



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

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CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

February 5, 2015

Richard J. Landau, Esq.
RJ Landau Partners PLLC
5340 Plymouth Road, Suite 200
Ann Arbor, Michigan 48105

Re: OCR Docket #15-14-1270

Dear Mr. Landau,

This letter is to notify you of the disposition of the above-referenced complaint filed against Ann Arbor Public Schools (the District) with the U.S. Department of Education's Office for Civil Rights (OCR) on June 23, 2014, alleging that the District discriminated against a student (the Student) on the basis of disability. Specifically, the complaint alleged that:

- 1. The District failed to implement the Student's Section 504 plan when:
xxx xx xxxxxxx xx xxxxxxx xxx xxxxxxxxxxx xxxxxxx xxx xxxxxxx xx xxx
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2. The District failed to provide the Student's parent with notice of the procedural safeguards after the Student's Section 504 plan was written on or about xxxxxxxx
xx xxxxx

3. The District failed to address the Student's parent's xxxxx xxxxx xxx xxx xxx
xxxx complaints of disability discrimination concerning the District's failure to
implement the Student's Section 504 plan.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104 (Section 504), and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., and its implementing regulation, at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability by recipients of Federal

financial assistance from the U.S. Department of Education (the Department) and by public entities, respectively. As a recipient of Federal financial assistance from the Department and as a public school system, the District is subject to these laws; therefore, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegations, OCR investigated the following legal issues:

1. Whether the District failed to provide a qualified student with a disability with a free appropriate public education (FAPE), including the provision of related aids and services designed to meet the student's individual needs, in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.33.
2. Whether the District failed to provide a Student's parent with notice of her procedural safeguards to challenge its determination through an impartial due process hearing, in violation of the Section 504's implementing regulation at 34 C.F.R. § 104.36.
3. Whether the District adopted grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by the Section 504 and Title II regulations, as required by the Section 504 implementing regulation at 34 C.F.R. § 104.7(b) and the Title II implementing regulation at 28 C.F.R. § 35.107(b).

During the course of OCR's investigation, OCR interviewed the Student's parent and reviewed documents provided by the District. Additionally, OCR interviewed the District staff with knowledge of the circumstances that were the subject of the complaint. After carefully reviewing the information obtained, OCR has determined that the evidence is sufficient to conclude that: (1) the District failed to convene a team of knowledgeable persons when it convened the Student's xxxxxxxxxx xx xxxxx Section 504 Team, as required by Section 504; (2) the District failed to implement the Student's Section 504 Plan; (3) the District failed to provide the Student's parent with notice of her procedural safeguards; and (4) the District failed to respond to the Student's parents disability discrimination complaints in xxxxx xxx xxx xxxxx. The bases for OCR's determinations are explained below.

Background

X---paragraph redacted---X

Alleged Failure to Implement the Student's Section 504 Plan

- **Summary of OCR's Investigation**

On xxxxxxxx xx xxxxx a Section 504 meeting was conducted and a Section 504 plan (the plan) was developed for the Student. According to Student's parent, the Section 504 meeting attendees included the Student's parent and her husband, the assistant principal, the school psychologist, and the guidance counselor. The Student's parent stated that no teachers were present, which the Student's guidance counselor confirmed. None of the District's other witnesses recalled any teachers being present at the Section 504 meeting.

The team at the xxxxxxxx xx xxxxx Section 504 plan meeting, developed the Section 504 plan that provided the following services for the Student:

X---paragraph redacted---X

plan further specified that the parent would provide xxxxxxxx xxx xxxxxxxxxxxxxx with teachers on a regular basis and the Student would xxxxxxxx xxx xxx xxxxx xxx xxxxxxxxxxxxxx xxxxxxxx xx xxxxxxxxxxxxxxxxxxx

The Student's parent told OCR that, at the xxxxxxxx xx Section 504 meeting, the assistant principal told her the Student's new Section 504 plan would be forwarded to the teachers the next day. The Student's parent told OCR that despite this statement by the assistant principal, the Student's teachers seemed completely unaware of the plan for at least the next three weeks of the school year. It is undisputed that the District failed to provide the Student's plan to her teachers for three weeks, until approximately xxxxxxxx xxx as none of the District witnesses could recall the plan being provided sooner and the Student's teachers reported to OCR that they received it on approximately that date.

The Student's parent further alleged that even after the teachers received the Student's plan, they failed to implement it with fidelity for the remainder of the school year because the plan was written loosely and none of the teachers had received instructions on how to interpret the plan.

- **Science**

According to the Student's parent, the science teacher did not think the requirement of xxxxx xxxx xxx xxxxx xxx xxxxxxxxxxxxxx xxxxxxxx xx xxx xxxxx xx xxxxxxxxxxxxxx so he only gave the Student xxxxx xxxx for major assignments and required the Student to give him xxxxxxx xxx xxxx ahead of time, and she stated that he did not understand the requirement of xxxxxxxx xxxxxxxxxxxxxx for the Student.

OCR interviewed the Student's science teacher, who told OCR that he was not sure when he received the plan. He understood the xxxxxxxx xxxx requirement to be mandatory. The science teacher explained that the Student normally was not in school on a test day, so she typically made up her work at an xxxxxxxx xxxxx regardless of the plan's requirements. The science teacher reported that on one occasion when the Student was present for a test, he offered

her xxxxxxxx at an xxxxxxxxxxx xxxxxx and the Student declined. The science teacher told OCR that he tried his own interventions with the Student, even before receiving the plan, and offered xxxxxx xxxx to xxxx with the Student and xxxxxxxx xx xxxxxx xxxx xxxxx He also told OCR that he xxxxxxxx assignments throughout the school year, for all students, because he believed that was a good teaching practice. Although the Student never asked for her Section 504 plan services, he told OCR that he allowed all students to xxxx xx xxxx xxxx xxx xxxx xxxxxxxx On tests, if the bell rang and the Student was still working on her test, xx xxxxxxxx xxx xx xxxxxxxx xxx The Student took xxxxxx xxxxxx xxxxxxxx generally, and he gave her xxx xxx xxxxx xxx xxxxxxxx she could also go to a xxxxxxxxxxx xxxx xx come in at xxxxx xxxxx The science teacher also allowed her to xxxxxxxx xxx xxxxxxxxxxxxxx about a month after the second semester of the 2013-2014 school year ended, which allowed the Student to increase her grade in his course from an x xx x xx

- English

According to the Student's parent, the English teacher did not implement the xxxxxx xxxxx provision of the Student's Section 504 plan, until the Student's parent e-mailed her in late-February. The Student's parent reported to OCR that after her e-mail to the English teacher, the English teacher informed her that, xxx xxxxxxx xxxxxxx xx xxx xxxxxxxxxxx xxxxxxx xxx xxxxxxxxxxxxxxxxxxx xxxxxx xx xxxx xxxx xxxxxx xx xxxxx The District's data shows, in a February xxx xxxxxx xxxxxxx that the Student's parent informed the Student's English teacher that the Student has a Section 504 plan that gives her xxx xxxxx xxxxx xx xxx xxxxxxxxxxxxxx and xxxxxxxx when explaining information. In that xxxxxxxx she asked the English teacher to grant the Student an additional xxx xxxxx xx x xxx xxxxx The English teacher replied to the Student's parent's xxxxxxx that she would grant the xxx xxxxxxxxxxx xxxxxx but said that the Student needs to let her know that she requires the xxxxxx xxxxx for assignments and ask for xxxxxxxxxxxxxx prior to the day before an assignment is due. She further stated that the Student would have to xxxxx xx xxxxxxx xxxxxx so the teacher would have xxxxx xx xxxxxxx xxx xxxxxxxxxxxxxx

In her interview, the English teacher said that she understood the xxxxxxxxxxx xxxxx xxx xxxxxxxxxxxxxx to apply to an xxxxxxx xxxxx or xxxxx xxxxxx The English teacher reported that for those types of xxxxxx she asked the Student if she wanted to go to an xxxxxxxxxxx xxxxxx but did not remember if the Student ever declined. The English teacher stated that for xxxxxxx xxxxxxxx and xxxxxxx xxxxxxx it was up to the Student to xxxxxxx xx xxx xxxxxxx xx xxxxx xxxxxx xx xx xxxxxxxxxxx xxxxxx The English teacher interpreted the xxxxxx xxxxx provision to be "as needed" by the Student and expected her to ask in advance.

- Math

According to the Student's parent, two weeks after the Student's Section 504 plan was in place, the math teacher denied the Student her xxxxxxx xxxxxxxxxxxxxxxxxxx in that she denied the Student's request to xx xx xxx xxxxxxx xxxxxxx xxx xxxxx xxxxxx xxxxxx A xxxxxx xxx xxxxxx xxxxxxxx from the Student's parent to the guidance counselor complains that, during the previous week (approximately the week of xxxxxx xxx xxxxxxx the Student was not allowed xxxxxx xxxxx on a math xxxxxx although xxx xxxxxxx xxx xxxxx xxxxx xx xxx xxxxxxxxxxxxxx The Student's parent

questioned whether the math teacher knew about the plan and asked the guidance counselor to let her know the outcome, after looking into the incident.

The math teacher told OCR that she knew the Student was on a Section 504 plan part way through the year, at least early in the second semester. She understood the plan's provisions for xxxxx xxxx and a xxxxxxxx xxxxxxxxxxxxxxxx. She said that the xxxxxxxxxxx xxxxxxxxxxx was never provided because the Student preferred to take xxxxxx in xxx xxxxxx since it was xxxxxx and she could ask questions. The math teacher said that, until recently, she thought the xxxxxxxxxxx xxxxx was optional, but thinks she initially misunderstood the Section 504 plan's requirements. The math teacher told OCR that, after she received clarification, she always asked if the Student wanted to xx xx xx xxxxxxxxxxx xxxxxx and the Student always declined. The math teacher also told OCR that she always asked the Student if she wanted xxxxxx xxxxx and the Student accepted those offers. However, it had to be arranged for xxxxxx xxxxxxxx during the teacher's xxxxx xxxxxx or at xxxxxxx. The Student had to xx xx xxx xxxxx xxxxxx xxxxx xxx xxxxx xxx xxxxxx so there was no option of having xxx xxxxx xxx xxxxxx xxxxx xxxxxx xxxxx xxxxxx. The math teacher reported that the school does not have study halls. The math teacher specifically disputed the Student's parent's allegation that the Student did not receive xxxxxx xxxxx xx x xxxxx xx xxxxxx xxxxxx as the math teacher told OCR the Student was always given xxxxxx xxxxxx.

The math teacher also reported that she had no problems implementing the xxxxxxxxxxx xxxxxxxxxxx of the Student's Section 504, as the math assignments were given daily, and, as a result, they were already xxxxxxxxxxx. The math teacher also reported that there were no major assignments in her course.

On xxxxxx xx xxxxxx the Section 504 coordinator followed up with the Student's parent, via email, and asked if the instructors were following the Student's Section 504 plan or whether anything needed to be rewritten. The Student's parent replied thanking the Section 504 coordinator for following up and reporting that "all went well."

On approximately xxx xxx xxxxxx the Student was evaluated and determined to be eligible for an Individualized Education Program (IEP).

- **Applicable Legal Standards**

The Section 504 regulation, at 34 C.F.R. § 104.33, requires a recipient school district to provide a free appropriate public education (FAPE) to each qualified individual with a disability within its jurisdiction, regardless of the nature or severity of the individual's disability. For purposes of FAPE, an appropriate education is defined as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of individuals with disabilities as adequately as the needs of individuals without disabilities are met and which have been developed in accordance with process requirements of 34 C.F.R. §§ 104.34 (educational setting), 104.35 (evaluation and placement), and 104.36 (procedural safeguards).

The Section 504 implementing regulation, at 34 C.F.R. 104.35 specifically provides that the evaluation and placement team must include person knowledgeable about the student; the meaning of the evaluation data; and the placement options.

Teachers must implement the provisions of Section 504 plans when those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district to be in noncompliance with Section 504.

- **Analysis and Conclusion**

Here, the evidence shows that the District convened a Section 504 team on xxxxxxxx xx xxxxx but failed to include any of the Student's teachers, who had knowledge of the Student and her performance, and who were responsible for implementing the Student's placement. Based on the information obtained, OCR finds that there is sufficient evidence to conclude that the District failed to convene a team of knowledgeable persons when it convened the Student's xxxxxxxx xx xxxxx Section 504 Team, as required by Section 504. As noted above, it is undisputed that the District failed to provide the Student's teachers with her Section 504 plan from at least xxxxxxxx xx xxxxx xxxxx xxxxxxxx xxx xxxxx Accordingly, OCR finds that the District wholly failed to implement the Student's Section 504 plan during this three week period.

The evidence obtained also shows that the Student's English and math teachers failed to implement the Student's Section 504 plan after receiving it on xxxxxxxx xxx xxx. Specifically, the Student's English teacher told OCR that the xxxxx xxx xxxxxxxxx was "as needed" by the Student, required the Student to request xxxxx xxx xx xxxxxxxxxxxx xx xxxxxxxx and required the Student to xxx xx xxxxxx xxxxx xx xxxxxxx xxxxxxxxxxxxxxxx xx xxxxxxxxxxxxxxxx The math teacher also told OCR that she thought the xxxxxxxx xxxxxxxx xxxxxxxx was optional and arranged for the Student to have xxxxx xxx xxxxxx xxxxxxx xxxxxxx xxx xxxxxxxxxxx xxxxx xxxxx xx xxxxxx OCR has determined that it was not appropriate for the Student's teachers to require her to xxx xxx xxxxx xxx xx xxxxxxx xx xx xxx xx xxx xxxxx xxx in order to receive her Section 504 services.

Although there is some evidence indicating that the Student occasionally rejected some of her accommodations such as the xxxxxxxx xxxxxxx xxx xxxxxx OCR finds that the preponderance of evidence supports that the District failed to implement the Student's Section 504 plan from xxxxxxxx xx xxxxx through the remainder of the school year in English and math. OCR finds that there is insufficient evidence to conclude that the District failed to implement the Student's Section 504 plan in science, after xxxxxxxx xxx xxxxx

Alleged Failure to Provide Notice of Procedural Rights

- **Summary of OCR Investigation**

The Student's parent also alleged that she was not provided a notice of her procedural rights after the Section 504 meeting on xxxxxxxx xx xxxxx The assistant principal, who told OCR that he is responsible for providing those notices, stated he did not recall if he provided the Student's

parent such a notice. The District was unable to produce to OCR any information demonstrating that a notice of procedural rights was provided to the Student's parent.

- **Applicable Legal and Policy Standards**

The Section 504 implementing regulation at 34 C.F.R. § 104.36 requires that a recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

- **Analysis and Conclusion**

As there is no information to indicate that the District did, in fact, provide the Student's parent with the requisite notice and the individual responsible could not recall if he provided such notice to the Student's parent, OCR has determined that the District failed to provide the Student's parent with notice of her procedural rights, as alleged.

Alleged Failure to Respond to Disability Discrimination Complaints

- **Summary of OCR's Investigation**

The Student's parent also alleged that the District failed to address her xxxxx xxxx xxx xxx xxx xxxx complaints of disability discrimination, concerning the District's failure to implement the Student's Section 504 plan.

On xxxxx xxx xxxxx the Student's parent emailed the Student's teachers, the assistant principal, the guidance counselor, the school psychologist, and the Section 504 coordinator, stating that the Student has had few "accommodations", since the Section 504 plan was put into place. In that email, she asks the teachers to make sure they are implementing the plan. The email also requests that the Student be considered for an IEP. The next day, the assistant principal emailed the Student's teachers, asking them to explain how they have implemented the plan. In an xxxxx xx email, the science teacher responded to the assistant principal's email and reported that, for large projects, he xxxxxx them for all students. The science teacher also reported on the Student's xxxxxxxx xxxxxxxx from his class. The assistant principal did not recall any other follow-up on his part and did not recall hearing of any other complaints. An xxxxx xx report from the Section 504 coordinator to the executive director indicates that the Section 504 coordinator had spoken with the Student's parent about her concerns. The Student's parent told him that the Student had not been receiving her services and that she was now requesting special education services because of poor follow through on the Section 504 plan. The Section 504 coordinator asked the Student's parent to contact the assistant principal to discuss the concern, prior to requesting a special education evaluation.

On xxxxx xxx xxxxx the Student's parent forwarded a copy of her xxxxx xx email, to the assistant director for Student Intervention and Support Services (SISS), who supervises special education. The Student's parent complained that the Student's special education evaluation had not yet occurred. She further stated that she was requesting a special education evaluation because the Student's Section 504 plan was not being implemented. The assistant SISS director, who has no responsibility for Section 504 plans, told OCR that she e-mailed the assistant principal to convey Student's parent's concerns. The assistant SISS director advised OCR that implementation of Section 504 plans was the responsibility of the general education staff. The assistant SISS director also told OCR that her only contact with Student's parent was on xxxxx xxx xxxxx

On xxx xxx xxxxx the Student's parent resent the same letter to the same individuals and said she was filing an official complaint. She complained that the assistant principal never contacted her about the implementation of the Student's Section 504 plan, that the plan was not being implemented, and that the Student's teachers all had different interpretations of the Section 504 plan's requirements.

OCR interviewed the assistant principal, executive director and assistant director of SISS, the Section 504 coordinator, the guidance counselor, and the assistant superintendent, who received the complaints from Student's parent that the Student's Section 504 plan was not being implemented. They all reported to OCR that they did not conduct an investigation of the complaints under the District's Section 504 grievance procedures and none of them referred the Student's parent's concerns to anyone else for investigation. The assistant principal told OCR that he did not recall whether he spoke with teachers, reached a conclusion about whether the Student's plan was being implemented, discussed the plan with the Student's parent, had any phone conversation with Student's parent after the xxxxxxxx xx xxxx meeting, or otherwise responded to Student's parent in writing. The Section 504 coordinator stated that he never did a formal investigation of the Student's parent's Section 504 complaints because she asked for an IEP.

On xxxx xxx xxxxx the Student's parent filed a formal complaint with the District's board of education. After receiving a copy of the complaint, the executive SISS director tasked the Section 504 coordinator and the assistant SISS director to investigate the Student's parent's allegations, suggesting that the Student might need compensatory education such as summer school or other support during the school year. However, she did not follow-up and could not state whether or not a Section 504 grievance investigation had occurred or whether the Student's need for compensatory education was ever evaluated. Other staff members stated that they did not conduct a Section 504 evaluation because the Student's parent had requested an IEP.

OCR asked several District staff members about the availability of grievance procedures under which complaints of disability discrimination could be brought. The assistant principal stated that the procedures are on the District's web site. Other staff, including the assistant SISS director and the guidance counselor, did not know if the District had grievance procedures or where they could be found.

OCR reviewed the grievance procedures provided in the District's data response, entitled "Section 504 and Title II Grievance Procedure," and dated July 2010. These procedures: (1) designate the Director HR/Legal Services, as the Section 504 Coordinator, and provide a name and telephone number, but no address; (2) apply to any complaint of discrimination on the basis of disability, either by an employee, other students, or third parties; (3) provide for an adequate, reliable, and impartial investigation of the complaint, including allowing the Student's parent to present witnesses and other evidence; (4) include designated and reasonably prompt timeframes for the major stages of the complaint process, including 30 days each for filing of the complaint, issuing a written decision, and issuing a written decision on the appeal, if any, which must be filed within 15 days of receiving the Section 504 coordinator's decision; (5) provide written notice of the outcome of the complaint, but is not clear as to who receives the written note; (6) include the opportunity to appeal the findings to the District's Administrator for Student Intervention and Support Services, but does not provide an address; and (7) prohibit retaliation.

OCR also reviewed the District's website, which contains a different grievance procedure, available only under the "Parents" tab, entitled "Grievance Procedure." OCR reviewed that procedure as well and notes that it contradicts some of the information provided in the grievance procedure above. OCR also notes that this version of the District's grievance procedures was approved by OCR in regard to OCR Docket #15-10-1018, the monitoring of which concluded in December 2012.

Step 1 of this grievance procedure provides: (1) an informal process, which is optional, and directs the Student's parent to the building principal (students), or the principal's immediate supervisor (for employees). If the Student's parent prefers, he or she, may complain directly to the Section 504 coordinator. If the principal or supervisor is the subject of the complaint, or the grievant is not a student or employee, the grievant may instead, contact the District's Section 504 coordinator. The recipient of the complaint is expected to convey his or her findings to both parties, verbally, within 10 business days.

Step 2 is available if Step 1 does not resolve the matter or if the grievant prefers a formal procedure. Step 2 designates the Section 504 coordinator as the responsible employee to ensure compliance and the individual with whom to file a complaint. It provides her name and contact information, including address and telephone number. While the procedure is written so as to apply to employees, students, and third parties and provides notice as to where complaints might be filed, its availability appears to be limited only to parents, due to its location under the "Parents" tab of the District's website. The procedure allows the grievant to submit the names of witnesses and other evidence. The investigation includes an interview of the parties and witnesses, a review of relevant evidence, and any other steps necessary to ensure a prompt and thorough investigation of the complaint. The investigation is to occur within 10 business days of submission of the written complaint and a written disposition of the complaint shall be issued within 10 business days of completion of the investigation, unless a specific written extension of time is provided to the parties. Copies of the disposition are provided to both parties. If discrimination or harassment is found to have occurred, the disposition will include the steps that the District will take to prevent recurrence of any discrimination/harassment and to correct its discriminatory effects on the grievant and others, if appropriate.

In Step 3, the District outlines an appeal process, which allows for appeal to the Superintendent within 10 business days after receipt of the written disposition. The Superintendent or his designee will respond to the complaint, in writing, within 10 business days of the date of the appeal. Copies of the response are provided to both the grievant and the subject of the complaint. The procedures include a prohibition against retaliation.

It is noted that the procedure listed on the District's web site contains an incorrect address for OCR Cleveland, as OCR has relocated since the publishing of the District's grievance procedures.

- **Applicable Legal and Policy Standards**

The Section 504 implementing regulation at 35 C.F.R. § 104.7(b) states that a recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504. The Title II regulation at 28 C.F.R. § 35.107(b) provides that a public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II.

When evaluating a recipient's grievance procedures under Section 504 and Title II, OCR considers a number of factors to determine if the grievance procedures meet regulatory requirements, including whether the procedures provide for:

- (1) Notice of the procedures, including where complaints may be filed.
- (2) Application of the procedure to complaints alleging discrimination carried out by employees, other students, or third parties.
- (3) Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence.
- (4) Designated and reasonably prompt timeframes for the major stages of the complaint process.
- (5) Notice to the parties of the outcome of the complaint.
- (6) An assurance that the school will take steps to prevent recurrence of any harassment and to correct discriminatory effects on the Student's parent and others, if appropriate.

- **Analysis and Conclusion**

The evidence shows that the Student's parent made numerous complaints to the District's staff and administrators about the District's failure to implement the Student's Section 504 plan in xxxxx xxx xxx xxxxx. The evidence also demonstrates that none of the District staff, who

received the complaints, conducted an investigation under the District's Section 504 grievance procedures, or appropriately referred the complaints to the responsible individuals. Accordingly, OCR has determined that the evidence is sufficient to support that the District failed to respond to the Student's parent's disability discrimination complaints in xxxxx xxx xxxx xxxxx

OCR also finds that the grievance procedure available on the District's website provides for the prompt and equitable resolution of complaints alleging any action prohibited by the Section 504 regulation or the Title II regulation, as required by 34 C.F.R. § 104.7(b) and 28 C.F.R. § 35.107(b), and as previously determined by OCR in OCR Docket #15-10-1018. However, the evidence indicates that the District may be maintaining two separate grievance procedures, the use of the first of which, discussed above, must be discontinued immediately. Additionally, as noted above, many District staff and administrators told OCR that they were either unaware of the existence of the District's disability discrimination grievance procedures or were unclear of their requirements and location, which OCR concludes directly impacted the District's failure to respond appropriately to the Student's parent's complaints.

Resolution and Conclusion

To resolve these compliance findings, the District submitted the enclosed resolution agreement (the Agreement), signed on January 30, 2015, to OCR on February 4, 2015. Under the terms of the Agreement, the District will: determine what compensatory education or other remedial services the Student requires for the time period from xxxxxxxx xx xxxxx xx xxx xxx xxxxx during which period the District failed to implement the Student's Section 504 plan; notify the Student's parent, in writing, of the outcome of its investigations into the complaints of disability discrimination; re-publish its OCR approved grievance procedures; and train staff on the revised procedures and the District's obligations under Section 504. OCR will monitor the implementation of the agreement. If the District does not fully implement the agreement, OCR will reopen the investigation and take appropriate action.

This concludes OCR's investigation of 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 harmed individual may file another complaint alleging such treatment. The complainant may file a private suit in federal court, whether or not OCR finds a violation.

OCR appreciates your cooperation and that of the District during the investigation and resolution of this complaint. If you have any questions about this letter or OCR's resolution of this case, please contact me at (216) 522-xxxx or by e-mail at xxxxxxxxxxx@ed.gov. For questions about

implementation of the Agreement, please contact Ms. xxxxxxxx xxxxxx who will be monitoring the District's implementation, by e-mail at xxxxxxxxxxxx@ed.gov or by telephone at (216) 522-xxxxx. We look forward to receiving the District's first monitoring report by February 27, 2015.

Sincerely,

/s/

Lisa M. Lane
Supervisory Attorney/Team Leader

Enclosure