



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

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CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

March 13, 2019

Robert A. Dietzel, Esq.
Thrun Law Firm, P.C.
P.O. Box 2575
East Lansing, Michigan 48826

Re: OCR Docket Nos. 15-18-1384 & 15-19-1206

Dear Mr. Dietzel:

This letter is to notify you of the disposition of the above-referenced complaints which were filed on May 21, 2018, and February 19, 2019, respectively, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Northville Public Schools (the District). The complaints generally alleged that the District discriminated against a student (the Student) based on disability. Specifically, each complaint alleged as follows:

OCR Docket #15-18-1384:

The complaint alleged that from XXXXXXXXXXXX, through the close of the XXXX-XXXX school year, the District failed to fully implement the Student's XXXXXXXXXXXXXX, Section 504 plan regarding the following accommodations and/or services:

1. [X---paragraph redacted---X]
2. [X---paragraph redacted---X]
3. [X---paragraph redacted---X]
4. [X---paragraph redacted---X]
5. [X---paragraph redacted---X]
6. [X---paragraph redacted---X]
7. [X---paragraph redacted---X]
8. [X---paragraph redacted---X]
9. [X---paragraph redacted---X]

OCR Docket #15-19-1206:

The complaint alleged that during the XXXX-XXXX school year, the District failed to fully implement the Student's XXXXXXXXXXXXXX, Section 504 plan regarding the following accommodations and/or services:

1. [X---paragraph redacted---X]
2. [X---paragraph redacted---X]
3. [X---paragraph redacted---X]
4. [X---paragraph redacted---X]

5. [X---paragraph redacted---X]
6. [X---paragraph redacted---X]
7. [X---paragraph redacted---X]
8. [X---paragraph redacted---X]
9. [X---paragraph redacted---X]

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. 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 free appropriate public education (FAPE) as required by the Section 504 implementing regulation at 34 C.F.R. § 104.33.

Background

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

Section 302 of the OCR's *Case Processing Manual* (CPM) provides that 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. On February 8, 2019, the District expressed its interest in voluntarily resolving the complaint allegations raised in OCR Docket No. 15-18-1384 under CPM Section 302. On March 1, 2019, OCR notified the District of the allegations raised in OCR Docket No. 15-19-1206, and the District expressed an interest in voluntarily resolving the complaint allegations raised in OCR Docket No 15-19-1206 under CPM Section 302. Accordingly, OCR determined that it was appropriate to resolve the allegations of both complaints pursuant to a 302 resolution agreement, as discussed below.

Summary of Investigation to Date

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

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

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

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

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

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

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

Applicable Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.33, requires 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. OCR interprets the Title II regulation, at 28 C.F.R. §§ 35.103(a) and 35.130(b)(1)(ii) and (iii), to require school districts to provide a FAPE to the same extent required under the Section 504 regulation.

In analyzing allegations of denial of FAPE, OCR first considers what regular or special education and related aids and services a team determined were necessary to provide the student with FAPE. OCR then determines whether the district provided the student the agreed-upon services and, if not, whether this resulted in a denial of FAPE.

Resolution and Conclusion

As noted above, prior to the conclusion of OCR’s investigation, the District asked to voluntarily resolve the complaints pursuant to CPM Section 302. Although OCR has not completed its investigation, it has identified compliance concerns, as discussed above, with respect to the above-referenced complaint allegations that make resolution pursuant to Section 302 appropriate. On March 12, 2019, the District submitted the enclosed signed resolution agreement (the Agreement) to OCR to resolve the allegations in both complaints. When fully implemented, the Agreement will resolve the allegations in the complaints. OCR will monitor implementation of the Agreement.

This concludes OCR’s investigation of the complaints 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 April 15, 2019. For questions about implementation of the Agreement, please contact Ms. Suwan Park. Ms. Park will be overseeing the monitoring and can be reached by telephone at (216) 522-4972 or by e-mail at Suwan.Park@ed.gov. If you have questions about this letter, please contact me by telephone at (216) 522-7634.

Sincerely,

/s/

Donald S. Yarab
Supervisory Attorney/Team Leader

Enclosure