



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

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

January 12, 2016

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RE: OCR Docket # 15-15-1319

Dear xx xxxxxxxx:

This is to notify you of the disposition of the above-referenced complaint against xxxxxxxx xxxxxxxx School District (the District), which was filed on xxxx x xxxx, with the U.S. Department of Education’s Office for Civil Rights (OCR). The complaint alleged that throughout the xxxx xxxxx school year, the District discriminated against a Student based on disability. Specifically, the complaint alleged that the District did not provide the Student with certain academic aids and services specified in her Individual Education Plan (IEP), including, e.g., xxxx xx xxxxxx xxx xxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxxx xxxxx xxxxx xxx xxxxxxxxxxx xxx xxxxx xxxxxx.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 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, 42, U.S.C. 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department and by public entities, respectively. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to these laws; thus, OCR had jurisdiction to investigate this complaint.

Because the regulation implementing Title II provides no greater protection than the Section 504 implementing regulation with respect to this case, OCR applied Section 504 standards. Based on the complaint allegations, OCR investigated the legal issue of whether the District failed to provide a free appropriate public education (FAPE) to a qualified student with a disability in violation of Section 504’s implementing regulation at 34 C.F.R. § 104.33.

During the course of this investigation, OCR obtained documentation regarding the above allegations from the Student’s parent and from the District. OCR also interviewed District employees and the Student’s parent and provided the Student’s parent with the opportunity to respond to information provided by the District. Based on a careful consideration of the information obtained, OCR has determined that the District failed to provide the Student with a FAPE in several respects. However, the District signed the enclosed agreement, which, once

implemented, will fully address this allegation in accordance with Section 504 and Title II. A summary of OCR’s investigation, the applicable legal standards, the bases for OCR’s determinations, and the terms of the agreement are presented below.

**OCR’s Investigation**

[xx paragraph xx]

[xx paragraph xx]

[xx paragraph xx]

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**Legal Standards and Analysis**

The Section 504 regulation, at 34 C.F.R. § 104.33, requires recipient school districts to provide a free appropriate public education (FAPE) to each qualified individual with a disability who is in the recipient’s jurisdiction, regardless of the nature or the severity of the person’s disability. An appropriate education for purposes of FAPE 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 students with disabilities as adequately as the needs of nondisabled students are met, and that are developed in accordance with the procedural requirements of 34 C.F.R. §§ 104.34-104.36 pertaining to educational setting, evaluation and placement, and procedural safeguards. Implementation of an Individualized Education Program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements. In this instance, the evidence shows that the Student had a disability and was on an IEP to ensure that she received a FAPE.

[xx paragraph xx]

[xx paragraph xx]

[xx paragraph xx]

[xx paragraph xx]

**Resolution**

Based on the information above, OCR concluded that the District did not meet the requirements of the Section 504 regulations in that during the 2014-2015 school year, it did not provide the Student with a FAPE because it did not always xxxx xxxxxx xxx xxx xxxxxxxx xxx xxxxxxxx xxxxx xxx xxxxxxxx xx xxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxxx.

In order to resolve the complaint, the District signed the enclosed resolution agreement on January 11, 2016, which, once implemented, will fully address the complaint allegations in accordance with the requirements of Section 504 and Title II. The agreement requires the District to reconvene the Student’s IEP team, including the Student’s parent(s), to determine what compensatory education or other remedial services the Student requires for the time period from xxxxxxxxxx xxx xxxxxxx xxxxxxx xxxxxxxxxx xxxxxxxxxx x as a result of the District’s failing to consistently provided all of the accommodations listed in the Student’s xxx IEPs in effect during the xxxxx xxxxxxxschool year. If the team determines that the Student is entitled to

compensatory education or other remedial services, it will develop a written plan for providing the services to be provided at no cost to the Student's parent(s), indicate by whom and when the services will be provided, and will become part of the Student's IEP. The District will provide the Student's parents with a meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree.

### **Conclusion**

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. OCR will monitor the District's implementation of the agreement. Should the District fail to fully implement the agreement, OCR will take appropriate action to ensure the District's full compliance with Section 504 and Title II.

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 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.

We appreciate your efforts and those of District staff as we investigated and resolved this complaint. We look forward to receiving the District's first monitoring report by February 19, 2016. The report should be directed to me, as I will be overseeing the District's implementation of the agreement; I can be reached at xxx xxx xxxx or my email at xxxxxxxxxxxx. If you have any questions about this letter or OCR's resolution of this case, you may contact me as I am also the acting team leader.

Sincerely,

/s

Xxxxx xxxxxxxxxxxx  
Acting Supervisory Attorney/Team Leader

Enclosure

cc:        xxxxxxx xxxxxxx xxxxxxx  
            xxxxxxx xxxxxxx