



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

June 23, 2026

By e-mail only to: [redacted content]

Monica Johnson
Interim Superintendent
Little Lake City School District

Re: Little Lake City School District – OCR Case Number 09-24-1234

Dear Superintendent Johnson:

This letter notifies you of the resolution of the above-referenced complaint to the U.S. Department of Education (Department), Office for Civil Rights (OCR) against Little Lake City School District (District). The Complainant alleged that the District discriminated against the Student (whose identity OCR previously provided to the District) on the basis of disability. Specifically, OCR investigated the following issues:

1. Whether the District discriminated against the Student based on disability when it revoked his Inter-district Permit; and
2. Whether the District denied the Student a free appropriate public education (FAPE) by failing to follow adequate procedures for evaluation and placement of the Student.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability under any program or activity receiving federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a public entity and a recipient of federal financial assistance from the Department, the District is subject to these laws.

To investigate this complaint, OCR conducted interviews and reviewed documents and other information provided by the Complainant and the District. Prior to OCR completing its investigation and making a compliance determination, the District expressed an interest in voluntary resolution pursuant to Section 302 of OCR's [Case Processing Manual \(CPM\) \(Feb. 2025\)](#), and OCR determined it was appropriate to do so. The legal standards, facts gathered to date, and the reasons for OCR's identified concerns are summarized below.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Legal Standards

The Section 504 regulations, at 34 C.F.R. § 104.33, require public school districts to provide a free appropriate public 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 students with disabilities as adequately as the needs of students without disabilities are met, and that are developed in accordance with the procedural requirements of §§ 104.34-104.36 pertaining to educational setting, evaluation and placement, and due process protections. Implementation of an individualized education program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements. As a general rule, because Title II provides no less protection than Section 504, violations of Section 504 also constitute violations of Title II. 28 C.F.R. §35.103.

Section 104.35(a) of the regulations requires school districts to conduct an evaluation of any student who needs or is believed to need special education or related aids and services because of disability before taking any action with respect to the student's initial placement and before any subsequent significant change in placement. In this regard, school districts must ensure that all students who may have a disability and need services under IDEA or Section 504, are located, identified, and evaluated for special education and disability-related services. Under section 104.35(b), tests and other evaluation materials must be administered by trained personnel, must be reliable, and must be valid for the purpose for which they are being used. Under subsection (c), placement decisions (i.e., decisions about whether any special services will be provided to the student and, if so, what those services are) must be made by a group of persons knowledgeable about the student, the evaluation data, and the placement options. Placement decisions must be based on information from a variety of sources, with information from all sources being carefully considered and documented. School districts must also establish procedures for the periodic reevaluation of students who have been provided special education and/or related services. A procedure consistent with the IDEA is one means of meeting this requirement.

Under the Section 504 regulations, at 34 C.F.R. § 104.4(a) and (b), no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives federal financial assistance. The Title II regulations, at 28 C.F.R. § 35.130(a) and (b), create the same prohibition against disability-based discrimination by public entities. Further, under 34 C.F.R. § 104.4(b)(1) and 28 C.F.R. § 35.130(b)(1), a school district may not, directly or through contractual, licensing, or other arrangements, on the basis of disability, deny a qualified individual with a disability the opportunity to participate in or benefit from an aid, benefit, or service.

To determine whether an individual has been discriminated against on the basis of disability under Section 504 and Title II, OCR assesses whether there is evidence that the individual was

treated differently than individuals without disabilities under similar circumstances, and whether the treatment has resulted in the denial or limitation of services, benefits, or opportunities. If there is such evidence, OCR examines whether the school district provided a nondiscriminatory reason for its actions and whether there is evidence that the stated reason is a pretext for discrimination. For OCR to find a violation, the preponderance of the evidence must establish that the school district's actions were based on the individual's disability.

Facts Gathered to Date

In August 2020, the Student began his [redacted content] year at a school within the District through an Inter-district Attendance Permit (IDT Permit). The IDT Permit included a list of reasons for which it may be cancelled, including for infractions of school rules and regulations; services beyond the regular program being required; and other conditions which would render the continuance of the Permit "inadvisable."

The Student's second trimester progress report for the 2020-2021 school year (SY) ([redacted content] year) noted that his "lack of focus and attention in class" was "interfering with his learning." According to School records, at the end of August 2021 (the Student's [redacted content]-grade year), the School Principal suggested that the Complainant seek counseling services for the Student and referred her to a community program. The Complainant followed the recommendation. The District did not provide OCR with information indicating there was any formal meeting to discuss the impetus for the referral.

During the Student's enrollment at the School, records show the Student was referred for multiple instances of behavior-related issues. Of the incidents recorded from September 2021 through May 2023, which range from disruption and defiance to inappropriate language, to physical contact with peers, 13 occurred on the playground and 11 occurred in class, during the after-school program, or in the library.

On February 4, 2022, the Student was placed on a behavior contract with the after-school program to address concerns with the Student's language and interactions with peers. The contract stated that the Student would be dismissed from the program if the contract was violated.

On February 15, 2022, the School gave the Complainant and the Student a contract reaffirming their understanding that the Student's IDT Permit could be revoked if the Student, among other things, did not follow all school and classroom expectations or if he engaged in any inappropriate behaviors.

On February 18, 2022, the School placed the Student in a behavior intervention program called Check-In/Check-Out (CICO), through which the Student would check in at the beginning and end of every school day to review behavior expectations and progress.

The District told OCR that typically a school will hold a student study team (SST) meeting prior to a student being placed in the behavior intervention program but was unable to locate records

indicating that it convened an SST or other meeting prior to placing the Student the CICO behavior intervention program. The District told OCR that a precursor meeting was held with the Complainant, the Student, and the Positive Behavior and Intervention Supports Tier II Team prior to placing the Student in the CICO program; OCR was not provided notes from a meeting beyond the documents reviewed and signed by those present.

A June 13, 2022, comment in the Student's Conference Record states that the Student received social skills group, individual counseling, and CICO services for the 2021-2022 school year. The District did not provide information to OCR indicating that an SST or other meeting was convened to discuss whether or why the Student needed such interventions and supports.

In November 2022, during the 2022-2023 school year, the Complainant provided the School consent to provide the Student with School-based counseling services. In December 2022, the Student's conference record indicates that the School spoke with the Complainant about supports offered through the District's Family Resource Center. District records do not indicate that an SST meeting was convened.

In January 2023, the School documented receipt of a release of information to speak with the Student's counselor through the community program. There is no record of any meeting to consider whether the Student may need additional support through intervention or accommodations. However, in January 2023, the District again enrolled the Student in the CICO behavior intervention program.

In May 2023, the Student was dismissed from the after-school program due to behavior concerns.

In or about May 2023, the Complainant requested a special education assessment for the Student due to concerns with the Student's ability to manage impulsivity. On May 23, 2023, the District provided the Complainant an assessment plan to evaluate the Student's eligibility for an Individualized Education Program (IEP) under the Individuals with Disabilities Education Act (IDEA).

In August 2023, during the 2023-2024 school year, the District conducted a psychoeducational assessment of the Student. In the Student's interview with the School Psychologist who conducted the assessment, he stated that school was his favorite place. In her interview with the School Psychologist, the Complainant reported that the Student had been diagnosed with attention deficit hyperactivity disorder (ADHD) and that he had been receiving therapy since around March 2022. The Complainant provided permission to the School Psychologist to speak with the Student's therapist; the report indicates the School Psychologist did not do so. The assessment protocols provided to OCR by the District indicate multiple areas for further investigation and follow-up, as well as potential diagnoses that should be given "strong consideration."

On September 14, 2023, the District convened an IEP meeting to review assessments and determine whether the Student was eligible for services under the IDEA. The IEP team stated

that the Student did not demonstrate significant behaviors associated with ADHD that interfered with his ability to learn and that he did not meet eligibility criteria to receive special education services under other health impairment (OHI), specific learning disability (SLD), or emotional disturbance (ED). The IEP documents state that the Student's behavior did not impede his learning or that of others.

In a letter dated September 15, 2023, and provided to the District, the Student's mental health provider stated that the Student had been receiving services beginning on October 24, 2022, related to a diagnosis of ADHD, predominantly hyperactive type.

Neither the District nor the Complainant recall any discussion of whether the Student may qualify for support through a Section 504 plan.

On September 22, 2023, the District revoked the Student's IDT permit stating that his behavior was not in compliance with standards established by district and school policy.

Soon after the Student enrolled in a new school district, he was found eligible for accommodations and services under Section 504.

Analysis and Determinations

The regulations implementing Section 504 and Title II prohibit school districts from excluding a student from participation in the district's programs or otherwise subjecting a student to discrimination on the basis of disability. In this case, OCR identified a compliance concern that the District may have removed the Student from its IDT program as a result of behaviors arising from a disability.

The evidence OCR reviewed shows that the District had reason to suspect the Student may have a disability beginning as early as his [redacted content]-grade year, well before the District conducted an initial assessment under IDEA in August 2023. The School appears to have referred the Student for both private and school-based counseling services on at least one occasion at the beginning of his [redacted content]-grade year, and his trimester reports demonstrate concerns related to his ability to focus and remain on task.

Additionally, the District's records show that the Student's behavioral challenges did not present solely in unstructured settings; rather, there were multiple instances when the Student struggled with impulsivity in the classroom setting as well. Regardless, the scope of FAPE extends beyond the classroom to the entire school program, which includes recess, and as relevant here, the after-school program.

Additionally, while the District conducted a psychoeducational assessment under the IDEA and found the Student not eligible for services through an IEP, OCR's review of assessment protocols raises a concern as to whether the IEP team considered all available information in reaching an eligibility determination. For example, the Complainant reported that the Student

has been diagnosed with ADHD and provided a release to speak with the Student's mental health provider, but there is no information indicating that such outreach from the District occurred. Further, while the IEP team determined the Student did not qualify under the IDEA, there appears to be a lack of discussion of areas for further investigation and discussion as identified by the assessments, raising a compliance concern for OCR that the District may not have carefully considered and documented all information available in reaching its eligibility determination. Moreover, OCR is concerned that the IEP team may have overly-emphasized the Student's academic performance rather than considering whether he had an impairment that impacted not solely his classroom performance but his access to the entirety of the School's programs and services. Though the IEP team determined that the Student's behavior was not impeding his or his classmates' access to education, according to the District, his behavior resulted in multiple referrals, removal from the after-school program, and ultimate revocation of the Student's IDT Permit. These determinations appear inconsistent with one another and raise a concern for OCR that the District may need additional training with respect to how students may qualify as students with disabilities under Section 504 and Title II.

Additionally, at no time does it appear the District considered whether the Student may be eligible for services under Section 504 despite a clear record of behavioral concerns across school settings, multiple referrals for services and interventions, and reports from the Complainant of the Student's ADHD diagnosis.

These facts raise a compliance concern that the District may not have followed adequate procedures for evaluation of the Student prior to revoking his IDT Permit, resulting in a possible denial of services based on behaviors that might have been related to a disability.

To address the complaint allegations and the compliance concerns OCR identified in the investigation, the District, without admitting to any violation of law, entered into the enclosed Agreement. Pursuant to the Agreement, the District has agreed to readmit the Student to the District through an IDT Permit, hold a Section 504 meeting to evaluate the Student's current present levels of performance and determine whether the Student may be entitled to compensatory and/or remedial services as a result of any denial of FAPE, conduct training for District staff responsible for ensuring students with disabilities receive a FAPE, and issuing a guidance memorandum to all District school sites outlining the District's obligations under Section 504 and Title II as reviewed in the training.

Overall Conclusion

This concludes the investigation of this complaint.

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter and notifying the Complainant concurrently. When fully implemented, the Agreement will address OCR's identified compliance concerns. OCR will monitor the implementation of the Agreement until the District is in compliance with its terms and the statutes and regulations at issue in the case.

OCR's determination in this matter 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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against any individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act (FOIA), it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect, to the extent provided by the law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of privacy if released.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Maria-Daniel Asturias at Maria.Asturias@ed.gov.

Sincerely,

/s/

Maria-Daniel Asturias
Senior Attorney

Enclosure