



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

May 31, 2018

Richard J. Landau, Esq.
RJ Landau Partners PLLC
5340 Plymouth Road, Suite 200
Ann Arbor, Michigan 48105

Re: OCR Docket No. 15-17-1562

Dear Mr. Landau:

This letter is to notify you of the disposition of the above-referenced complaint filed on August 23, 2017, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Ann Arbor Public Schools (the District) alleging that the District discriminated against a student on the basis of disability. Specifically, the complaint alleged that:

1. The District failed to implement the Student's Individualized Education Program (IEP) when it failed to provide him with XXXXX XXXX XXXXX XXXX services during XXXXX XXXX; and,
2. The District failed to provide the Student with a free appropriate public education (FAPE) from XXXXX XXXX through the end of the XXXX-XXXX school year after it determined, in XXXXX XXXX, that his behavior was a manifestation of his disability, by:
 - a. only providing the Student with XXX hours of services from XXXXX XXXX – early XXXXX XXXX;
 - b. only providing the Student with XXX minutes of services per day from XXXXX XXXX – early XXXXX XXXX; and
 - c. refusing to allow the Student to attend his XXXXX XXXX XXXX beginning XXXXX XXXX through the end of the school year unless XXXX XXXXX XXXX that the District unilaterally imposed.

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 prohibits discrimination on the basis of disability by recipients of Federal financial assistance from the U.S. Department of Education (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 prohibits discrimination on the basis of disability by public entities. Section 504

and Title II also prohibit retaliation against individuals who seek to enforce rights pursuant to these statutes. 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 allegations, OCR opened an investigation of the following legal issue: whether the District failed to provide a qualified student with a disability a FAPE, in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.33. During its investigation to date, OCR interviewed the Student's parent and reviewed documents she provided. OCR also reviewed documents provided by the District.

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 allegations prior to the conclusion of OCR's investigation and OCR determined resolution was appropriate. On May 30, 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 11, 2018. For questions about implementation of the Agreement, please contact OCR attorney Kimberly Kilby, who will be monitoring the District's implementation of the agreement, by e-mail at Kimberly.Kilby@ed.gov or by telephone at (216) 522-2574.

Page 3 – Richard J. Landau, Esq.

If you have questions or concerns about this letter, please contact me by telephone at (216) 522-7634.

Sincerely,

/s/

Donald S. Yarab
Supervisory Attorney/Team Leader

Enclosure