



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115-1812

REGION XV
MICHIGAN
OHIO

August 1, 2022

Via e-mail only to kperrico@walterhav.com

Kathryn Perrico, Esq.
Walter Haverfield, L.L.P.
The Tower at Erieview
1301 East Ninth Street, Suite 3500
Cleveland, Ohio 44114-1821

Re: OCR Docket No. 15-22-1218

Dear Attorney Perrico:

This letter is to notify you of the disposition of the above-referenced complaint filed on XXXXX
XXXXX XXXXX, with the U.S. Department of Education, Office for Civil Rights (OCR),
against the Canfield Local School District (the District) alleging that the District discriminated
against a student (the Student) based on disability. Specifically, the Complainant alleged that, on
XXXXX XXXXX XXXXX, the District did not provide the Student a reasonable
accommodation XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX
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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 U.S.
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, on the basis of disability, excluded a student from participation in, denied a student the benefits of, or otherwise subjected a student to discrimination in its programs and activities based on the student’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 ensure that a qualified student with a disability was afforded with nonacademic and extracurricular services and activities in such manner as

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

was necessary to afford the student with an equal opportunity to participate in such services and activities, in violation of the Section 504 implementation regulation at 34 C.F.R. § 104.37.

- Whether the District failed to make reasonable modifications in policies, practices, or procedures when the modifications were necessary to avoid discrimination on the basis of disability, in violation of the Title II implementing regulation at 28 C.F.R. § 35.130(b)(7)
- Whether the District maintained in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities, except for isolated or temporary interruptions in service or access due to maintenance or repairs, as required by the Title II implementing regulation § 28 C.F.R. 35.133.

Background and Summary of Investigation

During its investigation to date, OCR reviewed documents, photographs, and video recordings provided by the District and Complainant. OCR interviewed the Complainant, the XXXXX XXXXX, and District staff. OCR also provided the Complainant the opportunity to respond to information submitted by the District.

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Legal Standard

The regulation implementing Section 504, at 34 C.F.R. §104.4(a), states that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance. Title II's implementing regulation contains a similar provision for public entities at 28 C.F.R. § 35.130(a).

Prohibited discrimination by a recipient or public entity includes denying a qualified person with a disability the opportunity to participate in or benefit from the aids, benefits, or services offered by that recipient or public entity; affording a qualified person with a disability an opportunity to participate in or benefit from aids, benefits, or services that are not equal to that afforded others; and providing a qualified person with a disability aids, benefits, or services that are not as effective as those provided to others. 34 C.F.R. § 104.4(b)(1)(i)-(iii); 28 C.F.R. § 35.130(b)(1)(i)-(iii). In addition, the Section 504 implementing regulation at 34 C.F.R. § 104.37 requires recipients of federal financial assistance to provide a qualified student with a disability an equal opportunity for participation in the District's non-academic and extra-curricular services and activities. Pursuant to the Title II regulation, at 28 C.F.R. § 35.130(b)(7)(i) a public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Finally, the Title II implementing regulation 28 C.F.R. § 35.133, states that a public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities, except for isolated or temporary interruptions in service or access due to maintenance or repairs. The Section 504 implementing regulation contains a similar requirement at 34 C.F.R. §§ 104.21.

Analysis

Under Section 302 of OCR's CPM, 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 allegation prior to the conclusion of OCR's investigation and OCR determined the resolution was appropriate. Specifically, at issue in this matter is the modification of District policies and procedures regarding attendance at the speech and debate tournament as well as the maintenance of accessible features. OCR has not yet obtained sufficient information to support a finding under CPM Section 303 regarding either issue.

On July 29, 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 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 September 1, 2022. For questions about implementation of the Agreement, please contact Patrick Vrobel. He will be overseeing the monitoring and can be reached by telephone at XXXXX or by e-mail at XXXXX. If you have questions about this letter, please contact me by telephone at XXXXX, or by e-mail at XXXXX.

Sincerely,

/ s /

Nathaniel J. McDonald
Supervisory Attorney/Team Leader

Enclosure