



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

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CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

September 18, 2015

Earlene R. Baggett-Hayes, Esq.  
Southfield Public School District  
24661 Lahser Road  
Southfield, Michigan 48033

Re: OCR Docket #15-15-1209

Dear Ms. Baggett-Hayes:

This letter is to notify you of the disposition of a complaint filed on March 23, 2015, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Southfield Public School District (the District), alleging that the District was discriminating against a student (the Student) on the basis of disability. Specifically, the complaint alleged that the District discriminated against the Student based on his disability by failing to fully implement his Individualized Education Program (IEP) because he was not provided with a xxxxxx xxxxxxxx or xxxxxxxxxxxx xxxxxx during the 2014-2015 school year.

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 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 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 and OCR therefore had jurisdiction to investigate this complaint.

Based on the complaint allegation, OCR began investigating whether the District failed to provide a qualified student with a disability with a free and appropriate public education (FAPE) as required by the Section 504 implementing regulation at 34 C.F.R. § 104.33.

In its investigation of this complaint to date, OCR interviewed the Student’s parent and spoke with the Student’s advocate and District counsel. In addition, OCR reviewed documentation submitted by both parties. Prior to the completion of OCR’s investigation, the District asked to voluntarily resolve the complaint pursuant to Section 302 of OCR’s Complaint Processing Manual (CPM) and signed the enclosed resolution agreement (the Agreement), which, once implemented, will fully address the complaint allegation. We set forth below a summary of OCR’s investigation to date.

### **OCR’s Investigation to Date**

XXX-paragraph deleted-XXX

XXX-paragraph deleted-XXX

### **Applicable Legal Standards and OCR Policy**

The Section 504 implementing regulation, at 34 C.F.R. § 104.33, requires a District to provide a qualified student with a disability with a free and appropriate public education (FAPE). The regulation states that the provision of an appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and are based upon adherence to procedures that satisfy the requirements of 104.34, 104.35, and 104.36. The regulation further states that implementation of an IEP developed in accordance with the Education of the Handicapped Act is one means of meeting this standard.

### **Resolution**

As noted above, before OCR completed its investigation, the District expressed an interest in resolving the allegation pursuant to Section 302 of the Case Processing Manual. 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.

The District has signed the enclosed Agreement, which, once implemented, will fully address the complaint allegation in accordance with Section 504 and Title II. The terms of the Agreement require the District, by October 2, 2015, after providing proper written notice to the Student’s parent, to convene a group of knowledgeable persons, including the parent, to determine whether the Student needs compensatory and/or remedial services as a result of the District’s failure to provide the Student with access to a xxxxxx xxxxxxxx during the 2014-2015 school year. If so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services

with a completion date not to extend beyond January 2016. The District will provide the Student's parent notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing. The proposed agreement also requires the District to submit documentation to OCR showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the Student. The proposed agreement requires the District, by February 5, 2016, to provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

### **Conclusion**

Given the foregoing, OCR considers this complaint resolved. 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. A complainant may 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 harmed individual may file another complaint alleging such treatment.

If you have any questions about this letter or the resolution of the complaint, you may contact me by telephone at (216) 522-7634. For questions about implementation of the Agreement, please contact Ms. Kimberly Kilby, who will be monitoring the District's implementation, by telephone at (216) 522-2574 or by e-mail at [Kimbelry.Kilby@ed.gov](mailto:Kimbelry.Kilby@ed.gov). We look forward to receiving the District's first monitoring report within two weeks of the decision as to whether compensatory and/or remedial services are needed.

Sincerely,

Donald S. Yarab  
Supervisory Attorney/Team Leader

Enclosure