



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

Laura G. Anthony, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215

Re: OCR Docket #15-17-1215

Dear Ms. Anthony:

This letter is to inform you of the disposition of the above-referenced complaint filed against River Valley Local School District (the District) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on January 13, 2017. The complaint alleged discrimination against a student (the Student) on the basis of disability. Specifically, the complaint alleged that:

1. The District failed to provide the Student's parent with appropriate procedural safeguards with respect to the Student's Section 504 plan, including appropriate notice of the plan.
2. Beginning on or around December 20, 2016, the District failed to implement the Student's Section 504 plan when XXXXX.

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 issues:

- whether the District failed to provide a qualified student with a disability with a free appropriate public education (FAPE) as required by the Section 504 implementing regulation at 34 C.F.R. § 104.33; and

- whether the District failed to establish and implement, with respect to actions regarding the 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, as required by the Section 504 implementing regulation at 34 C.F.R. § 104.36.

Summary of OCR’s Investigation

In its investigation to date, OCR interviewed the Complainant and reviewed documentation submitted by both the Complainant and the District.

XXXXX PARAGRAPH XXXXX

XXXXX PARAGRAPH XXXXX

XXXXX PARAGRAPH XXXXX

On September 7, 2017, 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). OCR determined that it is appropriate to resolve this complaint with an agreement prior to the completion of the investigation.

Applicable Regulatory Standards

The Section 504 regulation, at 34 C.F.R. § 104.33, requires recipient school districts to provide a 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 procedural requirements of 34 C.F.R. §§ 104.34-104.36 regarding educational setting, evaluation, placement, and procedural safeguards.

Resolution and Conclusion

As noted above, prior to the completion of OCR’s investigation, the District expressed interest in resolving the allegations in the complaint pursuant to 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. OCR determined that the information obtained to date indicated a sufficient cause for a possible compliance concern and that an agreement was appropriate to resolve this complaint.

On September 22, 2017, the District submitted the enclosed signed resolution agreement (the Agreement) to OCR. The provisions of the Agreement are aligned with the complaint allegations and the information obtained to date during the investigation and are consistent with applicable regulations. When fully implemented, the Agreement will resolve the allegations in the complaint.

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 reopen the complaint and take appropriate action to ensure its compliance with Section 504 and Title II.

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.

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 **November 15, 2017**. For questions about implementation of the Agreement, please contact XXXXXX, who will be monitoring the District's implementation, by e-mail at XXXXXX or by telephone at XXXXXXXX. For questions about this letter, you may contact me at (216) 522-7640.

Sincerely,

/s/

Sacara M. Martin
Team Leader/Supervisory Attorney

Enclosure