



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

June 22, 2026

Via e-mail only to: [redacted content]

Liza M. Kelly, Esq.
Executive Director of Labor Relations & Personnel
Howell Public Schools
411 N. Highlander Way
Howell, Michigan 48843

Re: OCR Docket No. 15-17-1529

Dear Liza Kelly:

This is to notify you of the disposition of the above-referenced complaint that was filed on July 3, 2017, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Howell Public Schools (the District). The complaint alleged that the District discriminated against a Student on the basis of disability. Specifically, the complaint alleged:

1. During the 2016-2017 school year, the District failed to conduct a manifestation determination review prior to suspending the Student in excess of 10 school days, and
2. from May 2017 through the end of the 2016-2017 school year, the District failed to provide the Student with a free appropriate public education when it failed to provide the Student with homebound services.

OCR investigated whether the District failed to conduct an evaluation of the Student prior to a significant change in placement in violation of the Section 504 regulation, at 34 C.F.R. § 104.35.

OCR also investigated whether the District failed to provide a free appropriate public education (FAPE) to the Student in violation of the Section 504 regulation, at 34 C.F.R. § 104.33.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit 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.

During its investigation to date, OCR reviewed information provided by the Complainant and the District and interviewed the Complainant. Before OCR completed its investigation, the District

expressed an interest in resolving the complaint pursuant to Section 302 of OCR's [Case Processing Manual \(CPM\) \(February 19, 2025\)](#). OCR determined that such a resolution is appropriate given the compliance concerns OCR identified during its investigation to date, as discussed below.

Facts

During the 2016-2017 school year, the Student attended [redacted content] grade at the District's [redacted content] School. The Student was on an Individualized Education Program (IEP) for autism spectrum disorder. Per the Student's IEP, he was placed in a general education setting with special education support for his behavior.

The Complainant stated that the Student was suspended multiple times throughout the 2016-2017 school year. Based on discipline records provided by the District, by March 2017, the Student had accrued three and a half days of out of school suspension and two and a half days of in-school suspension for the school year.

On May 15, 2017, the Student's IEP team reconvened for an annual review of the Student's IEP. The District provided a draft IEP that was developed during the meeting, which called for the Student to receive direct and consultative social work and speech and language services. The District stated that in addition, the [redacted content] grade paraprofessional was to support the Student with his positive behavioral support plan, with visuals and class expectations and support the Student's breaks and other calming strategies and tools.

On May 15, 2017, after the IEP meeting, the Student was involved in an incident in [redacted content]. He was suspended from the afternoon of May 15, 2017, through May 24, 2017, or one partial school day and seven full school days. The Complainant stated that she contacted the District on May 16, 2017, about holding a "manifestation determination review (MDR)" to determine if the Student's behavior was a manifestation of his disability. The Complainant stated that the District did not hold an MDR until May 24, 2017, by which point the Student's suspensions for the 2016-2017 school year exceeded 10 school days. Based on the Student's discipline records, the Student exceeded 10 suspension days on or about May 22, 2017.

The District provided emails showing that it attempted to schedule the MDR prior to May 24, 2017, but the Complainant only had May 19, and May 24th available, and District staff were not available on the 19th.

The Complainant stated that at the May 24, 2017, MDR, the Student's IEP team determined that the Student's behavior was a manifestation of his disability. The District provided a form documenting the May 24, 2017, MDR. It stated that the Student's behavior in [redacted content] on May 15, 2017, was a manifestation of his disability, but said that because an IEP team meeting had been held the morning of May 15, 2017, prior to the Student's behavioral incident, no new IEP meeting would be held. The document stated that instead, the District would have a conference call with the IEP team and the Student's independent education evaluation (IEE) therapist to discuss strategies for the remainder of the school year and changes for the following

school year. The document contained a notice stating that if the parents disagreed with the MDR determination, then they could file for an expedited due process hearing.

The District provided notes from the MDR indicating the Complainant and the District discussed placement options for the Student for the remaining two weeks of the school year. The team called a psychologist who had recently completed a functional behavioral assessment of the Student to be part of the discussion. The team in part discussed having the Student attend school via FaceTime, but the notes do not reflect that a final decision was made. However, the Complainant emailed District staff later that day and stated that she had explained to the Student that he would be doing FaceTime schooling for the remainder of the year. In the email she offered a couple of times where she was available to discuss the details with District staff.

As of the date of the MDR, there were 14 school days (11 instructional days considering holidays, field day, and [redacted content] camp) left in the 2016-2017 school year. It is undisputed that the Student did not return to school in person for the remainder of the school year other than to attend some District events, such as a field trip to a museum and a [redacted content] graduation ceremony.

While the Complainant stated that the District placed the Student in the District's homebound program for the remainder of the 2016-2017 school year, the District stated that the Student was not officially enrolled in its homebound program after the MDR. The District stated that instead the team came up with a plan to include the Student in school and provide him with needed services while also keeping his stress/anxiety low for the remainder of the school year. The District provided OCR with the schedule listing the services it provided the Student between when his suspension ended and the end of the 2016-2017 school year.

Based on the schedule, the Student only received one hour of academic instruction in the last two weeks of the school year. He also met with a District social worker and speech teacher on one occasion and had one session with just the social worker. The schedule reflected that the Student had brief FaceTime calls with his teachers and peers, but the Complainant stated that these were opportunities for the Student to say hello to his classmates and see what they were doing in class, and did not involve instruction. The Complainant stated that the District based the Student's year end grades on the work he completed earlier in the year.

The documentation does not reflect that the Student's IEP was amended to include this schedule of services, or to reflect that the Student's placement had changed. Nor does the documentation reflect that the Complainant was given notice of her right to challenge these services through a due process proceeding.

The Student completed middle school and high school at the District. He graduated high school in the spring of 2024.

Applicable Legal Standards

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), states that 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. Title II contains a similar provision at 28 C.F.R. § 35.130(a).

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education (FAPE) to each qualified student with a disability who is in the district's jurisdiction, regardless of the nature or the severity of the student's disability. An appropriate education for purposes of FAPE is defined as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of nondisabled students are met, and that are developed in accordance with Section 504's procedural requirements at 34 C.F.R. §§ 104.34 - 104.36 regarding educational setting, evaluation, placement, and procedural safeguards.

The Section 504 regulation, at 34 C.F.R. § 104.35(a), requires recipient school districts to conduct an evaluation of any student who, because of disability, needs or is believed to need special education or related services. The Section 504 implementing regulation, at 34 C.F.R. § 104.35(a), also requires a school district to conduct an evaluation of any student who has been identified as having a disability under Section 504 before making any subsequent significant change in the student's placement. In interpreting evaluation data and making placement decisions for students with disabilities, a recipient must: (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered; (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and placement options; and (4) ensure that the placement decision is made in conformance with the educational setting requirements at 34 C.F.R. § 104.34.

Analysis and Conclusion

In this case, prior to the completion of OCR's investigation, the District expressed interest in resolving the complaint pursuant to Section 302 of OCR's CPM, which provides that a complaint may be resolved before the conclusion of an OCR investigation if a recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them with an agreement.

The evidence OCR has obtained to date raises compliance concerns that the District did not evaluate the Student prior to implementing a significant change in his placement related to his discipline as required by 34 C.F.R. § 104.35(a). Further, OCR has cause for concern that the District may not have complied with the requirements of 34 C.F.R. § 104.35(a), which could have resulted in the denial of a FAPE in violation of 34 C.F.R. § 104.33 when it removed the Student from the regular education placement required by his IEP for the last two weeks of the school year and developed an alternative home instruction schedule outside of the IEP process that provided minimal instruction.

On June 16, 2026, the District signed the enclosed Resolution Agreement, which, when fully implemented, will address the allegations in the complaint. OCR will monitor the implementation of the Resolution Agreement.

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. Individuals who file complaints with OCR 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 must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an 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, 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 law, personally identifiable information, that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR looks forward to receiving the District's first monitoring report by **October 1, 2026**. For questions about implementation of the Agreement, please contact Erin Barker-Brown, who will oversee the monitoring and can be reached by telephone at (202) 987-1842 or by e-mail at Erin.Barker-Brown@ed.gov. If you have questions about this letter, please contact me by telephone at (202) 453-7495 or by e-mail at Brenda.Redmond@ed.gov.

Sincerely,

/s/

Brenda Redmond
Multi-Regional Team Leader

Enclosure