



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

September 30, 2015

IN RESPONSE, PLEASE REFER TO: 03151223

Mr. Scott Lewis
Superintendent
Ohio County Schools
315 East Union Street
Hartford, KY 42347

Re: XXXXXX

Dear Mr. Lewis:

This is to notify you of the resolution of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the Ohio County Public Schools (the District). OCR enforces:

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance.

Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities.

As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to these laws and their implementing regulations.

Legal Standards

The regulation implementing Section 504 at 34 C.F.R. § 104.33 requires public school districts to provide a free and appropriate education (FAPE) to all students with disabilities in their jurisdictions. An appropriate education is defined as regular or special education and related aids and services that are designed to meet the individual needs of a student with disabilities as adequately as the need of non-disabled students are met, and that are developed in accordance with the procedural requirements of subsections 104.35-104.36 pertaining to evaluation and placement and due process protections. Implementation of an individualized education program developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one mean of meeting these requirements. OCR interprets the Title II regulations at 28 C.F.R. §§ 35.130(a) and 35.130(b)(1)(ii) and (iii) to

require districts to provide a FAPE at least to the same extent required under the Section 504 regulations.

The regulation implementing Section 504 at 34 C.F.R. §§104.4(a), (b)(1)(i), (ii) and (vii), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance. A recipient, in providing any aid, benefit, or service, may not, on the basis of disability, deny a qualified person with a disability the opportunity to participate in or benefit from an aid, benefit, or service; afford a qualified person with a disability the opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others; or otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

Section 504 and the ADA have equivalent standards. Title II is interpreted as adopting the standards of Section 504 in areas where Title II has not adopted a different standard.

Factual Background

xxx – paragraphs redacted – xxx

Conclusion

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a Resolution Agreement. The provisions of the Resolution Agreement must be aligned with the complaint allegations and information obtained during the investigation and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the District, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the District requested to resolve this complaint through a resolution agreement, and on September 10, 2015, the District signed a Voluntary Resolution Agreement (Agreement) with OCR to resolve the allegations contained within the complaint. Accordingly, OCR is concluding its investigation of this complaint. As is our standard practice, OCR will monitor the District's implementation of the Agreement, a copy of which is enclosed.

This letter is not intended, nor should it be construed, to cover any other issues regarding the District's compliance with Section 504 or Title II, and their implementing regulations. that may exist and are not discussed herein. The Complainant may have the right to file a private suit in federal court, whether or not OCR finds a violation.

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 Complainant 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, we 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.

If you have any questions, please contact Josh Galiotto, Investigator, at 215-656-8587 or by e-mail at joshua.galiotto@ed.gov.

Sincerely,

/s/

Judith O'Boyle
Acting Team Leader
Philadelphia Office

Enclosure