



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION I

5 POST OFFICE SQUARE, 8<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921

JAN 27 2012

Jennifer D. Laviano  
Law Offices of Jennifer D. Laviano, LLC  
76 Route 37 South  
Sherman, CT 06784

Diane Willcutts  
846 Farmington Avenue, Suite 10  
West Hartford, CT 06119

Re: OCR Complaint No. 01-12-1087

Dear Atty. Laviano and Ms. Willcutts:

This letter is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR) is opening for investigation the above-referenced complaint that you filed against the Middletown Board of Education (Board) alleging that the Board's Farm Hill Elementary School (School) discriminated against certain students with disabilities. The particulars of what OCR will investigate are clarified below.

OCR enforces Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504), and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II). Section 504 prohibits recipients of Federal financial assistance from discriminating on the basis of disability. Title II prohibits public entities such as public school districts from discriminating on the basis of disability. As a public school district that receives Federal financial assistance from the U.S. Department of Education, the Board is required to comply with Section 504 and Title II.

Because OCR has determined that it has jurisdiction over this matter and that the complaint was timely filed, we are opening this complaint for investigation. Please note that opening the complaint for investigation in no way implies that OCR has made a determination with regard to the merits of this case. During the investigation, OCR will act as a neutral fact-finder, collecting and analyzing relevant evidence from the Complainant, the Board, and other sources as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the complaint allegation(s), in accordance with the provisions of our "Case Processing Manual," which is available on our website at:  
<http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>

According to the complaint allegations, OCR will investigate the following issues:

- Whether the School's use of seclusion room(s) denied students with disabilities a free appropriate public education (FAPE), contrary to the requirements of Section 504/Title II; and
- Whether the School's use of seclusion room(s) discriminated against students with disabilities by treating them differently from nondisabled students, contrary to the requirements of Section 504/Title II.

A complainant and a school district may generally agree, at any time, to resolve a complaint through OCR's Early Complaint Resolution (ECR) process. ECR is a voluntary process where OCR's role is to assist the parties work towards a mutually agreeable resolution. During that process, OCR suspends its investigation and provides a facilitator who will work with the parties to resolve the allegation(s) that prompted the complaint. If the parties voluntarily reach an agreement through ECR, OCR will close the complaint. If the parties are unable to reach an agreement through ECR, then OCR will resume its investigation. Please let us know if you are interested in this option. More information about the ECR process is in the enclosure to this letter entitled "OCR Complaint Processing Procedures."

As part of our efforts to resolve your complaint, we are requesting information from the Middletown Board of Education concerning your allegations. We will contact you after we receive and review this information.

Please refer to the complaint number listed above in any future correspondence with OCR. If you have any questions, please contact Ms. Jane López, Civil Rights Attorney, at (617) 289-0083, or by email at [Jane.Lopez@ed.gov](mailto:Jane.Lopez@ed.gov); or Ms. Elizabeth Bagdon, Civil Rights Attorney, at (617) 289-0020, or by email at [Elizabeth.Badgon@ed.gov](mailto:Elizabeth.Badgon@ed.gov). You may also contact me directly at (617) 289-0019.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna L. Russell". The signature is fluid and cursive, with a large initial "D" and "R".

Donna L. Russell  
Team Leader/Civil Rights Attorney

Enclosure