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

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CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

November 24, 2014

Jeffrey J. Butler, Esq.
2143 Commons Parkway
Okemos, Michigan 48864-3987

Re: OCR Docket #15-14-1239

Dear Mr. Butler:

This letter is to notify you of the disposition of the above-referenced complaint that was filed on June 2, 2014, with the U.S. Department of Education's Office for Civil Rights (OCR), against the West Bloomfield School District (the District). The complaint alleged that the District discriminated against a student (the Student) on the basis of his disability xxxxxxxxxx xxxxxxxxxxxxxxxxxxxx xxxxxxxx xxxxxxxx Specifically, the complaint alleged that the District failed to implement the Student's xxxxxxx xxx xxxxx during the third and fourth quarter of the xxxxxxxxx school year, when it failed to give the Student xxxxxxxxx xxxx xx xxx xxxxx xxxxxxxxx xxx xxxxxxxxxx classes and failed to ensure that the Student xxxxxxxxx xxx xxxxx xxxxxxxx xxx xxxxx xxxxxxxxxxx xx xxx xxxxxx class.

OCR is responsible for enforcing 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). Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance from the Department. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq*., and its implementing regulation, 28 C.F.R. Part 35 (Title II). Title II prohibits 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 allegations, OCR commenced an investigation to determine whether the District denied a qualified student with a disability a free and appropriate public education (FAPE) in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.33. OCR determined that the applicable Title II regulation does not provide greater protection than the applicable Section 504 regulation and, accordingly, considered this complaint under the applicable Section 504 standards.

To investigate this complaint, OCR interviewed the Complainant and reviewed the preliminary documents submitted by the District.

The Complainant told OCR that the Student is a qualified individual with a disability with a diagnosis of xxxxxxxxx xxxxxxx xxxxxxxxxxxxx xxxxxxxx xxxxxxx The Complainant provided OCR with a copy of the Student's xxxxxxx xxx xxxxx dated xxx xxx xxxxx that provided the Student with xxxx xxx x xxxx (extended time) for quizzes and tests and allowed him xx xxx x xxxxx xxxxx xx xxxxxxxx xxxxx xxx xxxxxxxxxxxx The Complainant told OCR that: xx xxx xxxxxxx xxx xxx xxxxxxx xxxxxxxx xxxx xx xxx xxxxx xxxxxxxxxx quizzes on xxx xxx xxxxx xxx xxx xxx xxxxx and received a x on both quizzes; 2) the Student did not receive xxxxxxxx xxxx in xxx xxxxxxxxxx course throughout the 3rd and 4th quarters; and 3) that the xxxxx class lacked accountability with respect to ensuring that the Student xxxxxxxxx xxx xxxx because the Student was still xxxxxxxx xxx classes.

The District provided OCR with a copy of one of the Student's xxxxxxx xxx xxxxxx dated xxxxxxxx xxx xxxxx According to this plan, the Student was to receive similar services as were identified in his xxx xxx xxxxx xxxxxxx xxx xxxx provided by the Complainant. According to the xxxxxxxx xxx xxxxx xxxxx the Student was to receive xxxxxxxx xxxx xxxx xxxxx on tests and quizzes and was allowed to use an xxxx in class. The District also provided OCR with the Student's class schedule, showing that he was enrolled in xxxxx xxxxxxxxxxx xxxxxxxxxxx xxx xxxxxx class, and a xxxxxxxxxxx class.

Under the regulation implementing Section 504, at 34 C.F.R. § 104.33, school districts are required to provide a free appropriate public education (FAPE) to qualified students with disabilities. Such an education consists of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

<u>Voluntary Resolution</u>

Before the conclusion of OCR's investigation, the District expressed interest in voluntarily resolving this complaint pursuant to Section 302 of OCR's Case Processing Manual (CPM). The CPM provides that a complaint may be resolved before the conclusion of an OCR investigation if a recipient asks to resolve the complaint and signs a resolution agreement that addresses the complaint allegations. Such a request does not constitute an admission of liability on the part of the District, nor does it constitute a determination by OCR that the District has violated any of the laws that OCR enforces. The provisions of the resolution agreement are to be aligned with the complaint allegations or the information obtained during the investigation and consistent with applicable regulations.

Under the terms of the voluntary agreement signed by the District (the Agreement), the District will reconvene the Student's xxx xxxx (Team) to determine whether compensatory education is necessary to compensate the Student for the District's alleged

failure to implement his xxxxxxx xxx xxxx and provide xxx with FAPE. The Team will determine what, if any, compensatory education or other remedial services the Student may be entitled to receive. If the team determines that the Student is entitled to compensatory education or other remedial services, the District will develop a written plan for providing the Student with the compensatory education or other remedial services deemed necessary. The plan will identify the nature and amount of the services to be provided at no cost to the Student's parents, by whom, and when, and will becomes part of the Student's xxxxxxx xxx xxxx xx xxxx The Student's parents will be invited to participate in the Team meetings. If they are unable to attend, the District will provide the parents with a meaningful opportunity to provide input, written notice of any determinations made, and notice of the procedural safeguards available to them under Section 504, including their right to challenge such determinations through an impartial due process hearing should they disagree. Additionally, the agreement requires the District to provide training by a competent authority on Section 504 on the District's obligations to students with disabilities under Section 504, to all of its administrators and other District staff who have responsibilities for implementing portions of students' Section 504 plans or IEPs.

In light of the signed Agreement, which is enclosed, OCR finds that this complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will, however, monitor the District's implementation of the Agreement. Should the District fail to fully implement the Agreement, OCR will reopen the complaint and resume its investigation of the complaint allegations.

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. A complainant may have the right to file a private suit in Federal court, whether or not OCR finds a violation.

We appreciate the cooperation of the District during the preliminary investigation and resolution of this complaint. If you have any questions about this letter or OCR's resolution of this case, you may contact xxxxxxx xx xxxxx at xxxxxxxxxxxxx@ed.gov or at (216) 522-xxxxx or xxxxxx xx xxxxxx at xxxxxxxxxxxx@ed.gov or at (216) 522-xxxxx

We look forward to receiving the District's first monitoring report by January 9, 2015. The report should be directed to xxx xxxxxx. Should the District wish to submit its report electronically, it may do so at OCRCleMonitoringReports@ed.gov.

Sincerely,

/s/

Lisa M. Lane
Supervising Attorney/Team Leader

Enclosure