UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

August 14, 2026

Dr. Stacey Butterfield,
Superintendent
Jenks Public Schools,
205 East B Street
Jenks, Oklahoma 74037
c/o Bo Rainey, Retained Counsel

Sent via email only, to: [redacted content]

Re: Compliance Review of Jenks Public Schools
OCR Case Number: 07-09-5004

Dear Superintendent Butterfield:

This is to inform you of the resolution of this compliance review of Jenks Public Schools, which we will refer to as the District, initiated by the U.S. Department of Education (Department), Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance (FFA) from the Department; and 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, which prohibit discrimination on the basis of disability by public entities. As a recipient of FFA from the Department and a public entity, the District is subject to these laws and OCR's jurisdiction. In addition to its responsibility for conducting complaint investigations, OCR is required, under the regulation implementing Title VI at 34 C.F.R. §100.7(a) and incorporated by reference in the Section 504 regulation at 34 C.F.R. § 104.61, to periodically initiate compliance reviews to ensure that recipients are in compliance with the laws OCR enforces. As indicated in OCR's notification letter issued to the District on April 20, 2009, this compliance review investigated "whether the District provides free appropriate public education (FAPE) to students with disabilities." OCR "look[ed] specifically at whether the District consistently provides a FAPE to students with disabilities by: 1) properly implementing individual[ized] education programs [(IEPs)] or 504 plans; 2) providing necessary [related] aids and services; 3) providing procedural safeguards; and 4) properly preparing disabled students for transition to postsecondary education."

Summary of Concerns

During the course of OCR's investigation, the District requested to resolve the compliance review under Section 302 of OCR's *Case Processing Manual* (CPM). Pursuant to Section 302, OCR may resolve issues under investigation when the recipient expresses an interest in resolving

the issues, and OCR determines it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement. OCR determined that proceeding under Section 302 would be appropriate. The following information summarizes the issues OCR identified prior to the District's request to resolve the complaint.

Based on the investigation to date, OCR did not identify FAPE concerns regarding the implementation of IEPs requiring the provision of paraprofessional services or the preparation of students for transition to postsecondary education and other post-school activities, OCR is concerned that some students may be denied a FAPE because the District does not ensure that certain related services required by IEPs or 504 plans, such as occupational therapy (OT, with OT also referring to the Occupational Therapist) and speech language therapy (SLT, with SLP referring to the Speech Language Pathologist), are provided in the amounts required in the plans.

OCR is also concerned that the District does not consistently provide notice of the employees designated to coordinate its efforts to comply with Section 504, as required by 34 C.F.R. § 104.8(a) of the Section 504 regulation, or Title II as required by 28 C.F.R. § 35.107(a) of the Title II regulation.

While OCR did not identify a concern with the District's Section 504 procedural safeguards, OCR is concerned that the District has not adopted grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by the Section 504 regulation, as required by 34 C.F.R. § 104.7(b), or prohibited by the Title II regulation, as required by 28 C.F.R. § 35.107(b). For example, the District's current grievance procedures, while framed as applicable to complaints of discrimination on various bases including disability, nevertheless only focus on "alleg[ed] racial discrimination or a racially hostile environment" and do not encompass complaints by an employee against a student, or any complaints by or against third parties. The procedures also do not appear to provide for the adequate, reliable, and impartial investigation of complaints, such as the opportunity for both parties to present witnesses and other evidence and receive notice of outcomes. The procedures also do not indicate that if a violation is found and addressed, the District will take steps to prevent a recurrence. Moreover, the District's notice on its website of grievance procedures applicable to complaints of discrimination based on disability, is both incomplete and inconsistent. OCR is concerned that all of these factors may have contributed to a lack of utilization of the District's Section 504/Title II grievance procedures during the review period.

OCR is also concerned that the District is failing to afford persons with disabilities an opportunity to participate in and benefit from the services, programs, and activities communicated through the District's websites and third-party websites that is equal to opportunities afforded to others.

The relevant facts, legal standards, and conclusions are summarized below.

Methodology

OCR has been collecting information from the District from 2009 to 2024, reviewing the District's relevant policies and procedures and related training materials as well as changes

therein in response to OCR's technical assistance and the resolution, with monitored agreements (all now closed), of four separate OCR complaints over the course of the review. The related complaints were filed on behalf of students at the elementary and intermediate school levels, raising concerns of disability-based discrimination: complaint nos. 07-10-1023 (playground areas and equipment and parking accessibility; the complaint was filed by a parent interviewed for this review, and such issues were also raised by three other parent interviewees), 07-10-1032 (denial of FAPE, OT services; the complaint was filed by a parent interviewed for this review), 07-17-1197 (denial of FAPE – academic field trips and equal access to nonacademic and extracurricular services and activities; such concerns were also raised by seven parents interviewed for this review), and 07-18-1134 (equal access to the District's Before and After School Child Care Enrichment Programs; a similar concern was also raised by a parent interviewed for this review) (the 2010-2018 complaints).

In the 2009-2010 school year, OCR interviewed a total of 12 parents of students representing a wide range of disabilities, and experience with disability services at one or more of the District's elementary, intermediate, middle, and high school levels; as well as 49 administrators, teachers, and staff from throughout the District; and engaged in follow-up interviews with two District administrators in 2015 (the 2009-2015 parent and staff interviews). Also in the 2009-2015 period, OCR reviewed 125 student IEP and 504 plan files, selected by OCR to represent a various disabilities and every school in the District (the 2009-2015 student files). Based on all the information above, OCR, noting a persisting concern regarding the provision of related services, then narrowed its focus by selectively reviewing from the 2022-2023 and 2023-2024 school years 13 files from the District's [redacted content] (two schools that were, for example, not represented in the 2010-2018 complaints), for students requiring some combination of OT, SLT, physical therapy (PT, with PT also referring to the Physical Therapist), and paraprofessional services (the 2022-2024 student files). In October 2024, OCR also interviewed the District's current [redacted content] and a [redacted content], as well as seven other building administrators and staff with responsibility for overseeing or delivering such services to students at these two schools (the 2024 staff interviews). In addition, in 2024 OCR conducted an assessment of the District's online programs, services, and activities.

Legal Standards

FAPE

The Section 504 regulation at 34 C.F.R. § 104.33 requires school districts to provide a FAPE to all students with disabilities in their jurisdictions, regardless of the nature or severity of the disability. 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 are based on adherence to procedures that satisfy the requirements of 34 C.F.R. §§ 104.34-36. Implementation of an IEP developed in accordance with the IDEA is one means of meeting these requirements.

The Section 504 regulation at 34 C.F.R. § 104.35(a) provides that a district shall conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement. The

regulation at 34 C.F.R. § 104.35(b) provides that a district shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education or related services. The regulation at 34 C.F.R. § 104.35(c) provides that in interpreting evaluation data and in making placement decisions, a district shall (1) draw upon information from a variety of sources; (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 the placement options; and (4) ensure that the placement decision is made in conformity with § 104.34, which requires placement in the regular educational environment to the maximum extent appropriate.

Regarding properly preparing students with disabilities for transition to, e.g., postsecondary education, the IDEA regulation provides helpful guidance concerning what is required. The regulation at 34 C.F.R. § 300.43 describes transition services as "a coordinated set of activities for a child with a disability that [. . .] is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities" of various kinds. Section 300.320(b) of this regulation, concerning the definition of an IEP, provides that, "not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include [. . .] measurable postsecondary goals" in this regard, as well as the transition services "needed to assist the child in reaching those goals."

Regarding FAPE and as a general rule, because Title II provides no less protection than Section 504, violations of Section 504 also constitute violations of Title II, per 28 C.F.R. § 35.103 of the regulation implementing the latter.

Notice of Non-Discrimination – Coordinators

The Section 504 regulation at 34 C.F.R. § 104.8, requiring notice that a recipient does not discriminate on the basis of disability in violation of Section 504 (notice of non-discrimination), requires recipients that employ fifteen or more persons to include in this notice identification of the employee designated, per § 104.7(a), to coordinate its efforts to comply with Section 504. The Title II regulation, which has a similar notice of non-discrimination provision at 28 C.F.R. § 35.106, at § 35.107(a) requires public entities that employ 50 or more persons to make available to all interested individuals the name, office address, and telephone number of the employee or employees designated to coordinate its efforts to comply with Title II.

Grievance Procedures and Procedural Safeguards

The Section 504 regulation at 34 C.F.R. § 104.7(b) requires a recipient to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by the Section 504 regulation. The Title II regulation at 28 C.F.R. § 35.107(b) contains a similar requirement.

The Section 504 regulation at 34 C.F.R. § 104.36 requires a recipient that operates a public elementary or secondary education program or activity to establish and implement procedural

safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services. The system of procedural safeguards includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of the Individuals with Disabilities Education Act (IDEA) is one means of meeting this requirement.

Website Accessibility

To determine whether a school district is failing to afford persons with disabilities an opportunity to participate in and benefit from the services, programs, and activities communicated through the District's websites and third-party websites that is equal to opportunities afforded to others, OCR investigates whether the District's online programs, services, and activities exclude qualified persons with disabilities from participation in, deny them the benefits of, or otherwise subject them to discrimination under any program or activity, in violation of Section 504 and its implementing regulation at 34 C.F.R. § 104.4, and Title II and its implementing regulation at 28 C.F.R. Part 35. In addition, OCR investigates whether the District fails to take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as its communication with others, in violation of 28 C.F.R. § 35.160(a).

Summary of Evidence Obtained

According to an "Oklahoma School Report Card" data link on the District's website (last visited November 12, 2024), in the 2022-2023 school year the District enrolled over 12,600 students and approximately 17% were students with disabilities. The District has four elementary schools (serving pre-kindergarten through grade 4), two intermediate schools (serving grades 5 and 6), a middle school (serving grades 7 and 8), and three schools serving grades 9-12: the Freshman Academy (grade 9 only), the High School, and an Alternative Center.

The District is governed by a Board of Education (Board) consisting of five members, and is led by the Superintendent. OCR noted that the Board regularly updates its various policies and procedures applicable to students with disabilities.

FAPE

OCR noted that FAPE requirements are set forth in, e.g., Policy 3.18 of the District's Policy and Procedures, "Educational Services for Students Under Section 504 and Title II of the Americans with Disabilities Act."

OCR investigated whether the District had properly implemented IEPs with respect to preparing students with disabilities for transition to, e.g., postsecondary education. One of the twelve parents OCR interviewed at the outset of the review raised this issue (Parent 1), claiming concerning the District, "They do not do any individualized transition planning for the special education kids like they do for the regular ed kids." The parent further indicated that they had

"heard from other parents" about such services being denied to disabled students. However, four of the twelve parents OCR interviewed at the outset of this review, who unlike Parent 1 had children in the District at the time who were [redacted content], [redacted content], did not raise with OCR any concerns about the District's delivery of transition services, among the various concerns they did choose to raise. (OCR noted that three of these parents had been referred by Parent 1 for interviews). OCR found that over a quarter of the 2009-2015 student files contained IEPs that, appropriately based on age, included a "Transition Services Plan – Course of Study (Beginning at Age 14, or Younger if Appropriate)," that included measurable annual goals and services. Relevant staff in the 2009-2015 interviews also described the drafting and annual updating of such goals by IEP teams, and the delivery of such services to students.

OCR also investigated whether the District had properly implemented IEPs and 504 plans with respect to providing necessary related aids and services, focusing specifically on the provision of OT, PT, SLT, and paraprofessional services. One of the twelve parents OCR interviewed at the outset of the review raised this issue (Parent 2), claiming that while his child's IEP required SLT, PT, and OT services, "The [SLP] and [OT] just have too many kids to assist. Sometimes they missed seeing [redacted content] to provide services, but they didn't make up [redacted content] sessions. No one requires the therapist to make up the missed sessions." Multiple other parents that OCR interviewed raised general concerns about whether the District had an adequate number of paraprofessionals to meet service demands.

Parent 2 did not choose to follow-up with OCR on the opportunity to further discuss his IEP related services implementation concerns, and OCR's review of [redacted content] special education file did not otherwise provide support for such concerns; nor did review of the other 124 student files from 2009-2015. However, a District [redacted content] interviewed by OCR in 2010, when asked what happened if [redacted content] was absent due to, e.g., illness or otherwise unavailable to work with a student at a scheduled time, replied, "I don't think we are supposed to make that up," and "We do the best we can, but there is no way to make up sessions with every student." A District [redacted content] interviewed by OCR at this time, when asked if she made up service sessions if she had been absent, replied, "No." A District [redacted content] OCR interviewed at this time said, on the other hand, that [redacted content] made up missed sessions with students "as soon as possible."

OCR followed up on this issue in its review of the 2022-2024 student files from the Freshman Academy and the High School, and in conducting the 2024 staff interviews. The District in its cover narrative accompanying the student files, wrote regarding Student 1, who was on a 504 plan: "OT/PT collaboration for this student typically occurs during the annual meeting [(i.e., the 504 plan required PT and OT services, '1 times/year'/'60 minute(s)')]; however, due to a miscommunication with the OT and PT providers, this did not occur at the annual meeting." Regarding Student 2, who was on an IEP, OCR noted in its file review that the OT Attendance Log for the period 1/27/23 to 1/23/24, which required monitoring services of "30 [minutes] x 4," was blank. The District in its narrative regarding the 2022-2024 student files wrote concerning Student 2, "Due to the large caseload of [the] occupational therapist and a lack of available providers, the monitoring services for this student were not performed." Regarding Student 3, who was on an IEP, OCR noted based on its file review that according to the "[SLT] Service Minutes 2023-2024 SY," the student was marked "absent" for eight 30-minute sessions, with

only two "make up" sessions listed. When OCR asked about this document, the District responded in a follow-up narrative as follows:

> We currently have around 2,000 students on IEPs, so the district does not keep records of any missed services at the school sites. The related service providers keep track of attendance and make them up if able. If a parent contacts the district and has questions and/or concerns about services, the district would contact the related service provider to ask questions: is the student missing services because the student is absent, the teacher, etc. One item the district may look at is progress reports to ensure the student is making progress toward their goals.

OCR discussed the three student scenarios above during the 2024 staff interviews. The [redacted content] indicated that the District "expect[s] makeup" for all related services, which was consistent with what a [redacted content] also said in [redacted content] interview. A District [redacted content] indicated in [redacted content] interview that [redacted content] "would expect compensatory services as appropriate," and "[The District] would offer compensatory services to make sure that someone is getting what they need, that would involve reconvening the team and talking to the parents about what was missed and the proposed plan to make sure we provide what is offered." The [redacted content], who indicated that [redacted content] had responsibility for overseeing paraprofessionals at that site, said that if a paraprofessional is absent, "a substitute para is replaced as coverage to make sure that the student receives support." This practice was confirmed by both of the paraprofessionals OCR interviewed.

The [redacted content], in her interview, said regarding Student 2 and the missed monitoring services, she would typically ask in such a scenario, "What does a quarterly monitoring or consult look like?" and [redacted content] would "meet with the teacher to see what they need. So, for example, [[redacted content]] ask if the student needed any more sensory supports. Sometimes '4x' [(i.e., the four [redacted content] monitoring sessions Student 2's IEP required)] is random and sometimes it means quarterly." The [redacted content] noted that [redacted content] current caseload of "115 to 120 students" was "higher than average," but declined to comment further in this regard. As to Student 1 and the missed OT/PT collaboration at the annual meeting, the [redacted content] said that [redacted content] did not get notified that the annual IEP meeting was happening, so [redacted content] did not attend; the [redacted content] in her interview made a similar statement. The [redacted content] told OCR that [redacted content] would "make up" such collaboration when "missed due to miscommunication," and did so for Student 1. [redacted content] also indicated that [redacted content] "tries her best to make up the time" if a session is missed due to her absence or that of a student. The PT in her interview said regarding Student 1 that after the missed meeting, "I checked in on that student." The [redacted content] noted, "The services in the 504 plan didn't change [as a result of the annual meeting]," which in the [redacted content]'s view "was appropriate and the services have been provided. The student is progressing and independent." The [redacted content] indicated that making up any missed sessions with students "has not been an issue [[redacted content]] so far" in [redacted content] nearly two decades with the District. The [redacted content] in her interview, on the other hand, indicated that [redacted content] does not routinely make up sessions with students, when either [redacted content] or the student is absent.

Notice of Non-Discrimination – Coordinators

OCR noted that as of the Policy and Procedures revised in August 2014, Policy 1.28 provided a "Non-Discrimination Statement" that included identification of the "Compliance Coordinator responsible for Section 504 complaints" (Section 504 Coordinator), including the employee's title and contact information. The Non-Discrimination statement provided the same kind of information for the "Compliance Coordinator responsible for," among other laws, the "ADA [Americans with Disabilities Act]" (including Title II thereof; hereinafter Title II Coordinator). The District also described to OCR in a 2014 narrative how this Notice was broadly distributed by the District, both "as a hard copy and on-line on our District website."

However, in May 2024, OCR informed the District that on the bottom of its website homepage, the Non-Discrimination Statement, which otherwise did not appear to raise concerns under either Section 504 or Title II, did not include or hyperlink to identification of the District's Section 504 or Title II Coordinators. In addition, the District's Policy and Procedures posted online indicated they were last revised in August 2020, and so listed a former Section 504 Coordinator, rather than the current one identified by the District for OCR, who was assigned to the role in July 2023. The District, in its 2024 narrative response to OCR, indicated that Policy 1.30 of the Policy and Procedures, revised in May 2024, included the current title, street address, phone number, and email address of the District's Section 504 Coordinator, and provided OCR with a copy thereof. The District also indicated that it was in the process of establishing a hyperlink to "District Policy 1.30 [("Non-Discrimination Statement")], which would contain the required coordinator contact information." OCR confirmed that this hyperlink was subsequently added to the District's main website, but while this version of the Non-Discrimination Statement (last visited November 12, 2024) identified, e.g., the Title II Coordinator, it made no reference at all to the Section 504 Coordinator, even though the document also indicated that it was revised in May 2024.

OCR's investigation to date also indicated that while proper notice of the District's Section 504 and Title II Coordinators was given in District documents such as the 2024-2025 school handbooks, there were six variations of the "Current JPS Board Policy Book" or "Current JPS Policies and Procedures" (hereinafter "Policies and Procedures) listed on the District's website, Documents | Jenks Public Schools (last visited November 12, 2024). Of the Non-Discrimination Statements contained in these "current" documents, only two correctly identified the current Section 504 Coordinator, while one identified a former Section 504 Coordinator, and three did not identify a Section 504 Coordinator at all. The Title II Coordinator, on the other hand, was identified in all six documents, but varied between the Chief Human Resource Officer (4 documents) and the Executive Director of Student Services (2 documents).

Grievance Procedures and Procedural Safeguards

At the outset of this review, the District's relevant "grievance procedure" (the 2008-2009 Grievance Procedures) for "discrimination in violation of federal law" required at Step 1, "Informal discussion with Section 504 Coordinator," after which "[t]he coordinator will investigate, documenting all steps [. . .] and will reply in writing to the complainant within five working days of the initial meeting." Next, "If the complaint is not satisfactorily resolved through Step 1, the complainant may file a written grievance with the [] Coordinator within 10

working days of disposition at Step 1[.]" An "informal hearing" was to then be scheduled – and apparently overseen – by the Section 504 Coordinator, followed by a written report within 30 days after the grievance was filed, in which the Coordinator would "recommend appropriate action to the Superintendent." The procedure made no reference to the rights of the accused party(ies). The District in its 2009 narrative response to OCR indicated that the grievance procedure had not been used by any complainant in either the 2008-2009 school year or the previous one, while providing OCR with documentation of two student cases that were resolved in this period using IDEA and Section 504 procedural safeguards.

The District in its 2014 narrative response to OCR described updated "grievance procedures for filing, processing and resolving alleged discrimination complaints concerning discrimination" on various bases, including disability, with the Section 504 Coordinator "responsible for Section 504 complaints." The grievance procedure was contained in "Policy 1.29 Parent/Guardian Concerns" (the 2013-2014 Grievance Procedures), with the District noting to OCR, "Per District practice, we seek resolution at the lowest level through communication with the appropriate staff members and officers of the District." OCR noted that Policy 1.29 made no reference to discrimination per se, but rather that "situations of concern to parents/guardians or the public may arise in the operation of the District," and provided, e.g., neither timeframes for processing at each step, or notice of outcome to any party. The District in its 2015 narrative response to OCR indicated that the grievance procedure had not been used by any complainant in either the 2013-2014 or 2014-2015 school years.

The District in its 2024 narrative response to OCR indicated, "The District's grievance procedures for disability discrimination, including harassment [(the 2024 Grievance Procedures, based on their May 2024 revision date)], are [now] reflected in Board Policy 1.30," i.e., the grievance procedures are described as part of the Policy entitled "Non-Discrimination Statement," as discussed above. OCR noted that Policy 1.30 was distinct from the current "Parents/Guardians Concerns," Policy 1.32, which had not changed substantively from when it was used as the 2013-2014 Grievance Procedures. While the 2024 Grievance Procedures are prefaced as applying to thirteen protected categories including disability, their specific and repeated focus is on "alleg[ed] racial discrimination or a racially hostile environment." The procedures apply to three kinds of complaints: "Staff to Staff," "Staff to Student," and "Student to Student" but as written do not encompass complaints by an employee against a student, or complaints against third parties. Staff to Staff complaints are investigated by "[t]he principal or department supervisor," while Staff to Student complaints are investigated by "[a] committee composed of the principal, another administrator, and a Human Resources administrator[,]" and Student to Student complaints are investigated by "[t]he site principal or his/her designee."

With respect to timeframes, the 2024 Grievance Procedures provide a ten-day time limit for filing Staff to Staff complaints, based on "when the complainant knew or should have known about the violation," but no such time limit is indicated for the other two kinds of complaints. For Staff to Staff complaints, "Within five (5) working days of receipt of the report, the principal or supervisor will schedule a meeting with the complainant to report the findings and decision. The principal or department supervisor shall submit his/her decision in writing [(to whom is not explained)] within five (5) working days of the meeting." For this kind of complaint, there are three levels of appeal, with timeframes, "[i]f the complainant feels that a satisfactory resolution

has not been achieved[.]" For Staff to Student complaints, no timeframes are given for the committee's investigation or its subsequent "written report to the Superintendent [. . .] regarding allegations, investigative procedures, and reconciliation of complaints" (again, this latter phrase is not explained). There is one level of appeal described, with timeframes, again for the complainant only. For Student to Student complaints, no timeframe is given for the investigation by the site principal or his/her designee, or for when the investigator will "inform the student and parent/guardian of the decision and findings." There are two levels of appeal, with timeframes, again for the complainant only.

The District in its 2024 narrative response to OCR indicated that its grievance procedures had not been used by any complainant in either the 2022-2023 or 2023-2024 school years, but noted that in the same period two disability-based complaints concerning individual students were filed with OCR (neither of which OCR deemed relevant to this review), and one by a District employee with the U.S. Equal Employment Opportunity Commission (EEOC; also not deemed by OCR relevant to this review).

OCR noted that the "Menu" on the District's main website (last visited November 12, 2024), under the heading "Family & Student Resources," includes a "Complaint Resolution" hyperlink that leads to a page describing Complaint Resolution for "misunderstandings and issues," with a hyperlink to Policy 1.32 Parents/Guardians Concerns, but does not direct the reader to the District's other grievance procedures (i.e., while the Family & Student Resources section of the website does include a separate hyperlink for addressing Title IX complaints concerning "sex discrimination and sexual harassment," it does not include, e.g., a separate hyperlink for addressing disability-based discrimination, including harassment).

OCR further noted that the District's website in the Family & Student Resources section includes a hyperlink to a "Bullying Report Form," which defines student bullying as "any pattern of harassment," etc., directed toward a student based on, e.g., "Disability," but reports regarding such disability-based harassment are apparently not processed under the 2024 Grievance Procedures and make no reference to, or provision for keeping informed, the District's current Section 504 or Title II Coordinators in this regard. The District's Policy 3.42, "Investigating Bullying Reports," provides, "When specific allegations of harassment [. . .] due to a disability are filed, the Office of Human Resources will conduct a thorough investigation" (the student bullying-harassment procedures). Few timeframes are provided for the investigation; however, OCR noted that the student bullying-harassment procedures are in some ways more prescriptive than the 2024 Grievance Procedures, providing that an investigator, e.g.:

- "will investigate the alleged incident(s) and determine whether bullying occurred, the severity of the incident(s), and the potential for future violence";
- "shall interview relevant students and staff and review any documentation of the alleged incident(s)"; and
- "At the conclusion of the investigation, [. . .] will document the steps taken to review the matter, the conclusions reached and any additional action taken, if applicable. Further, the investigator will notify the District's bullying coordinator that an investigation has occurred and the results of the investigation."

OCR has not yet in this investigation requested data on the actual utilization, if any, of the student bullying-harassment procedures, with respect to disability.

Concerning the provision of procedural safeguards, OCR learned from the District's narrative responses and related documentation provided over the course of this review, and confirmed based on parent and staff interviews and review of student files, that the District appears to routinely provide parents and guardians (as well as students when applicable) with the Oklahoma State Department of Education (OSDE)'s "Parent Rights in Special Education: Notice of Procedural Safeguards," and "Section 504 of the Rehabilitation Act of 1973/Title II of the Americans with Disabilities Act Information and Procedural Safeguards" (Section 504/Title II Procedural Safeguards), or information consistent therewith. The District indicated in its 2024 narrative response that such notice is provided, e.g., at "every IEP or 504 meeting," and OCR confirmed in student file reviews that the District routinely documented doing so. Current copies of these procedural safeguards are also posted on the District's website (last visited November 18, 2024), and OCR noted that they are consistent in their contents with the requirements of 34 C.F.R. § 104.36. However, OCR also noted that the name and title of the "Section 504/Title II Coordinator" listed on the current Section 504/Title II Procedural Safeguards was inconsistent with other such current contact information provided by the District on its website, and to OCR, contributing further to the concerns with notice in this regard, already described above.

Website Accessibility

OCR conducted an assessment of the District's online programs, services, and activities and noted possible compliance concerns including, but not limited to:

- Important graphics, images, or links were missing meaningful alternative text, posing a barrier to people with vision disabilities who use screen readers.
- The foreground and background colors of important content lacked sufficient contrast, posing a barrier to people with low vision.
- Documents provided in portable document format (pdf) were inaccessible to people with vision disabilities who use screen readers.

Analysis

FAPE

OCR did not find, based on relevant parent and staff interviews as well as student file reviews, analyzed in view of the fact that implementation of an IEP developed in accordance with the IDEA is one means of meeting Section 504 FAPE requirements, a concern regarding the provision of paraprofessional services (i.e., the evidence indicated substitute paraprofessionals are provided as needed). Nor did OCR find a concern regarding the District's properly preparing students with disabilities for transition to, e.g., postsecondary education.

OCR is concerned that, for example, Student 3 may have been denied a FAPE in the 2023-2024 school year when six [redacted content] sessions were not made up by the [redacted content] after the student was absent. While the [redacted content] informed OCR that the [redacted content] does not routinely make up sessions that are missed because either the [redacted

content] or the student is absent, this practice was inconsistent with the views of, e.g., the District's [redacted content] and a [redacted content], that Section 504 required such sessions to be made up. Section 504 does not provide for a recipient using, e.g., a "large caseload," "lack of available providers," or "miscommunication" as rationales for non-delivery of related services prescribed in a plan adopted by a duly convened IEP or Section 504 team; nor does the District's relevant Policy 3.18 do so, as it appears as written to generally conform with Section 504 requirements regarding provision of a FAPE, including "related aids and services." Section 504 also does not allow the District to delegate discretion to service providers to "make [the missed sessions] up *if able*" (emphasis added); to just "tr[y] [their] best to make up the time," as the [redacted content] said in [redacted content] 2024 interview, after OCR had, e.g., noted four missed [redacted content] monitoring sessions with Student 2; or to wait for "a parent [to] contact[] the district [with] questions and/or concerns about the services" before the District inquires further. The burden for ensuring a FAPE, including by properly implementing an IEP or Section 504 plan, is at all times on the District and not, e.g., on the parent or guardian of a student on such a plan. The explanations provided by the [redacted content] and the [redacted content] for practices that led to the possible denial of FAPE to Student 2 and Student 3, respectively, raise concerns that other students entitled to such services may have been similarly impacted.

Notice of Non-Discrimination – Coordinators

OCR found that over the course of this review, the District has been, and continues to be, inconsistent in providing either notice, or up-to-date notice, of its Section 504 and Title II Coordinators, as required by 34 C.F.R. § 104.8(a) of the Section 504 regulation, or Title II as required by 28 C.F.R. § 35.107(a) of the Title II regulation, respectively. OCR is concerned that this absence of proper notice may have contributed to a lack of utilization of the District's various Section 504/Title II grievance procedures during the review period.

Grievance Procedures and Procedural Safeguards

Based on the investigation to date, OCR does not have a concern with either the content or provision to parents and guardians of the District's Section 504 procedural safeguards. However, OCR found that the District's 2024 Grievance Procedures, while improved in some respects from both the 2008-2009 and 2013-2014 versions, continued to raise various concerns as to whether they provide appropriate due process and prompt and equitable resolutions of Section 504 and Title II complaints. For example, the 2024 Grievance Procedures are framed as applicable to complaints of discrimination on various bases including disability, but nevertheless only focus on alleged racial discrimination, including creation of a racially hostile environment, with no definitions of prohibited disability-based discrimination, or specific examples. The procedures also do not encompass complaints by a staff member against a student, or complaints against third parties, and provide inconsistent timeframes – and for some steps none at all – for the three kinds of complaints they do cover, rather than designating reasonably prompt timeframes for all major stages of the complaint process. Also, notice of the outcome of an investigation only certain categories of complainants, and not to accused parties at all. Similarly, appeal rights are provided to complainants but not to the accused. The grievance procedures also do not appear to provide for the adequate, reliable, and impartial investigation of complaints, such as the opportunity for both parties to present witnesses and other evidence – an opportunity at least

implied in the separate student bullying-harassment procedures – and to equitably receive notice of outcomes. The 2024 Grievance Procedures also do not indicate that if a violation is found and addressed, both for the complainant and others if appropriate, the District will also take steps to prevent a recurrence. Again, this step is at least implied by the scope of the investigation (i.e., "will investigate [. . .] the potential for future violence") required by the separate student bullying-harassment procedures.

OCR is also concerned that the District's notice of its 2024 Grievance Procedures is both incomplete and inconsistent. For example, the District's main website's hyperlink for "Complaint Resolution" does not pertain to discrimination based on disability nor provide a visitor with redirection in that regard. There is also no indication in the information available on the District's main website that the separate student bullying-harassment procedures, which also lack various required features of a prompt and equitable process as described above, for when disability-based harassment is alleged, are overseen by or otherwise reported to the District's Section 504 and Title II Coordinators. These two Coordinators have the ultimate responsibility for, e.g., tracking incidents of disability-based discrimination, including harassment, in the District, and for overseeing the District's response thereto in a manner that complies with Section 504 and Title II. Instead, the student bullying-harassment procedures require only that "the investigator will notify the District's *bullying coordinator* that an investigation has occurred and the results of the investigation" (emphasis added), with no distinction made when the bullying complaint alleges harassment based on disability.

Again, OCR is concerned that all of above-described factors may have contributed to a lack of utilization of the District's various Section 504/Title II grievance procedures during the review period.

Website Accessibility

OCR investigated whether the District's online programs, services, and activities exclude qualified persons with disabilities from participation in, deny them the benefits of, or otherwise subject them to discrimination under any program or activity, in violation of Section 504 and its implementing regulation at 34 C.F.R. § 104.4 and Title II and its implementing regulation at 28 C.F.R. Part 35. In addition, OCR investigated whether the District fails to take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as its communication with others, in violation of 28 C.F.R. § 35.160(a).

Before OCR concluded its investigation, the District asked to resolve this compliance review pursuant to Section 302. OCR determined it had identified concerns that would be appropriate to resolve through a resolution agreement.

Conclusion

The District agreed to implement the enclosed Resolution Agreement, which, when fully implemented, will address the evidence obtained and all of the issues investigated. The Agreement requires the District to ensure [redacted content]. Please review the enclosed Agreement for further details. OCR will monitor the District's implementation of the Agreement

until the District is in compliance with the terms of the Agreement and the statute and regulation at issue.

This concludes OCR's investigation of this compliance review. This letter 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.

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 against the District 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, OCR 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.

We appreciate the District's cooperation in the resolution of this compliance review. If you have any questions, please contact Attorney, Meghan McCauley, via email at Meghan.McCauley-Loof@ed.gov.

Sincerely,

/s/

Jennifer Brooks
Acting Regional Director

Enclosure: Resolution Agreement