



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

Superintendent Julie Hackett
Taunton Public Schools
215 Harris Street
Taunton, Massachusetts 02780

Re: Complaint No. 01-13-1227
Taunton Public Schools

Dear Superintendent Hackett:

The U.S. Department of Education's Office for Civil Rights (OCR) is closing the investigative phase of the above-referenced complaint filed against the Taunton Public Schools (District). The Complainant alleged the District did not follow an appropriate team process in making placement decisions for the Student during the 2012-2013 school year and did not notify the Complainant of her procedural safeguards. As explained below, prior to OCR completing its investigation and drawing any conclusions regarding this matter, the District expressed an interest in resolving the complaint and signed a resolution agreement (Agreement). A copy of the signed Agreement is enclosed.

Based on the information presented, OCR proceeded to investigate:

1. Whether the District denied the Student a free appropriate public education (FAPE) by failing to conform with the team process requirements of Section 504, in violation of 34 C.F.R. Sections 104.33 and 104.35.
2. Whether the District failed to provide the Complainant appropriate notice of her procedural safeguards, in violation of 34 C.F.R. Section 104.36.

OCR accepted this complaint for investigation because the allegations are within OCR's jurisdiction under Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 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). Both Section 504 and Title II prohibit discrimination on the basis of disability. The District is subject to Section 504 because it receives Federal financial assistance from the U.S. Department of Education. The District is also subject to Title II because it is a public entity operating an educational program.

During the investigation, OCR reviewed the District's Section 504 policies and procedures and its procedural safeguards, as well as documentation pertaining to the Student. Since the District was first notified of the complaint, it has taken proactive steps to resolve these matters by offering to meet with the Complainant, and requesting and receiving onsite Section 504 training of District employees by OCR. With regard to the complaint, prior to OCR making any findings and without an admission

of violating Section 504 and Title II, the District requested to enter into an agreement to work with OCR to continue its efforts to address the Complainant's concerns and improve its Section 504 processes.

The Agreement is aligned with the complaint allegations and the information OCR had obtained when the District proposed to resolve the complaint. Moreover, the Agreement is consistent with the requirements of Section 504 and Title II. Accordingly, we are closing the investigative phase of the complaint as of the date of this letter and, consistent with our usual practice, will monitor the District's implementation of the Agreement. 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 Section 504 and Title II or any other laws enforced by OCR that may exist but are not discussed here.

If you have any questions about the information contained in this letter, please contact Civil Rights Investigators Patricia Cox at (617) 289-0042 or Patricia.Cox@ed.gov or Molly O'Halloran at (617) 289-0058 or Molly.O'Halloran@ed.gov; Team Leader Allen Kropp at (617) 289-0120; or me at (617) 289-0111.

Sincerely,

Thomas J. Hibino
Regional Director

Enclosure

OCR Complaint No. 01-13-1227
Taunton Public Schools
Draft Voluntary Resolution Agreement

The U.S. Department of Education's Office for Civil Rights (OCR) opened the above-referenced complaint for investigation because the allegations fell within OCR's jurisdiction under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II). Before OCR completed its investigation, the Taunton Public Schools (District) voluntarily agreed to take the following steps to resolve this complaint. This Agreement does not constitute an admission by the District of any violation of Section 504 or Title II.

I. District-wide Remedies

- A. By May 1, 2014, the District will submit for OCR approval procedures for the evaluation and placement of students who need or are believed to need special education or related services pursuant to Section 504 and Title II. The procedures will ensure that:
1. Any student who may need regular or special education or related aids and services because of a disability is evaluated before taking any action with respect to the student's initial placement and before any subsequent significant change in placement;
 2. If a Section 504 evaluation is determined to be called for, a team meeting is held to determine what evaluation shall be undertaken.
 3. The District is ultimately responsible for collecting evaluative data concerning a suspected disability, including collecting additional evaluative material when a doctor's note is provided for a diagnosis;
 4. Tests and other evaluation materials are administered by trained personnel and are reliable and are valid for the purpose for which they are being used;
 5. In making eligibility decisions, the team determines whether the student has a mental or physical impairment that substantially limits one or more major life activities;
 6. Placement decisions are made by a group of persons knowledgeable about the student, the evaluation data, and the placement options;
 7. Placement decisions are based on information from a variety of sources, with information from all sources being carefully considered and documented;
 8. Placements and service offers are designed to meet the individual educational needs of the student, which might include the provision of regular or special education and related aids and services, home tutoring, etc.;
 9. If home tutoring is necessary for a student with a disability, that the team meets to discuss the provision of appropriate services and the overall monitoring of the tutoring;
 10. If a student is referred for any aid, benefit or service not operated or provided by the District as its means of carrying out the requirements of Section 504, transportation will be provided at no greater cost than would be incurred at a placement operated by the District.
 11. Students, at a minimum, are periodically reevaluated, including being reevaluated in a timely manner prior to any significant change of placement, such as a pattern of exclusions over 10 days;
 12. Timeframes are clearly articulated for the major steps in the placement and evaluation of a student; and
 13. At each decision point regarding identification, evaluation and placement of a student, parents and/or guardians are given notice of their procedural safeguards.

- B. By May 1, 2014, the District will submit for OCR approval, a copy of its revised notice of procedural safeguards for students who may be eligible for services and/or are on Section 504 plans. Such procedural safeguards shall be provided to parents when any decisions are made concerning the identification, evaluation, or placement of such students.
- C. Within 60 days of OCR's approval of the District's Section 504/Title II procedures under paragraph A and procedural safeguards notice under paragraph B, the District shall distribute and conduct training on the procedures/notice for District administrators and staff involved in teaching and/or providing services to students eligible under Section 504. The District will provide OCR documentation of the training – including the training materials and scope, a list of the staff participating in the training, and identification of the trainer – within 30-days of the completion of the training.

II. Individual Remedy

- A. By February 1, 2014, the District will reimburse the Complainant \$400 for courses taken by the Student during summer 2013, and provide OCR with documentation of the reimbursement.

III. Monitoring

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled its terms and is in compliance with the regulations implementing Section 504 and Title II which were at issue in this case.

The District understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the District understands that during the monitoring of this agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with Section 504 and Title II, which was at issue in this complaint.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

For Taunton Public Schools

Superintendent

Date