



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

Xxxxx xxx xxxxxxxxx
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXX
XXXXX xxx xxxxxxx

Re: OCR Docket #15-16-1101

Dear xx xxxx:

This is to notify you of the disposition of the above-referenced complaint that was filed on xxxxxxx xx xxxxxx, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the xxxx xxxxx District (the District) alleging that the District discriminated against a District student (the Student) based on his disabilities. Specifically, the complaint alleged that on xxxxxxxx, the District excluded the Student from a xxxx xxxx because the Student's school failed to xxxx xxxxxxx for the Student,xxxxx xxxxxx x xxxxxxx.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104 (Section 504). Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance from the Department. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35 (Title II). Title II prohibits discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to Section 504 and Title II. Therefore, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegations, OCR opened an investigation into the following issues:

- Whether the District excluded a qualified student with a disability from participation in, denied the student the benefits of, or otherwise subjected the student to discrimination under any of the District's programs, activities, aids, benefits, or services in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and the Title II implementing regulation at 28 C.F.R. § 35.130(a).
- Whether the District failed to afford a qualified student with a disability an equal opportunity to participate in or benefit from the District's programs,

activities, aids, benefits, or services in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.4(b)(1)(ii) and the Title II implementing regulation at 28 C.F.R. § 35.130(b)(1)(ii).

- Whether the District failed to provide nonacademic and extracurricular services and activities in such manner as necessary to afford students with disabilities an equal opportunity for participation in such services and activities, in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.37(a).

To date in OCR’s investigation, OCR has interviewed the Complainant and obtained information and documentation from the Complainant and the District. However, prior to the completion of OCR’s investigation, the District offered to voluntarily resolve the complaint allegations pursuant to Section 302 of OCR’s *Case Processing Manual (CPM)*. A discussion of OCR’s investigation to date and the voluntary resolution is presented below.

Summary of OCR’s Investigation to Date

[xxx paragraph xxx]

[xxx paragraph xxx]

Applicable Legal Standards

The Section 504 implementing regulation at 34 C.F.R. § 104.4(a) prohibits recipient institutions from excluding qualified students with disabilities from participation in, denying them the benefits of, or otherwise subjecting them to discrimination under any of the recipient’s programs or activities. Title II contains a similar provision relating to public entities at 28 C.F.R. § 35.130(a).

The Section 504 implementing regulation, at 34 C.F.R. § 104.4(b)(1)(ii), and the Title II implementing regulation, at 28 C.F.R. § 35.130(b)(1)(ii), prohibit recipient institutions and public entities, respectively, from affording a qualified person with a disability an opportunity to participate in or benefit from the entity’s aids, benefits, or services that is not equal to that afforded to others.

The Section 504 implementing regulation, at 34 C.F.R. § 104.37(a), also requires recipient institutions to provide nonacademic and extracurricular services and activities in such a manner that students with disabilities are provided an equal opportunity to participate.

Voluntary Resolution

As explained above, before OCR completed its investigation, the District offered to resolve the complaint through Section 302 of OCR’s CPM, which provides that a

complaint may be resolved before the conclusion of an OCR investigation if a recipient asks to resolve the complaint and signs a resolution agreement that addresses the complaint allegations. Such a request does not constitute an admission of liability on the part of the District, nor does it constitute a determination by OCR that the District has violated any of the laws that OCR enforces. On September 30, 2016, the District signed the enclosed Agreement. The provisions of the Agreement are aligned with the complaint allegation and the information obtained to date during the investigation and are consistent with applicable regulations. When fully implemented, the Agreement will resolve the allegation in the complaint.

[xxx paragraph xxx]

[xxx paragraph xxx]

Conclusion

In light of the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will, however, 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 compliance with the Section 504 and Title II regulations.

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 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 the right to file a private suit in federal court, whether or not OCR finds a violation.

OCR appreciates the District's cooperation in the resolution of this matter. If you have any questions, please contact xx xxxxxxxx xxxxxxxx xxxxxxxx xxx xxxxxxxxxxxx, at xxx xxx xxx. For questions about implementation of the Agreement, please contact

Xx xxx xxxxxxxx, who will be monitoring the District's implementation of the Agreement, at xxx xxx xxxxx, or by e-mail at xxxxxxxxxxxxxxxx. We look forward to receiving the District's first monitoring report, which is due by January 31, 2017.

Sincerely,

/s

Xxxxxx xxxxxxxxxxxx
Xxxxxxx xxxxxxxx

Enclosure