



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

July 5, 2022

Via E-mail Only to: elizabeth@scottscrivenlaw.com

Elizabeth A. Braverman, Esq.
250 East Broad Street, Suite 900
Columbus, Ohio 43215

Re: OCR Docket No. 15-22-1091

Dear Ms. Braverman:

This letter is to notify you of the disposition of the above-referenced complaint filed with the U.S. Department of Justice (DOJ) on September 23, 2021, and referred on November 16, 2021, to the U.S. Department of Education, Office for Civil Rights (OCR), against Cleveland Heights-University Heights City School District alleging discrimination against an individual on the basis of disability. Specifically, the Complainant alleged that in XXXX XXXX District personnel failed to effectively communicate with the deaf parent (Parent) of children attending schools in the District by not responding to e-mails and not providing a qualified interpreter when needed.

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 excluded a qualified individual, on the basis of disability, from participation in, denied the benefits of, or otherwise subjected an individual to discrimination in its programs and activities based on the individual's disability in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.4, and the regulation implementing Title II at 28 C.F.R. § 35.130;
- whether the District failed to take appropriate steps to ensure that communications with individuals with a disability are as effective as communications with others, in violation of the Title II implementing regulation at 28 C.F.R. § 35.160; and
- whether the District failed to furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants,

participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of the District, in violation of the Title II implementing regulation at 28 C.F.R. § 35.160(b).

During its investigation to date, OCR reviewed documentation provided by the Complainant and the District and interviewed the Parent and District witnesses.

The Parent told OCR that XXX is the parent of students who have attended various schools in the District for at least XXX years. XXX is deaf and communicates using American Sign Language (ASL). In order to communicate with individuals who do not know ASL, the Parent needs an interpreter, either in person or through a video relay service (VRS). The VRS system utilized regularly by the Parent allows a deaf individual using video equipment to communicate with a hearing individual using a voice telephone via an ASL interpreter. The Parent said the principal of the school where XXX XXXX child (Child 1) attends is not comfortable communicating with the Parent using the VRS and that XXX has missed the type of information about XXX children that other parents without disabilities regularly receive.

The Parent stated that XXX was not provided with an effective interpreter at a parent-teacher conference in XXXX XXXX. Information from the District indicated that the scheduled interpreter failed to appear so the conference was held with the assistance of the District ASL teacher and closed captioning. The Parent further said that in XXXX XXXX, XXX wanted to speak with all of XXX XXXX child's (Child 2) teachers at XXX parent teacher conferences, but the intervention specialist combined the parent teacher conference with Child 2's XXX meeting. The Parent said that only one meeting was held on XXXX XX, XXXX, and only three of Child 2's teachers were present, which XXX would not have agreed to if XXX had been consulted.

In response to OCR's request for the District's policy and procedures regarding the provision of auxiliary aids and services to individuals with disabilities for the purpose of communication, including parents, the District provided its policy entitled "Section 504/ADA Prohibition against Discrimination Based on Disability." The policy did not address the District's obligation to communicate effectively with individuals with vision, hearing, or speech disabilities (communication disabilities). To date, OCR did not receive from the District any document or verbal description establishing the existence of a procedure for the provision of interpreter services or other services to individuals with communication disabilities.

During its investigation, OCR reviewed emails submitted by the District regarding the Parent's requests for ASL interpreter services. The emails demonstrated that the Parent consistently initiated the request for ASL interpreter services for parent teacher conferences and IEP meetings for XXX children. The emails further demonstrated that XXX communicated with several different staff members in order to obtain services for each event.

The emails demonstrated that some employees knew the District was required to provide an ASL interpreter, at no cost, when requested by a District parent. The emails established that the Parent was provided with a qualified interpreter at several meetings. The emails also showed that communications to coordinate the ASL interpreter services did not follow a consistent procedure. To date, OCR saw no evidence of that process was coordinated by a designated

employee. The District's response to the Parent's requests for ASL interpreter services differed depending on what building XXX was requesting the accommodation from. The emails further demonstrated that some staff members were not knowledgeable about what to do when receiving a request for ASL interpreter services.

OCR interviewed the District's Section 504/ADA Coordinator and an administrative assistant who scheduled ASL interpreter services for some of the Parent's meetings. When asked, the District's Section 504/ADA Coordinator stated that XXX knew of no procedure for requesting or providing ASL interpreter services. Both witnesses stated that when they provided ASL interpreter services for parents, they accessed information on how to do so from the internet or other staff members. Neither witness knew of any notice provided to parents or the public that the District was required to provide effective communication to individuals with communication disabilities.

The evidence obtained to date shows that the District provided sign language interpreters and other assistance to the Parent on most of the dates in question. On the XXXX XXXX day the contracted interpreter failed to show up, the evidence demonstrates the District implemented alternative accommodations. The email evidence obtained to date shows the Parent's attempts to coordinate XXX requests for services did not follow a specific process and required the Parent to make repeated requests which raises a concern that there may be barriers to access effective communication. Moreover, the evidence obtained to date shows there is a lack of public notice to ensure that individuals with disabilities know how to make requests for ASL interpreter services. The evidence obtained to date, raises concerns that the District may lack a process for requesting and providing services to ensure effective communication, including interpreter services. Such a process would ensure that ASL interpreters and other services were consistently available when needed and sufficiently qualified to provide the services necessary to ensure effective communication for individuals with disabilities. OCR found no evidence to date, from documentation or witnesses, of an existing written or oral procedure or practice for staff members to follow when a parent with a disability requests communication services. To date, OCR did not find evidence that the District had provided training to employees about how to provide effective communication to individuals with disabilities.

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 June 30, 2022, before OCR made findings, the District submitted a signed resolution agreement.

On June 30, 2022, 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 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. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

It is important to understand that the laws OCR enforces also prohibit the District from harassing, coercing, intimidating, discriminating, or otherwise retaliating against an individual because they filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a retaliation complaint against the District with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information, that, 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 August 23, 2022.

For questions about implementation of the Agreement, please contact Ms. Julie Gran. She will be overseeing the monitoring and can be reached by telephone at (216) 522-2684 or by e-mail at Julianne.Gran@ed.gov. If you have questions about this letter, please contact me by telephone at (216) 522-7640.

Sincerely,

Sacara E. Miller
Supervisory Attorney/Team Leader

Enclosure