



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

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

April 11, 2018

Adam J. Schira, Esq.  
Dickinson Wright PLLC.  
150 E. Gay Street, Suite 2400  
Columbus OH 43215

Re: OCR Docket #15-16-1529

Dear Mr. Shira:

This letter is to inform you of the disposition of the above-referenced complaint filed against Middletown Preparatory and Fitness Academy (the Academy) with the U.S. Department of Education (Department), Office for Civil Rights (OCR) received on August 12, 2016, alleging that the Academy discriminated against a student (the Student) on the basis of disability. Specifically, the complaint alleges that from March 1, 2016, until the end of the 2015-2016 school year, the Academy failed to provide the Student:

1. A reduced work load, no homework and excuse assignments missed during absences.
2. Permission to take short breaks in a quiet area of the school.
3. Access to a quiet, restful place during lunch and permission to use the hallways before or after the bell to avoid busy transition times.
4. Increased opportunities for repetition and review of material.

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, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. 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 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 and as a public entity, the Academy is subject to these laws. Accordingly, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegations, OCR opened an investigation of the following issue: whether the Academy failed to provide a qualified student with a disability with a free and appropriate public education (FAPE) as required by the Section 504 implementing regulation at 34 C.F.R. § 104.33.

Prior to the completion of OCR's investigation, the District asked to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). On April 11, 2018, the District submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

This concludes OCR's investigation of the complaint and should not be interpreted to address the Academy'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 Academy 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.

The Complainant may 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 letter and related correspondence and records upon request. In the event that OCR receives such a request, it 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.

OCR looks forward to receiving the District's first monitoring report, which is due by April 16, 2018. For questions about implementation of the Agreement, please contact Chandra Baldwin, who will be monitoring the Academy's implementation, by e-mail at [Chandra.Baldwin@ed.gov](mailto:Chandra.Baldwin@ed.gov) or by telephone at (216) 522-2669.

Sincerely,

/s/

Donald S. Yarab  
Supervisory Attorney/Team Leader

Enclosure