



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

May 2, 2019

Michael J. Sturm,
Assistant Superintendent for Human Resources and Transportation
OCR Compliance Officer
Utica Community Schools
11303 Greendale Street
Sterling Heights, Michigan 48312

Re: OCR Docket No. 15-18-1283

Dear Mr. Sturm:

This letter is to inform you of the disposition of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Utica Community Schools (the District) on April 2, 2018. The complaint alleged that the District discriminated against a student (the Student) based on disability, during the 2017-2018 school year. [X---paragraph redacted ---X]

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). Section 504 prohibits discrimination on the basis of disability by recipients of federal financial assistance from the 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). Title II prohibits 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. Accordingly, OCR had jurisdiction to investigate this complaint. As Title II offers no greater protections in this instance than Section 504, OCR applied Section 504 standards to this case.

Based on the complaint allegation, OCR began investigating whether the District 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.

[X---paragraph redacted ---X]

Summary of OCR’s Investigation

[X---paragraph redacted ---X]

Applicable Legal Standards and Analysis

The Section 504 implementing regulation at 34 C.F.R. § 104.33 requires recipients of federal financial assistance to provide qualified students with disabilities with a free appropriate public education (FAPE). The Section 504 implementing regulation at 34 C.F.R. § 104.33 (b)(1) states that the provision of an appropriate education is 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 students without disabilities are met.

In analyzing whether a student has been denied FAPE, OCR first considers what regular or special education and related aids and services a student’s IEP or Section 504 team determined were necessary to provide the student with FAPE. OCR then determines whether the recipient provided the student the agreed-upon services and, if not, whether this resulted in a denial of FAPE.

[X---paragraph redacted ---X]

Conclusion

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 Student's parent 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, we 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.

If you have any questions about this letter or the resolution of the complaint, you may contact me by telephone at (216) XXX-XXXX. For questions about implementation of the Agreement, please contact XXXXXXXXXXXXXXXXXXXX, who will be monitoring the District's implementation of the Agreement, by telephone at (216) XXX-XXXX or by e-mail at XXXXXXXXX.XXXX@ed.gov. We look forward to receiving the District's first monitoring report by **April 30, 2019**.

Sincerely,

/s/

Brenda Redmond
Supervisory Attorney/Team Leader