



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

September 29, 2021

Via E-mail Only to jeff@butlerlg.com

Jeffrey J. Butler
Butler Law Group, P.C.
2398 Hulett Road
Okemos, MI 48864

Re: OCR Docket No. 15-18-1331

Dear Mr. Butler:

This letter is to notify you of the disposition of the above-referenced complaint filed on April 28, 2018, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against West Bloomfield School District (the District) alleging that the District discriminated against a Student based on disability. Specifically, the Complainant alleged that:

1. From XXXXXXXX XXXX through the end of the school year, the District treated the Student differently from Students without disabilities by not issuing any report cards for the Student.
2. From XXXXXXXX XXXX through the end of the school year, the Student did not receive regular education classes as required by the Student's Individualized Education Program.
3. From XXXXXXXX XXXX through the end of the school year, the Student was unable to ride the school bus due to bullying occurring on the school bus.

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 issues:

- 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, on the basis of disability, excluded a qualified person with a disability from participation in, denied him the benefits of, or otherwise subjected him 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 failed to provide a qualified student with a disability an equal opportunity for participation in nonacademic and extracurricular services and activities in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.37(a).

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

Regarding the first allegation, the Complainant told OCR that she did not receive any report cards for the Student and that none of the students in the classroom receive report cards. District staff explained that in lieu of receiving report cards, students in the XXXXXXXXXX XXXXXXXXXX classroom receive progress updates that are tailored to the particular student’s IEP objectives and goals. These documents are similar to report cards and contain information from both teachers and other IEP service providers, such as school social workers. The District produced data that included such progress updates for the Student. The District also provided e-mails to Complainant confirming that these progress updates take the place of report cards for students in the XXXXXXXXXX XXXXXXXXXX classroom.

Regarding the second allegation, the Complainant told OCR that the District did not send the Student to XXX required general education classes after the Complainant complained about bullying in the general education class. The Complainant told OCR that the XXXXXXXX XXXXXXXX XXXXXXXXXX XXXXXXXX XXXXXXXX in XXXXXXXX XXXX, despite that those classes were required by the Student’s IEP plan.

OCR reviewed the IEP plan in place for the Student for the relevant time period and confirmed that the IEP plan requires the Student to receive XXX-XXX XXXXXXXX a week of instruction in the general education environment.

District employees confirmed there was a period of time when the Student XXX XXX XXXXXXX XXXXXXX XXXXXXXXXX XXXXXXX XXX XXXXXXXXXXXX XXXXXXXXXXX XXXX XXX XXXXXXXX XX XXXXXXXXXXX XXXX XXXXXXXXXXXX XXXXX XXXXXXXXXXX XX XXXXX XXXXXXXX. District data shows the Complainant requested the XXXXXXXXXXX XX X XXXXXXXXXXX XXXX XXXXXXX. District employees stated during interviews that they told the Complainant effectuating XXXX X XXXXXXXXXXXX would require them to find a different general education schedule and placement for the Student. They told the Complainant such a change would take time to implement. According to the District employees, the Complainant insisted the Student XX XXXXXXXXXXX XXXX XXX XXXXX XXXXXXX XXX XXX XXXXXXXXXXX XXXXXXX XXXXXXXXXXX XXXXXXX XXXX XXXXXXXXXXX XXXX XXXXXXX XXXXXXXXXXX XX.

Regarding the third allegation, the Complainant told OCR that the Student was bullied on the bus. The Complainant alleged that the District did not respond to her complaint, which she made around XXXXXXXX XXXX and so the only option was to drive the Student to school each day. District staff told OCR the Complainant reported that other students were calling the Student names, but did not know specifically which students were involved. According to the District, another parent corroborated the Complainant's report that students on the bus were being mean to the Student. In response, the District staff member had a conversation with the students on the bus about behavior and language. She also rode the bus with the students to monitor the overall behavior. The District staff told OCR there was no further communication about the busing after District staff had the initial discussion with the Complainant.

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 because OCR's investigation has identified concerns that can be addressed through a resolution 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 September 27, 2021 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 **November 30, 2021**. For questions about implementation of the Agreement, please contact Ms. Aubrie Wancata. Ms. Wancata will be overseeing the monitoring and can be reached by telephone at (216) 522-4711

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or by e-mail at Aubrie.Wancata@ed.gov. If you have questions about this letter, please contact me by telephone at (216) 522-4711, or by e-mail at Aubrie.Wancata@ed.gov.

Sincerely,

/s/

Sacara E. Miller
Supervisory Attorney/Team Leader

Enclosure