



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII

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August 19, 2021

Mr. Brian Ewert
Littleton Public Schools
5776 South Crocker Street
Littleton, CO 80120

Sent via email *ONLY* to bewert@lps.k12.co.us

Re: **Littleton Public Schools**
OCR Case: 08-21-1145

Dear Superintendent Ewert:

On March 3, 2021, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging that Littleton Public Schools (District) discriminated against a Student on the basis of disability. Specifically, the complaint alleges that the District discriminated against the Student on the basis of disability when it failed to implement the Student's Individualized Program (IEP), including the Behavior Intervention Plan (BIP), during the 2020-2021 school year, which resulted in a denial of a Free Appropriate Public Education (FAPE).

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department, and Title II of the Americans with Disabilities Act of 1990 (Title II), 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 and regulations.

In the initial stage of investigating this case, OCR interviewed the Complainant and reviewed documents and records provided by the Complainant. On April 1, 2021, OCR formally notified the District that OCR was opening an investigation into the allegations and requested information and records. In reviewing information from the Complainant and the District, OCR learned the following:

- The Student is identified as a student with a disability pursuant to the Individuals with Disabilities Education Act in the categories of autism spectrum disorder and serious emotional disorder. "X – sentence redacted – X".
- At the time of the allegations, the Student was a XXX student in the District attending XXX XXX School.

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

- In January 2021, the Student was suspended from school on four separate occasions after experiencing behavior incidents. During the final incident on January 28, 2021, the Principal of XXX XXX School requested the intervention of a School Resource Officer.
- During January 2021, the District was in the process of reviewing the Student's IEP and considering a reevaluation to meet his needs. By the end of January 2021, the District and the Parent agreed on an interim plan that would remove the Student from XXX XXX School while special education providers completed a reevaluation and provided services for the Student at a District building.
- The Student received additional counseling sessions from his non-District therapist following the events of January 2021 relating to his distress about his experiences at school in January 2021.
- The Student now receives services in a "X – provision redacted – X" School that has so far been successful at meeting his needs.

Prior to OCR completing its investigation, the District expressed an interest in resolving the allegations. Based on the information and records provided by the Complainant, OCR determined that it was appropriate, pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), to resolve the allegations with an agreement (Agreement) without completing its investigation. On July 27, 2021, we sent the District a proposed Agreement. The District sent OCR a fully executed Agreement on August 19, 2021. A copy of the signed Agreement is enclosed.

When the Agreement is fully implemented, the above-listed allegations will be resolved consistent with the requirements of Section 504 and Title II and their implementing regulations. OCR will monitor implementation of the Agreement through periodic reports from the District demonstrating that the terms of the Agreement have been fulfilled. OCR will promptly provide written notice of any deficiencies with respect to the implementation of the terms of the Agreement and will require actions to address such deficiencies. If the District fails to implement the Agreement, OCR will take appropriate action, which may include enforcement actions.

OCR is closing the investigative phase of the case effective the date of this letter. The case is now in the monitoring phase. The monitoring phase of the case will be completed when OCR determines that the District has fulfilled all of the terms of the Agreement. When the monitoring phase of the case is complete, OCR will close case number 08-21-1145 and will send a letter to the Complainant and the District stating that the case is closed.

This letter sets forth OCR's determination in an individual 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.

Recipients of Federal funds are prohibited from intimidation, harassment, or retaliation against individuals filing a complaint with OCR and those participating in a complaint investigation. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

Please note the Complainant may have the right to 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 personal privacy.

If you have any questions, please contact the attorney assigned to this case, Julie Schneider, by email at XXX.

Sincerely,

Sandra J. Roesti
Supervisory Attorney

cc: XXX XXX, counsel for the District, *by email only*

Attachment: Resolution Agreement