UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

August 5, 2026

Via e-mail only to: [redacted content]

Superintendent Dr. Michael Lonze

Re: Walled Lake Consolidated Schools (MI) – OCR Case Number 15-24-1158

Dear Superintendent:

This letter is to notify you of the disposition of the above-referenced complaint filed on December 4, 2023, with the U.S. Department of Education, Office for Civil Rights (OCR), against Walled Lake Consolidated Schools (the District). The complaint alleged that the District discriminated against a student (the Student) based on disability and retaliated against him when:

1. The District treated the Student differently than students without disabilities by only allowing him to eat lunch with other students with disabilities;

2. The District created a hostile environment against the Student by posting photographs on school grounds and online of a dog that was previously removed from school due to the Student's disability; and

3. The District disciplined the Student in retaliation for the Complainant filing a previous complaint with OCR.

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. Persons who seek to enforce their rights under these laws are also protected from retaliation. As a recipient of federal financial assistance from the Department of Education and as a public entity, the District is subject to these laws.

To conduct its investigation, OCR reviewed information provided by the Complainant and the District and interviewed the Complainant, the Student and District staff. Regarding Allegations 2-3, after carefully considering all of the information obtained during the investigation, OCR found that the preponderance of the evidence is insufficient to find that the District violated Section 504 and/or Title II as alleged. Regarding Allegation 1, OCR found that the preponderance of the evidence is sufficient to find that the District violated Section 504 and/or Title II as alleged. The bases for OCR's determination are explained below.

Applicable Regulatory Standards

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a recipient, or be subjected to discrimination by a recipient of Federal financial assistance. The Title II implementing regulation at 28 C.F.R. § 35.130(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

In addition, the Section 504 regulation, at 34 C.F.R. § 104.33(a), requires a recipient that operates a public elementary or secondary education program or activity to provide a free appropriate public education (FAPE) to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. The Section 504 regulation, at 34 C.F.R. § 104.33(b)(1), defines an appropriate education as the provision of regular or special education and related aids and services that are designed to meet individual educational needs of persons with disabilities as adequately as the needs of non-disabled persons are met.

Section 504's implementing regulation, at 34 C.F.R. § 104.34(b), requires that a recipient, in providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, ensure that a student with a disability participates with students without disabilities in such activities and services to the maximum extent appropriate to the needs of the student with a disability. The Title II regulation, at 28 C.F.R. 35.130(d), requires public entities to administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. The Title II regulation, at 28 C.F.R. § 35.130(b)(7), also requires a public entity to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Disability harassment is a form of disability discrimination prohibited by Section 504 and Title II. Disability harassment under Section 504 and Title II is intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the institution's program. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating. When harassing conduct is sufficiently severe, persistent, or pervasive that it creates a hostile environment, it can violate a student's rights under the Section 504 and Title II regulations. A hostile environment may exist even if there are no tangible effects on the student where the harassment is serious enough to adversely affect the student's ability to participate in or benefit from the educational program.

When disability harassment limits or denies a student's ability to participate in or benefit from an educational institution's programs or activities, the institution must respond effectively. Where the institution learns that disability harassment may have occurred, the institution must investigate the incident(s) promptly and respond appropriately. If a school's investigation reveals

that harassment based on disability created a hostile environment—i.e., the conduct was sufficiently serious to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school—the school must take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent it from recurring, and, as appropriate, remedy its effects.

The regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R § 100.7(e), prohibits recipients of federal financial assistance from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the regulation or because that individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the regulation. This requirement is incorporated by reference in the Section 504 regulation at 34 C.F.R. § 104.61. The Title II regulation contains a similar prohibition against retaliation at 28 C.F.R. § 35.134.

The following three elements must be satisfied to establish a *prima facie* case of retaliation: 1) an individual engaged in a protected activity; and 2) an individual experienced an adverse action caused by the recipient; and 3) there is some evidence of a causal connection between the adverse action and the protected activity. If the above elements of a *prima facie* case of retaliation are established, OCR examines whether the recipient has identified a facially legitimate, non-retaliatory reason for the adverse action. If the recipient identifies a facially legitimate, non-retaliatory reason for the adverse action, OCR next conducts a pretext inquiry to determine whether this reason is genuine or is a cover for retaliation.

An act of intimidation, threat, coercion, or discrimination constitutes adverse action for purposes of the anti-retaliation regulations if it is likely to dissuade a reasonable person in the individual's position from making or supporting a charge of discrimination or from otherwise exercising a right or privilege secured under the statutes or regulations enforced by OCR. Petty slights, minor annoyances, and lack of good manners will not normally constitute adverse actions.

Summary of OCR's Investigation, Analysis and Conclusion

During the 2023-2024 school year, the Student attended the District's [redacted content] School (the School) as a [redacted content]. The Student has severe allergies related to pet dander and certain food items as well as asthma. The District identified the Student as a student with disabilities and developed a Section 504 plan.

- **Allegation 1 - Alleged Different Treatment (Lunch Separation)**

The Complainant alleged that the District treated the Student differently than students without disabilities by only allowing him to eat lunch with other students with disabilities.

Regarding the District's practice in providing an allergy-free lunch table to its students with food allergies at the School, the evidence obtained during the investigation shows that the District separated students from eating lunch with nondisabled peers during lunch because of disabilities. The evidence shows that the District only offers the allergy-free lunch table to students with food allergies at the School and does not allow them to eat with their friends who do not have food allergies. According to the principal, in the beginning, they tried to allow other students to sit at this allergy-free lunch table, such as allowing students sitting at this table to bring their friends,

but the Complainant was concerned that the Student would be exposed to allergens. The principal said that it became "too much" and raised a concern for the Student's safety, so she told the Student that they would limit other students' access to the table. The principal stated that the table is to be free from allergens, such as nut, egg, and dairy, and that no other students are allowed to sit there unless they have a food allergy. As a result, students with food allergies are isolated from other students and do not fully participate in the social aspects of lunch with students without disabilities, regardless of whether that is appropriate to their individual needs.

Furthermore, the evidence shows the District did not fully consider alternative methods which would not result in the isolation of students with food allergies from their peers. The principal told OCR that the District was willing to look at other avenues to allow these students to sit with their friends, but they had already tried and there was "no manpower" to check for allergens in students' lunches when there are more than a hundred students in the cafeteria during the lunch period and it was "too risky" and "too much liability." The District's such actions, in providing meals, did not comply with 34 C.F.R. § 104.34(b) and 28 C.F.R. 35.130(d) as it failed to ensure that students with food allergies, including the Student, participates with students without disabilities in such activities and services to the maximum extent appropriate to the needs of the student with a disability and also failed to administer such services in the most integrated setting appropriate to the needs of students with food allergies.

For these reasons, regarding Allegation 1, OCR finds the evidence is sufficient to find that the District violated Section 504 and/or Title II as alleged.

- **Allegation 2 – Alleged Harassment**

The Complainant also alleged that the District created a hostile environment against the Student by posting photographs on school grounds and online of a therapy dog that was previously removed from the School due to the Student's disabilities (asthma and severe allergy to pet dander); this therapy dog was removed from the school building starting in the 2022-2023 school year [redacted content]. According to the Complainant, on [redacted content], the Student's teacher showed several pictures of the dog on the smartboard. This display was brief but it made the Student uncomfortable. The Student reported that everybody was talking about the dog on that day and other classrooms also saw those photos. The Complainant also reported that the School's social media account posted a photo of this dog stating "[redacted content], from our beloved [redacted content]."

The evidence shows that on [redacted content], the teacher showed a photograph of therapy dogs, including the dog that was removed from the school building because of the Student's allergy to pet dander. The evidence also shows that the District maintains several social media accounts providing updates on its therapy dogs working for its schools as a general practice. The evidence also shows that during the morning on [redacted content], the teacher received the photo of these dogs from another District staff member, which was sent to all school staff in the morning, and showed this photo during his class as another student asked about the dog and wanted to see the photo. The teacher told OCR that he did not know the history of the dog and reason for the dog's removal at the time of showing the photo and learned about the Complainant's wish not to bring up the dog only after being named in this current OCR complaint.

The District witnesses told OCR that neither the Student nor the Complainant reported any issues or concerns related to the showing of the therapy dog photo on [redacted content]. The Student reported that the photograph made him uncomfortable because the dog was removed from the school because of him getting sick from the dog and he only reported this to the Complainant. The evidence shows that the Student did not experience any other incident related to the therapy dog photograph after that day, has not missed any school during this school year except for his family vacation and reported to OCR that he was doing well in school. Once the District learned that the Complainant does not want the photo shown to the Student, such showing of the therapy dog photo in the Student's class has not been repeated.

OCR finds that the evidence is insufficient to find that the Student was subject to a hostile environment as a result of the school's former therapy dog, who was removed from the School because of the Student's disabilities, being displayed on the smartboard on one day and the social media posts by the school about the dog. The evidence does not show that the teacher's conduct of showing the photograph of the therapy dog during his class upon another student's request on [redacted content] or the District's general practice of showing updates on its therapy dogs working for its school buildings were sufficiently severe, persistent, or pervasive that it created a hostile environment against the Student and impacted his ability to receive his education.

For these reasons, regarding allegation 2, OCR finds the evidence is insufficient to find that the District violated Section 504 and/or Title II as alleged.

- **Allegation 3 – Alleged Retaliation**

The Complainant alleged that the District disciplined the Student during the 2023-2024 school year in retaliation for the Complainant filing a previous complaint with OCR. As discussed above, the Complainant previously filed a complaint with OCR against the District on March 9, 2022 (OCR Docket #15-22-1275) which is currently in monitoring by OCR after the District provided a signed agreement dated September 15, 2022, to resolve compliance concerns OCR identified in that investigation. The Complainant filed this complaint on December 4, 2023.

The evidence obtained during the investigation establishes a *prima facie* case of retaliation. The Complainant engaged in a protected activity by previously filing the OCR complaint against the District, which the principal acknowledged to OCR that she was aware of. The District engaged in adverse actions against the Student by disciplining him or sending him to the principal's office from September 2023 to November 2023. OCR could infer a causal connection between the District's alleged adverse actions and the Complainant's protected activity as the alleged adverse actions occurred while OCR has been monitoring the resolution agreement signed by the District to resolve the Complainant's first OCR complaint.

However, the evidence also shows that the District had a legitimate nonretaliatory reason for its alleged adverse actions, and the evidence does not support that the District's articulated reason was not genuine or was a pretext to cover for retaliation. The evidence shows that the Student engaged in behaviors that could subject him to discipline such as recess detention or sent to the principal's office from September 2023 to November 2023, and the School utilizes its own behavioral rubric which applies consistently to all students at the School. Specifically, the evidence shows that other students who engaged in similar behaviors as the Student also received lunch or recess detention pursuant to the School's policies.

Regarding this retaliation allegation, the Complainant also told OCR that in October 2023, a behavioral intervention specialist told the Student that his words were encouraging a fight and if the Student's behavior continued, the District would place him on a behavioral plan. Additionally, the Complainant told OCR that the secretary did not return the smart watch to the Student because his parent was not present at the time of his pick-up. OCR finds that each action of these, in and of itself, does not constitute adverse actions. Such actions would not constitute a threat or intimidation under the circumstances and as mentioned above, petty slights, minor annoyances, and lack of good manners will not normally constitute adverse actions.

For these reasons, regarding allegation 3, OCR finds that the preponderance of the evidence is insufficient to find that the District violated Section 504 or Title II, as alleged.

OCR notes that the evidence obtained during the investigation raises a potential compliance concern under the Title VI regulation, at 34 C.F.R. § 100.6(b), which is incorporated by reference in the Section 504 regulation at 34 C.F.R. § 104.61, which requires a recipient school district must keep timely, complete, and accurate records so that the Department may be able to ascertain whether the school district has complied or is complying with the laws OCR enforces. For example, regarding the Student, the teacher did not keep track of every detention and some detentions were not reflected in the behavior rubric. On May 15, 2026, OCR provided technical assistance to the District's attorney on this concern when discussing the resolution agreement with the District.

To resolve the violation regarding allegation 1, on August 5, 2026, the District signed the enclosed Resolution Agreement, which, when implemented, will remedy both the individual discrimination at issue and any similar instances where future violative conduct may recur. 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. The complainant may have a 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 September 4, 2026. For questions about implementation of the Agreement, please contact Suwan Park, who will oversee the monitoring and can be reached by telephone at (202) 987-1981 or by e-mail at

Suwan.Park@ed.gov. If you have questions about this letter, please contact me by telephone at (303) 844-0434 or by e-mail at Rebecca.Tanglen@ed.gov.

Sincerely,

/s/

Rebecca Tanglen
Team Leader

Enclosure

cc: [redacted content]