 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.

OCR would like to make you aware that the Complainant may have a right to 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. A complainant may file an action in 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, OCR 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 wishes to thank the District, specifically District counsel Kaitlin Atlas, for their cooperation and courtesy during OCR's investigation. If you have any questions, please contact Christopher Farrelly, Attorney, by email at [christopher.farrelly@ed.gov](mailto:christopher.farrelly@ed.gov).

Sincerely,

Marcela Sanchez-Aguilar  
Supervising Attorney