



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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CLEVELAND, OH 44115-1812

REGION XV  
MICHIGAN  
OHIO

April 5, 2022

**Via E-mail Only to:** [tthomas@northmontschools.net](mailto:tthomas@northmontschools.net)

Tony Thomas  
Superintendent  
Northmont City School District  
4001 Old Salem Road  
Englewood, Ohio 45322

Re: OCR Docket No. 15-22-1023

Dear Superintendent Thomas:

This letter is to notify you of the disposition of the above-referenced complaint filed on XXXXX, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the Northmont City School District (the District) alleging that the District discriminated against a student (the Student) on the basis of Disability. Specifically, the complainant alleges that XXXXX XXXXX XXXXX XXXXX the District did not evaluate the Student XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX and requested that they evaluate him.

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 of Education 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 did not evaluate a student who, because of disability, needed or was believed to have needed special education or related services, in violation of Section 504's implementing regulation at 34 C.F.R. § 104.35(a).
- whether the District did not provide a qualified student with a disability with a free appropriate public education (FAPE), in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.33.

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The District did not provide OCR with any documentation that indicated the Student was evaluated for an IEP or 504 plan during the XXXXX school year.

### **Applicable Legal Standards**

The Section 504 regulation states, at 34 C.F.R. § 104.35(a), that a recipient school district shall conduct an evaluation of any person who, because of a disability, needs or is believed to need special education or related services before taking any action regarding the person's initial placement or any subsequent significant change in placement. School districts must reevaluate a student with disabilities periodically and before any significant change in placement. The Section 504 regulation, at 34 C.F.R. § 104.35(c), further provides that in making placement decisions the recipient shall draw upon information from a variety of sources, including aptitude and achievement tests and teacher recommendations. Additionally, a recipient must ensure that placement decisions are made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options.

Although the Section 504 regulation does not set forth specific timeframes by which recipient school districts must complete evaluations of students, a recipient school district must ensure that qualified students with disabilities are evaluated and provided access to meaningful educational services without unreasonable delay.

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free and appropriate public education (FAPE) to each qualified student with a disability who is in the district's jurisdiction, regardless of the nature or the severity of the student'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 Section 504's procedural requirements at 34 C.F.R. §§ 104.34 - 104.36 regarding educational setting, evaluation, placement, and procedural safeguards. Implementation of a Section 504 plan developed in accordance with the requirements of Section 504 is one way a school district can demonstrate that it has provided a student with FAPE.

In determining whether a district failed to provide FAPE, OCR analyzes whether the student is a qualified individual with a disability eligible for FAPE, whether the student was to receive individualized regular or special education, and/or related aids and services; whether staff provided placement/services consistent with student's education plan, e.g., Section 504 plan or Individualized Education Program (IEP); and whether the district's failure to implement the IEP or Section 504 plan resulted in a denial of FAPE.

### **Voluntary Resolution and Conclusion**

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As noted above, prior to the completion of OCR’s investigation, the District expressed interest in resolving the complaint allegations pursuant to Section 302 of OCR’s CPM. Section 302 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 because OCR’s investigation has identified issues that can be addressed through a resolution agreement

On April 4, 2022, the District signed the enclosed Resolution Agreement, which, when fully implemented, will address the compliance concerns OCR identified related to the complaint allegations. 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.

If you have questions about OCR’s resolution of this complaint, please contact me by telephone at (216) 522-7574 or by e-mail at [Denise.C.Vaughn@ed.gov](mailto:Denise.C.Vaughn@ed.gov). If you have questions about OCR’s monitoring of the District’s implementation of the resolution agreement, please contact OCR attorney XXXXX XXXXX. XXXXX XXXXX can be reached by telephone at XXXXX or by e-mail at XXXXX@ed.gov.

Sincerely,

Denise C. Vaughn  
Supervisory Attorney/Team Leader

Enclosure

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