

UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921



Dr. Mark Garceau  
Superintendent  
Oxford Public Schools  
4 Maple Road  
Oxford, Massachusetts 01540

OCR Complaint No. 01-14-1173  
Oxford Public Schools

Dear Superintendent Garceau:

This letter is to inform you that the U.S. Department of Education's Office for Civil Rights (OCR) is closing the investigative phase of the above-referenced complaint that was filed on May 19, 2014, against the Oxford Public Schools (District). The Complainant alleges that the District discriminated against a student (Student) on the basis of disability when, during the 2013-2014 school year, it failed to convene a Section 504 Team meeting after he missed more than two months of school due to behaviorss related to his disability. More specifically, the Complainant alleges that despite providing relevant documentation to the District regarding the Student's disability-related absences and making a number of requests to the District to convene a Section 504 Team Meeting, the District did not convene a Team to discuss the Student's absences; nor did it convene a Team prior to the Student being moved to a new educational placement – at the direction of the Department of Mental Health (DMH) – in December 2013. OCR is closing this complaint because, prior to OCR completing its investigation, the District entered into a voluntary resolution agreement (Agreement) that resolves the complaint allegation. A copy of the Agreement is enclosed.

OCR enforces Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Section 104 (Section 504), and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II). The District is subject to Section 504 because it is a recipient of Federal financial assistance from the U.S. Department of Education and it is subject to Title II because it is a public entity operating an education system.

Based on the information presented, OCR proceeded to investigate the following legal issue:

- Whether the District failed to re-evaluate the Student following his extended disability-related absences and prior to a significant change in his educational placement, in violation of 34 C.F.R. Section 104.35 and 28 C.F.R. Section 35. 130.

Prior to OCR completing its investigation of the allegation presented in this complaint, the District offered to resolve this complaint voluntarily, as is permitted under Section 302 of OCR's Complaint Processing Manual. Consequently, the District agreed to take the steps set forth in the enclosed signed Agreement to resolve the complaint allegations.

The Agreement includes a commitment by the District to develop a protocol for ensuring that any student in the District with a Section 504 Plan or individualized education program (IEP) who has been referred to and/or resides in a DMH inpatient and continuing care, intermediate care and/or residential care programs is provided with a free appropriate public education (FAPE). The protocol will include information regarding the District's obligations to: convene a Section 504 or IEP Team Meeting when it refers a student, or has been informed of a student's referral to a DMH program; identify, evaluate, and determine any appropriate accommodations and services to provide a student under a Section 504 plan or an IEP; ensure that Section 504 Plans and IEPs of students in DMH programs are implemented; identify a designated individual in the District to respond to concerns that may arise regarding students in DMH programs; afford parents/guardians of Section 504 procedural safeguards in conjunction with any decisions concerning the identification, evaluation, or placement of District students in DMH programs; and work with DMH and individual facilities in coordinating team meetings, evaluations and otherwise complying with Section 504 and Title II.

During the course of the investigation, OCR learned that the parties are scheduled to meet with a Bureau of Special Education Appeals (BSEA) mediator in early December in order to discuss, among other concerns, future placement options for the Student. We understand from the District that that placement determination will also address the need for any compensatory educational services owed to the Student as a result of his placement changes last school year. As a result, OCR did not pursue any additional, individual remedies for the Student in conjunction with the resolution of the OCR complaint. Please be advised, however, that if the Complainant is not satisfied with the outcome of BSEA's process, she may re-file her complaint with OCR within 60 days of the conclusion of the BSEA process, and OCR will review the results of the BSEA process in light of OCR's standards and consider whether the outcome warrants any additional action by OCR.

OCR finds that the resolution offered by the District is aligned with the Complainant's allegation and with information obtained by OCR. In addition, the resolution offered is consistent with Section 504 and Title II. Accordingly, we are closing this investigation as of the date of this letter. Consistent with our usual practice, OCR will monitor the District's implementation of the Agreement. OCR will close the monitoring of this matter, and will notify the parties in writing of the monitoring closure, once it determines that the District has satisfied the terms of the Agreement. The District has agreed to provide OCR with an initial monitoring report by February 1, 2015.

The matters addressed in this letter are not intended and should not be construed to cover any other issues regarding the District's compliance with the regulations implementing Section 504, Title II, or the other laws enforced by OCR, that may exist but are not discussed here. This letter is a resolution letter issued by OCR to address an individual OCR case. Resolution letters contain fact-specific investigative findings and dispositions of individual cases. Resolution

letters are not formal statements of OCR policy and they 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 note that the Complainant may have the right to file a private lawsuit regarding the matters raised in this case, whether or not OCR identified compliance concerns. Also, 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, OCR will seek to protect all personal information to the extent provided by law that, if released, could constitute an unwarranted invasion of privacy.

OCR thanks the District, especially Patricia Susen, for the cooperation afforded us during this resolution process. If you have any questions or concerns about the information contained in this letter, please feel free to contact Civil Rights Investigator Diana Otto, at (617) 289-0073, or via email at [Diana.Otto@ed.gov](mailto:Diana.Otto@ed.gov). You may also contact me directly at (617) 289-0120.

Sincerely,  
\_\_\_\_/s/\_\_\_\_\_  
Joel J. Berner  
Regional Director

Enclosure

cc: Patricia Susen, Director of Student Services  
Susanne Blatt, Esq.