

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921



Dr. Jeffrey Mulqueen
Superintendent
Pentucket Regional School District
22 Main Street
West Newbury, MA 01985

Re: Complaint No. 01-14-1124
Pentucket Regional School District

Dear Superintendent Mulqueen:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is closing the investigative phase of the above-referenced complaint that was filed against the Pentucket Regional School District (District) alleging discrimination on the basis of disability. Specifically, the Complainant alleged that the District discriminated against a student (Student), on the basis of disability, by failing to implement his Section 504 Plan during the 2013-2014 school year. As explained below, based on the steps in the District's signed Resolution Agreement (Agreement), which OCR will monitor, OCR considers this case resolved.

OCR accepted this complaint for investigation pursuant to OCR's jurisdiction under Section 504 of the Rehabilitation Act of 1973 and its implementing regulation found at 34 C.F.R. Part 104 (Section 504), as well as Title II of the Americans with Disabilities Act of 1990 and its implementing regulation found at 28 C.F.R. Part 35 (Title II), both of which prohibit discrimination on the basis of disability. The District is subject to the requirements of Section 504 because it receives Federal financial assistance from the Department. It is also subject to the requirements of Title II because it is a public entity operating an elementary and secondary school program.

During the course of this investigation, OCR interviewed the Complainant and reviewed documentation she submitted. The Complainant explained that during the 2013-2014 school year, there were two specific standardized assessments – the Massachusetts Comprehensive Assessment System (MCAS) and the Accuplacer – for which the District failed to implement the Student's Section 504 Plan. With regard to the Accuplacer, the Complainant informed OCR that after she raised concerns with the District, the Student was ultimately given the opportunity to re-take the exam with accommodations. With regard to MCAS, during the course of OCR's investigation, OCR learned that the Student passed both sections of MCAS that were at issue in this complaint. The Complainant alleged, however, that the lack of accommodations impacted

the Student's MCAS score and, consequently, his access to certain scholarships offered through the Massachusetts Department of Elementary and Secondary Education (MDESE).

OCR discussed these allegations with the District, including the Complainant's concerns related to the Student's access to MDESE scholarships. The District, through its Counsel, expressed a willingness to resolve the Complainant's concerns through both individual and systemic remedies. We understand that the District and the Complainant have since reached a resolution to the Complainant's concern regarding the Student's access to scholarships. Specifically, the District agreed to provide the Student higher education funding in an amount (\$1,714) approximating a portion of the scholarship amount he may have received from MDESE. In addition, the District entered into an Agreement with OCR that requires the District to ensure that the Student's teachers are aware of each of the provisions of his Section 504 Plan, and to provide comprehensive Section 504 training to Pentucket High School's Principal, Assistant Principal, guidance staff, and designated school-level Section 504 Coordinator(s). A copy of the Agreement is enclosed.

Based on the District's commitment to implementing the provisions in the Agreement, OCR considers the above-referenced case resolved as of the date of this letter. OCR is informing the Complainant of this resolution by concurrent letter, and we will monitor the District's full implementation of the Agreement terms.

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. The Complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

We would like to thank you and Attorney Paige Tobin for your assistance in this matter. If you have any questions regarding this letter, you may contact Senior Civil Rights Attorney, Nicole Merhill, by telephone at (617) 289-0040, or via email at Nicole.Merhill@ed.gov. You may also contact me directly at (617) 289-0120.

Sincerely,
____/s/____

Allen L. Kropp
Team Leader/Civil Rights Attorney

Enclosure

Cc: Attorney Paige L. Tobin