



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

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

May 16, 2018

Ms. Pamela Leist  
Ennis Britton Co., LPA  
1714 West Galbraith Road  
Cincinnati, Ohio 45239

Re: OCR Docket No. 15-18-1033

Dear Ms. Leist:

This letter is to notify you of the disposition of the above-referenced complaint filed on October 16, 2017 with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Edgewood City School District (the District) alleging that the District discriminated against a Student based on disability. Specifically, the complaint alleged that the District failed to properly evaluate the Student prior to the adoption of a Section 504 plan, and that the District failed to implement the provision of the Student's Section 504 plan that permits the Student to XXX XXX.

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 allegations, OCR opened an investigation of the following legal issue/s:

- whether the District, on the basis of disability, excluded a qualified person with a disability from participation in, denied XXX the benefits of, or otherwise subjected XXX to discrimination under any of its programs or activities in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.4 and the Title II implementing regulation at 28 C.F.R. § 35.130;
- whether the District denied a qualified student with a disability a free and appropriate public education (FAPE) in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.33;

- whether the District failed to conduct an evaluation of a student who, because of disability, needs or is believed to need special education or related services, in violation of Section 504's implementing regulation at 34 C.F.R. § 104.35; and
- XXX XXX XXX.

During its investigation to date, OCR interviewed the Complainant and reviewed documentation provided by the Complainant and 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 allegation prior to the conclusion of OCR's investigation and OCR determined resolution was appropriate because the evidence obtained by OCR to date indicated that the Student was not XXX XXX and because the Student's Section 504 plan did not address how the District was going to XXX XXX. Specifically, the Section 504 plan lacked any information about how to XXX XXX nor did it state how or when the District would respond to XXX. Furthermore, the plan contained no information regarding XXX.

On May 1, 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 September 30, 2018. For questions about implementation of the Agreement, please contact Aubrie Wancata, who will be monitoring the District's implementation, by e-mail at [Aubrie.Wancata@ed.gov](mailto:Aubrie.Wancata@ed.gov) or by

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telephone at (216) 522-4711. If you have questions or concerns about this letter, please contact me by telephone at (216) 522-7640, or by e-mail at [Sacara.Martin@ed.gov](mailto:Sacara.Martin@ed.gov).

Sincerely,

Sacara M. Martin  
Supervisory Attorney/Team Leader

Enclosure