



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

**REGION XV
MICHIGAN
OHIO**

May 3, 2018

Earlene R. Baggett-Hayes, Esq.
Legal Counsel
Southfield Public Schools
24661 Lahser Road
Southfield, Michigan 48033

Re: OCR Docket No. 15-17-1017

Dear Ms. Baggett-Hayes:

This letter is to notify you of the disposition of the above-referenced complaint filed on October 5, 2016, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Southfield Public School District (the District) alleging that the District discriminated against a student (the Student) based on disability. Specifically, the complaint alleged that the Student was denied access to the XXXXX Program at XXXXX XXXXX because of XXX disability (food allergies).

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 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 from the Department and as a public entity the District is subject to these laws.

Based on the complaint allegation, OCR opened an investigation of the following legal issues:

- whether the District excluded a student from participation in, denied XXX the benefits of, or otherwise subjected XXX to discrimination in its programs and activities based on XXX disability in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.4, and the regulation implementing Title II at 28 C.F.R. § 35.130 and
- whether the District, in providing preschool education, excluded a qualified student with a disability, on the basis of disability, and failed to account for the student's needs in determining the aid, benefits, or services to be provided, in violation of Section 504 implementing regulation at 34 C.F.R. § 104.38..

During its investigation to date, OCR reviewed information provided by the Complainant and the District and interviewed the Complainant and District witnesses.

Under Section 302 of OCR's *Case Processing Manual*, allegations under investigation may be resolved at any time when, prior to the issuance of a final investigative determination, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them with an agreement.

In this case, the District expressed an interest in resolving the allegation prior to the conclusion of OCR's investigation and OCR determined resolution was appropriate. District witnesses denied telling the Complainant XXX could not bring food for the Student and stated that the Student was waitlisted pursuant to its regular practice after XXXXX XXXXX XXXXX; however, the evidence obtained to date was unclear as to when the XXXXX program's attendance was at full capacity with respect to the date when the Student was waitlisted, and there was no documented evidence to show that XXXXX XXXXX was communicated to the Complainant. The District told OCR that a phone call was made to the Complainant on XXXXX XXXXX. The Complainant said XXXXX XXXXX XXXXX.

OCR would need to obtain additional documentation and conduct additional interviews in order to complete its investigation and to determine whether discrimination occurred as alleged. On April 23, 2018, the District signed the enclosed Resolution Agreement, which, when fully implemented, will address all of the allegations in the complaint. OCR will monitor the implementation of the Resolution Agreement.

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 individual may file another 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, OCR 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 file a private suit in federal court, whether or not OCR finds a violation.

OCR looks forward to receiving the District's first monitoring report by June 15, 2018. For questions about implementation of the Agreement, please contact Ms. Erin Barker-Brown, who will be monitoring the District's implementation, by e-mail at Erin.Barker-Brown@ed.gov or by

telephone at (216) 522-4978. If you have questions or concerns about this letter, please contact me by telephone at (216) 522-7640.

Sincerely,

Sacara M. Martin
Supervisory Attorney/Team Leader

Enclosure