

Otto, Diana

From: Helper, Judith on behalf of OCR Boston
Sent: Monday, July 12, 2010 12:54 PM
To: Helper, Judith
Subject: FW: OCR Electronic Complaint Submission

Non Responsive

-----Original Message-----

From: ocr_complaint@ed.gov [mailto:ocr_complaint@ed.gov]
Sent: Saturday, July 10, 2010 8:28 PM
To: [REDACTED] OCR Boston
Subject: OCR Electronic Complaint Submission

PLEASE DO NOT REPLY TO THIS E-MAIL. THIS E-MAIL ADDRESS IS USED BY DEPARTMENT OF EDUCATION AUTOMATED SYSTEMS AND IS NOT MONITORED.

Your complaint with the Office for Civil Rights, a copy of which is reproduced below, has been automatically forwarded to the following office for review:

Office for Civil Rights/ED
Boston Office

5 Post Office Square

Boston, MA, 02109-3921

So that we can best assist you, we call your attention to the following:

1. If you need to communicate with OCR regarding your complaint before you are contacted directly, please do not reply to this message, which would result in your reply going to a send-only server address. Instead, please direct your correspondence to the above office at OCR.Boston@ed.gov.
2. If you need to modify or supplement your complaint, please do not use the complaint form to submit another complaint with the new information. Instead, you may simply send an email to the office that has your complaint. Filing duplicative complaints may impede our ability to review your concerns in a timely manner. (If you have a separate complaint involving other matters, you may of course use this form to submit it.)
3. Remember that before OCR can process your complaint it must receive at the above address a signed copy of the Office for Civil Rights Consent Form, which you can obtain at <http://www.ed.gov/about/offices/list/ocr/edlite-consentform.html>.
4. It is recommended that you print a copy of this message and retain it for your records.

The following information has been sent to the specified office:

OCR COMPLAINT FORM

1. Enter information about you.

Non Responsive

Your First Name: [REDACTED]

Your Last Name: [REDACTED]

Non Responsive

Non Responsive

Your Address: [REDACTED]

City: [REDACTED]

Non Responsive

State: MA Zip Code: [REDACTED]

Non Responsive

Best Time to Call You: DAY Primary Phone No: [REDACTED]

Non Responsive

Alternative Phone No: [REDACTED]

Non Responsive

Your Email Address: [REDACTED]

Non Responsive

2. Who else can we call if we cannot reach you?

Non Responsive

Contact's Name: [REDACTED]

Daytime Phone No: [REDACTED]

Non Responsive

Relationship to you: Spouse

3. Who was discriminated against?

Someone else

Non Responsive

Injured Person's Name: [REDACTED]

Daytime Phone No: [REDACTED]

Non Responsive

Relationship to You (eg. son or daughter): Son

Non Responsive

Evening Phone No: [REDACTED]

Non Responsive

Injured Person's Address: [REDACTED]

Non Responsive

City: [REDACTED] State: MA

Non Responsive

Zip Code: [REDACTED]

4. What institution discriminated?

Institution Name: Amherst Regional Public School

Address: 170 Chestnut Street

City: Amherst

State: MA

Zip Code: 01002

School or department involved: Amherst Regional High School

5. Have you tried to resolve the complaint through the institution's grievance process, due process hearing, or with another agency?

Yes

Agency Name: BSEA (Mediation and Hearing)

Date Filed: 03/26/10 (mm/dd/yyyy)

Status: Case was closed on 7/9/10 due to a confidential Mediation settlement agreement reached between the parent and the school district involving a number of FAPE violations however parent was referred to OCR for concerns regarding Civil Rights violations. Parent withdrew BSEA Hearing request scheduled for 7/12/10 and 7/19/10 as part of the settlement "package deal" stipulated by the school district.
on 7/8/10

6. Describe the discrimination

OCR enforces regulations that prohibit discrimination on the basis of race, color, national origin; sex; disability; and/or age.

All that apply:

retaliation
you filed a complaint or asserted your rights

Why you believe the discrimination was because of race, sex, disability, or whatever basis you indicated above or why you believe the action was retaliatory.

Non Responsive

(b)(7)(C)

(b)(7)(C) [REDACTED] is a special needs student who attends Amherst Regional High School. He is diagnosed with [REDACTED] and [REDACTED]. [REDACTED]'s transportation protocol for the past 10 years included a bus monitor coming into our home to assist him descent the stairs and ride the school bus. However this routine was stopped abruptly January of this year by the Assistant Principal [REDACTED] and her colleagues in retaliation for advocacy related comments I made to a substitute bus monitor [REDACTED] regarding my conflict with the administration after she expressed concerns about how her employer was using her as substitute bus monitor

Non Responsive

Non Responsive

7. Your complaint must be filed within 180 days of the discriminatory action

When did the last act of discrimination occur?

Enter the date: 1/19/10 (mm/dd/yyyy)

Are you requesting a waiver of the 180-day filing time limit for discrimination that occurred more than 180 days before the filing of this complaint?

No.

8. What would you like the institution to do as a result of your complaint - what remedy are you seeking?

The family would like the established transportation routine for the past decade involving bus monitor assisting [REDACTED] to exist the home restored.

Non Responsive

Do you have written information that you think will help us understand your complaint?

Yes

Otto, Diana

From: Helper, Judith on behalf of OCR Boston
Sent: Monday, July 12, 2010 12:54 PM
To: Helper, Judith
Subject: FW: OCR Electronic Complaint Submission

-----Original Message-----

From: ocr_complaint@ed.gov [mailto:ocr_complaint@ed.gov]
Sent: Saturday, July 10, 2010 11:11 PM
To: [REDACTED] OCR Boston
Subject: OCR Electronic Complaint Submission

Non Responsive

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4. It is recommended that you print a copy of this message and retain it for your records.

The following information has been sent to the specified office:

OCR COMPLAINT FORM

1. Enter information about you.

Non Responsive

Your First Name: [REDACTED]

Your Last Name: [REDACTED]

Non Responsive

Your Address: [REDACTED]

Non Responsive

City: [REDACTED]

Non Responsive

State: MA Zip Code: [REDACTED]

Best Time to Call You: DAY Primary Phone No: [REDACTED]

Non Responsive

Alternative Phone No: [REDACTED]

Non Responsive

Your Email Address: [REDACTED]

2. Who else can we call if we cannot reach you?

Contact's Name: [REDACTED]

Non Responsive

Daytime Phone No: [REDACTED]

Relationship to you: Spouse

3. Who was discriminated against?

Non Responsive

4. What institution discriminated?

Institution Name: Amherst Regional Sch district

Address: 170 Chestnut Street

City: Amherst

State: MA

Zip Code: 01002

School or department involved: Amherst Regional Sch District

5. Have you tried to resolve the complaint through the institution's grievance process, due process hearing, or with another agency?

Yes

Agency Name: Amherst Sch District Reps

Date Filed: 06/14/10 (mm/dd/yyyy)

Status: A meeting involving SEPAC (Special Education Parent Advisory Council) and the school district administration was held on 6/14/10 to discuss Special Education issues and concerns.

6. Describe the discrimination

OCR enforces regulations that prohibit discrimination on the basis of race, color, national origin; sex; disability; and/or age.

All that apply:

disability

retaliation

you filed a complaint or asserted your rights

Why you believe the discrimination was because of race, sex, disability, or whatever basis you indicated above or why you believe the action was retaliatory.

The former Special Education Director who is currently the interim Superintendent, Ms Maria Geryk invented "Meeting Norms" to target parents/guardians who advocate for their kids at IEP TEAM meetings. Parents often feel frustrated, silenced and intimidated.I am one of such parents.The meeting norms policy has created a hostile environment for me at my son IEP TEAM meetings.It is a retaliatory strategy used by Special Education personnel at the TEAM meetings to silence and prevent me from exercising my parental rights to advocate for my son educational services.

It should be noted that the same meeting norms policy does not apply to parents who have non disabled kids when they attend Parent/Teacher Conference meetings to discuss their kids progress report.Also,the meeting norms policy is not consistently being implemented in ALL TEAM meetings and some schools within the district.

Additional Comment:SEPAC Group was recently reactivated in April of 2010 after few years of inactivity.The newly formed SEPAC has specifically requested that the meeting norms abolished because it is a Social Justice issue and a Civil Rights violation.All SEPAC meeting minutes can be accessed at arps-sepac.info website.Some parents have expressed interest to file class action lawsuit as the meeting norms policy is a systemic issue and concern.

7. Your complaint must be filed within 180 days of the discriminatory action

When did the last act of discrimination occur?

Enter the date: 3/10/10 (mm/dd/yyyy)

Are you requesting a waiver of the 180-day filing time limit for discrimination that occurred more than 180 days before the filing of this complaint?

No.

8. What would you like the institution to do as a result of your complaint - what remedy are you seeking?

The Meeting Norms policy is illegal. It discriminate against parents who have kids with disabilities and especially to parents who advocate for their kids at the Amherst School District. It should be discontinued.

Do you have written information that you think will help us understand your complaint?

Yes



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

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921

AUG 05 2010

Non Responsive

Ms.

[REDACTED]
MA

Re: Complaint No. 01-10-1225
Amherst Public Schools

Non Responsive

Dear Ms. [REDACTED]

This letter is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR), is dismissing the above-referenced complaint that you filed against the Amherst Public Schools (District). In your complaint, you allege that the District retaliated against you and your son when it stopped sending a bus monitor to your house before school in January 2010, and separately when it imposed “meeting norms” on some special education meetings. We have determined that your allegations would not, if true, constitute a violation of the laws enforced by OCR and we are therefore dismissing this complaint effective the date of this letter.

OCR evaluated your complaint under Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504), as well as Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II), both of which prohibit discrimination on the basis of disability, as well as retaliation. The District is subject to the requirements of Section 504 because it receives Federal financial assistance from the U.S. Department of Education. In addition, the District is subject to the requirements of Title II because it is a public entity that operates an elementary and secondary education system.

OCR staff called you on July 22 and 26, 2010 to gather additional information about your complaint and to explain OCR’s complaint-processing procedures. You told OCR that in January 2010, the District stopped sending a bus monitor to your home each morning before school to help your son, who has a disability, get ready and get to the bus.

You told OCR that you believe the District stopped sending the bus monitor to your home because in November 2009, after speaking with a substitute bus monitor who told you how difficult it was for her to come to your house in the morning, you asked her the name of her supervisor because you did not want a particular supervisor involved in services for your son. You told OCR that after your conversation with the substitute bus monitor, you expressed to the Assistant Principal that you did not believe the work arrangement for the substitute bus monitor was fair and in January 2010, the District stopped sending bus monitors to your home. The Assistant Principal told you that the District stopped sending bus monitors to your home because the contract the school has with paraprofessionals does not include staff visiting homes. You told OCR that in July 2010, you learned from the District’s Attorney that the bus monitors stopped coming to your home because you had asked the substitute bus monitor who her supervisor was.

Regarding your allegation that the District retaliated against you by imposing meeting norms, you told OCR that in 2005 the Special Education Parent Advisory Committee worked with the District's administration to develop meeting norms that over time have become tools for the District to retaliate against parents who advocate for their children in IEP meetings. At OCR's request, you provided OCR with a copy of the meeting norms, which state, for example, "participants will follow the agenda set by the Team" and "participants will express their opinions professionally and respectfully".

You told OCR that you feel silenced, threatened, and like you are no longer part of the team because of the meeting norms. You said that on two occasions since the meeting norms were put into place, you have been asked to take a five-minute break because of the meeting norms, and you cancelled one team meeting because you were so upset that the meeting norms were being used.

As OCR staff explained to you, to have sufficient information to open an investigation of a claim of retaliation under the laws enforced by OCR, the complaint must allege that: (1) the individual engaged in a protected activity by exercising a right or taking some action that is protected under the Federal laws that OCR enforces; (2) the recipient (here, the District) had notice of the individual's protected activity; and (3) the District took an adverse action against the individual at the same time or sometime after the individual engaged in the protected activity.

We considered your allegation that the District retaliated against you by stopping the bus monitor from coming to your home because you talked to the Assistant Principal about the challenges the substitute bus monitor faced getting to your home in the mornings, and because you asked the substitute bus monitor about her supervisor. As OCR staff explained to you, although you have advocated for your son who has a disability, which is a protected activity under the laws enforced by OCR, in this instance you did not attribute what you allege was retaliation to that protected activity. Instead, you alleged that the change in the substitute bus monitor coming to your home in mornings is retaliation for your discussion of her logistical challenges in performing her duties, and/or your inquiry about her supervisor. Discussing logistical challenges in performing one's duties and/or inquiring about an individual's supervisor does not constitute a protected activity under the laws enforced by OCR. Without evidence of a protected activity related to this allegation, OCR will not proceed to investigate a claim of retaliation.

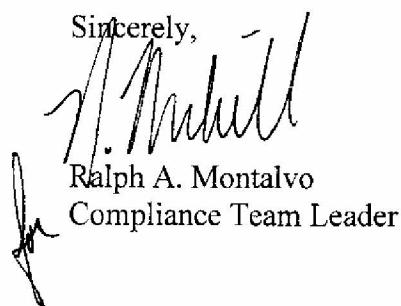
OCR also notes that you raised your concern about the bus monitor coming to your home in the mornings in a hearing request to the Bureau of Special Education Appeals (BSEA) that you subsequently settled through mediation. OCR does not investigate allegations that have been addressed in another forum if OCR has reason to believe that the other forum's resolution of the matter met OCR's standards. Without making a determination regarding whether BSEA's resolution met OCR's standards, OCR will not open an investigation into this retaliation claim because, as we have stated above, you have not alleged any protected activity.

Related to your complaint about meeting norms, you alleged that the meeting norms were used in retaliation for your ongoing advocacy in team meetings and other settings for your son as a

person with a disability. Such advocacy is considered a protected activity under Section 504 and Title II. Since the advocacy occurred in team meetings for your son, you have alleged that the District had notice of your protected activity. However, to constitute an adverse action, an action must be likely to cause lasting, tangible harm. Although the use of meeting norms has been upsetting to you, reading aloud guidelines for professional conduct to be used during meetings and requesting a five minute break if a team member becomes emotional or upset are not actions that cause lasting and tangible harm. Without an adverse action, OCR does not have sufficient information to open an investigation into this retaliation claim.

For the reasons described above, we are closing your complaint effective the date of this letter. We are sorry we were not able to assist you with your concerns. If you have any questions or concerns regarding this letter, please contact Civil Rights Investigator Linda Huynh at (617) 289-0013 or by email at Linda.Huynh@ed.gov. You may also contact Civil Rights Attorney Kate Upatham at (617) 289-0051 or me at (617) 289-0045.

Sincerely,



Ralph A. Montalvo
Compliance Team Leader

Otto, Diana

From: ocr_complaint@ed.gov
Sent: Sunday, October 24, 2010 7:00 PM
Non Responsive
To: [REDACTED] OCR Boston
Subject: OCR Electronic Complaint Submission

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OCR COMPLAINT FORM

1. Enter information about you.

Non Responsive

Your First Name: [REDACTED]

Your Last Name: [REDACTED]

Non Responsive

Your Address: [REDACTED]

Non Responsive

Non Responsive

City: [REDACTED]

Non Responsive

State: MA Zip Code: [REDACTED]

Non Responsive

Best Time to Call You: DAY Primary Phone No: [REDACTED]

Non Responsive

Alternative Phone No: [REDACTED]

Your Email Address: [REDACTED]

Non Responsive

2. Who else can we call if we cannot reach you?

Non Responsive

Contact's Name: [REDACTED]

Daytime Phone No: [REDACTED]

Non Responsive

Relationship to you: wife

3. Who was discriminated against?

Someone else

(b)(7)(C)

Injured Person's Name: [REDACTED]

Daytime Phone No:

Relationship to You (eg. son or daughter): N/A

Evening Phone No:

Injured Person's Address: N/A

City: Amherst State: MA

Zip Code: 01002

4. What institution discriminated?

Institution Name: Amherst-Pelham Regional H. S.

Address: 170 Chustnut Street

City: Amherst,

State: MA

Zip Code:

School or department involved: ARHS Athletic Department

5. Have you tried to resolve the complaint through the institution's grievance process, due process hearing, or with another agency?

No

Agency Name:

Date Filed: (mm/dd/yyyy)

Status:

6. Describe the discrimination

OCR enforces regulations that prohibit discrimination on the basis of race, color, national origin; sex; disability; and/or age.

All that apply:

sex

Why you believe the discrimination was because of race, sex, disability, or whatever basis you indicated above or why you believe the action was retaliatory.

Two discriminatory actions are occurring at the Amherst- Pelham Regional School District High School (APHS) this fall, 2010. They are:

1. Unequal distribution games scheduled during prime time.
2. Untrained Title IX coordinator.

1. Failure to provide that male and female athletes receive the same benefits of athletic participation, including games scheduled/played during prime time.

"Prime time" games are those scheduled at times when a player's parents, family, friends, neighbors, the community, etc. can attend. They are usually scheduled in the evenings (after the typical work day), weekends, or on holidays (when work/school are canceled).

"Non prime time" games are scheduled at times when it is not possible or highly inconvenient for a player's parents, family, friends, neighbors, the community, etc. to attend. They are typically scheduled on school-day afternoons when most people are either at work, in school, or commuting home.

The ARHS 2010 home fall sports schedule (see below) demonstrates the inequality of prime time games. All boys' (b)(7)(C) varsity [REDACTED] games are played during prime time; only two girls' varsity [REDACTED] games are scheduled during prime (b)(7)(C) time; and only one girls' varsity [REDACTED] game is scheduled during prime time. Altogether, girls' varsity teams have 17 home games of which only three are scheduled during prime time. Thus, girls' varsity sports are played with virtually (b)(7)(C) no audience, while the boys' [REDACTED] team gains the experience and prestige of playing in front of family, friends and the wider community. This is a clear violation of Title IX.

Both the soccer field and the football field (either of which can accommodate field hockey games) have lights installed for night games. Further, lights were added to the soccer field, in part, through the efforts of volunteers and community donors, when allegations of similar Title IX violations were raised approximately six years ago. The fact that soccer field lights are not in use and that Title IX violations are once again in question, boggles one's mind.

2. ARHS has failed to provide their Title IX coordinator with any training regarding Title IX compliance. This is also a violation of Title IX. In addition to Title IX compliance, the ARHS Title IX Coordinator is responsible for carrying out numerous other duties, programs and responsibilities.

2010 ARHS Home fall sports schedules: date and start times.

Boys Varsity Football (all at prime time)

Friday 9/24	7:00PM	vs.	Cathedral H.S.
Sunday 10/3	3:00PM	vs.	Putnam Vocational H.S.
Sunday 10/17	5:00PM	vs.	Hoosac Valley H.S.
Friday 10/29	7:00PM	vs.	Commerce H.S.
Friday 11/5	7:00PM	vs.	Chicopee Comp H.S.
Thursday 11/25	10:00AM (annual Thanksgiving game)	vs	Northampton H.S.

(b)(7)(C)

Girls Varsity [REDACTED]

Monday 9/13	4:00PM (day)	vs.	Greenfield H.S.
Thursday 9/16	4:00PM (day)	vs.	Longmeadow H.S.
Friday 10/8	4:00PM (day)	vs.	West Springfield H.S.
Wednesday 10/13	5:15PM (day)	vs.	East Longmeadow H.S.
Monday 10/18	4:00PM (day)	vs.	Westfield H.S.
Wednesday 10/20	6:30PM (night)	vs.	Agawam H.S.
Friday 10/22	4:00PM (day)	vs.	Minnechaug H.S.
Tuesday 10/26	5:00PM (day)	vs.	Cathedral H.S.

(b)(7)(C)

Girls' Varsity [REDACTED]

Tuesday 9/7	4:00PM (day)	vs.	Minnechaug
Friday 9/10	7:00PM (night)	vs.	Northampton H.S.
Tuesday 9/14	4:00PM (day)	vs.	Longmeadow H.S.
Friday 9/24	4:00PM (day)	vs.	Ludlow H.S.
Tuesday 9/28	4:00PM (day)	vs.	Belchertown
Thursday 10/14	4:00PM (day)	vs.	Cathedral

Monday 10/18 4:00PM (day) vs. Chicopee Comp
Monday 10/25 4:00PM (day) vs. Agawam H.S.
Thursday 10/28 7:00PM (night) vs. Westfield H.S.

7. Your complaint must be filed within 180 days of the discriminatory action.

When did the last act of discrimination occur?

Enter the date: 10/18/2010 (mm/dd/yyyy)

Are you requesting a waiver of the 180-day filing time limit for discrimination that occurred more than 180 days before the filing of this complaint?

No

8. What would you like the institution to do as a result of your complaint - what remedy are you seeking?

1. For every fall sports season, the ARHS Athletic Director shall be responsible for scheduling an equal number of prime time home games for boys' [REDACTED] for girls' [REDACTED] and for girls' [REDACTED] teams. If the Athletic Director fails to do so, the District Superintendent shall notify in writing the Regional Federal Office of Civil Rights (OCR) at least two weeks prior to the first scheduled fall season game. Thus, for each fall season, each of these three varsity teams shall have scheduled (and shall play) an equal number of prime time home games. In addition to equalizing the total number of prime time home games between the aforementioned varsity teams, the Athletic Director shall schedule (and the boys team shall play) the same number of prime time home games as does the boys' [REDACTED] girls' [REDACTED] and girls' [REDACTED] teams. Thus, every fall season the varsity girls' [REDACTED] girls' [REDACTED] boys' [REDACTED] and boys' [REDACTED] teams shall play an equal number of prime time games. (b)(7)(C)
(b)(7)(C)
(b)(7)(C)
 2. By no later than December 1, 2010, the Amherst Regional School District Title IX coordinator shall be fully trained to ensure compliance with Title IX. If the District fails to provide this training, the District Superintendent shall notify in writing the OCR, the high school Principal, and the District School Committee by no later than December 14, 2010. (b)(7)(C)

From here on, any new Title IX Coordinator shall, within 30 days following the date of appointment, receive sufficient training to ensure compliance with Title IX. Failure to do so shall be reported in writing by the District Superintendent to the OCR, the high school Principal, and the District School Committee by no later than 60 days following the appointment of a new Title IX Coordinator.

3. By no later than December 1, 2010, the District shall hire an independent Title IX expert to fully investigate all areas of Title IX compliance at ARHS. All ARHS staff and personnel shall fully cooperate in this investigation. Any failure to cooperate with this investigation shall be immediately be reported by the Title IX expert to the District Superintendent. Failure to cooperate with the Title IX expert shall be reported in writing by the District Superintendent within five business days of the alleged infraction to the OCR, the high school Principal, and the District School Committee.

Upon completion of the investigation, the Title IX expert shall, as soon as practicable, but no later than April 1, 2011, prepare a report containing the results of the investigation and proposals to bring the District into full compliance with Title IX. Copies of the report shall be given to the OCR, the District Superintendent, high school Principal, Athletic

Director, Title IX Coordinator and District School Committee. Two copies shall be made available at ARHS for review by any person during any school day.

By no later than June 1, 2011, the District Superintendent shall put in place the recommendations contained in the Title IX expert's report to ensure full compliance by the fall 2011 season and thereafter.

Do you have written information that you think will help us understand your complaint?

No



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

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921

MAY 10 2011

Ms. Maria Geryk
Superintendent
Amherst Regional Public Schools
170 Chestnut Street
Amherst, Massachusetts 01002

Re: Complaint No. 01-11-1019

Dear Superintendent Geryk:

We are writing to inform you that the Office for Civil Rights (OCR) of the U.S. Department of Education (Department) has closed its investigation of the above-referenced complaint that was filed on October 25, 2010, against the Amherst Regional School District (District), alleging discrimination on the basis of gender. The Complainant alleged that the Regional High School discriminates against female student-athletes by denying them an equivalent share of prime-time game times for interscholastic athletic competition. After interviews with the Complainant, the Athletic Director, and negotiations with District counsel, the District committed to resolve the Complainant's allegations, as set forth in the attached agreement (Agreement).

OCR accepted this complaint for investigation because the allegations fell under the jurisdiction of Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX). Title IX prohibits discrimination on the basis of sex by recipients of Federal financial assistance from the Department. In this case, the District is subject to the requirements of Title IX because it receives such financial assistance.

Title IX requires that female student-athletes be provided with aids, benefits and services equivalent to those provided to male student-athletes, and that female student-athletes not be limited on the basis of their gender in the enjoyment of any right, privilege, advantage or opportunity provided under any educational program or activity operated by the District. Athletics programs are specifically addressed at 34 C.F.R. 106.41 of the Title IX regulation which provides that no person shall, on the basis of sex, be denied benefits or be treated differently from another person in any interscholastic athletics program offered by a recipient.

As we began investigating the issue of whether the District is providing equal opportunity for male and female athletes in the scheduling of games and practice times, the District expressed an interest in resolving this case without further investigation. In the Agreement signed on May 4, 2011, the District agreed to take a number of steps, including increasing the number of competitive events provided to the girls' soccer, volleyball and tennis teams, and providing an equal number of boys' and girls' teams with the same percentage of their competitive events at "prime-time." The District also agreed to schedule the girls' soccer and other teams with the

Page 2, Superintendent Geryk, Complaint No. 01-11-1019

same percentage of their total competitive events for any "night games" on lighted fields (where such fields are considered "prime time" or an advantage), if they are provided to the boys' teams, including but not limited to boys' soccer. The District agreed to ensure that the time of day for practices are the same for teams of both genders and to continue to provide the majority of its teams in both programs with practice times immediately after school. Finally, the District agreed to comply with OCR's monitoring or reporting requirements and to demonstrate its compliance with the Agreement.

Based on the District's commitments, OCR has determined that the provisions of the Agreement are aligned with the complaint allegations and the information OCR has obtained during the investigation thus far, and are consistent with the requirements of Title IX. Therefore, we are closing this complaint investigation as of the date of this letter and, consistent with our normal practices, we will monitor the District's implementation of the Agreement.

The determinations contained in this letter are not intended, and should not be construed, to cover any other issues that may exist regarding the District's compliance with the regulations implementing Title IX, or any of the other laws enforced by OCR.

This letter is a letter of findings issued by OCR to address an individual OCR case. Letters of findings contain fact-specific investigative findings and dispositions of individual cases. Letters of findings are not formal statements of OCR policy and they 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.

We would like to thank you and your staff, especially Ms. [REDACTED] Athletic Director, and District counsel Regina Tate for your time and assistance with the resolution of this case. If you have any questions, please contact Ms. Mary-Anne Khoulani, Senior Investigator, at (617) 289-0036, or by email at Mary-Anne.Khoulani@ed.gov. You may also contact Ms. Beth Downs, Senior Attorney, at (617) 289-0015 or at Beth.Downs@ed.gov. You may also contact me at (617) 289-0111.

Non Responsive

Sincerely,



Thomas J. Hibino
Regional Director

Enclosure

Cc: Regina Tate, Esq.

Amherst-Pelham Regional Schools
Resolution Agreement (Agreement)
Complaint No. 01-11-1019

The Amherst Regional Schools (District) voluntarily agrees to take the following actions to resolve the above-referenced complaint. The District will implement the following steps to ensure compliance with 34 C.F.R. Section 106.41(c).

Scheduling of Games and Practice Times

1. In order to provide equivalent scheduling of games and practice times under 34 C.F.R. Section 106.41(c)(3):
 - a. Increase the number of competitive events provided to the girls' soccer, volleyball, and tennis teams so that these teams compete in a full complement of competitive events each year, as allowed by the conference in which they compete. In addition, the District agrees to maintain a balance between the remaining boys' and girls' teams in terms of a full competitive schedule, so that an equal number of boys' and girls' teams have the same percentages of games scheduled and played of the total events allowed in their sport.
 - b. The District will provide an equal number of boys' and girls' teams with the same percentage of their competitive events at "prime-time," meaning at a time that is conducive to an audience of parents, students and community members, and the opportunity to build a spectatorship for their sport. As referenced in 1(b), this means that if football, for example, has 100% of its games on Friday night, or Saturday morning, which is considered "prime time," a sport in the girls' program will have 100% of its competitive events at prime time, or at a time that is conducive to building an audience.
 - c. If "night games" on lighted fields are considered "prime-time" or an advantage in the District and if they are provided to the boys' teams, including but not limited to boys' soccer, the District will schedule the girls' soccer and other teams with the same percentage of their total competitive events on the same or equivalent lighted facility. The District will further align the teams in its program so that an equal number of boys' and girls' teams have an equivalent percentage of their competitive events at night on lighted facilities.
 - d. The District will ensure that the time of day for practices are the same or equally advantageous for teams of both genders. If practice facilities are shared by a boys' and a girls' team, the teams will alternate the use of the facility so that each team will have the same number of practices at the less convenient time of day. For example, boys' and girls' basketball share a practice facility, and practice times are from 5-7 p.m. and 7-9 p.m. The District will schedule practices for basketball, so that the boys' and girls' teams have an equal number of practices at the later practice time. To the extent that other teams share facilities and have to alternate between the girls' and the boys' program, the District will ensure that the less advantageous practice time is equally shared between the boys' and girls' team(s).
 - e. The District will continue to provide the majority of its teams in both programs with practice times immediately after school, in a manner that provides practices to teams of both genders at a time that is equally convenient for boys and girls.

Page 2, Amherst-Pelham Agreement, Complaint No. 01-11-1019

- f. The District is entering into this Agreement for the purposes of resolution only, and is not to be interpreted as an admission on its part that it acted or failed to act in a discriminatory manner.
- g. During the monitoring phase of this Agreement, OCR agrees to take any legitimate, nondiscriminatory reasons into consideration for any continued scheduling differences between the girls' and boys' program.

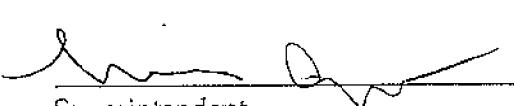
Reporting Requirement - Section 1(a)-(e):

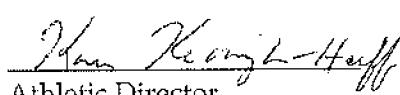
By June 1, 2012, as applicable, the District will submit the following monitoring information:

1. A list of the practice and competitive schedules for the 2011-2012 sports season. These schedules must show the actual practice time each team had by gender, and the actual competitive event schedule for each team by gender.
2. Information demonstrating the time and location of each competitive event for each team in the District's athletics program. Also, a description of the facilities on which the events were held, and whether each facility has lights for night games.
3. A breakdown of teams by gender, indicating the total number of competitive events each team had, and the percentage of games each team had in prime-time.
4. If not provided in response to Reporting Requirement #1, and for teams that share practice facilities, information demonstrating that teams of both genders alternated practice times so that teams of both genders had an equal share of advantageous and disadvantageous practice times. For purposes of this provision, disadvantageous means either early morning or late night practice times, or other times that are not within a reasonable period of time following dismissal from school.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX at 34 C.F.R. Section 106.41(c), which was at issue in this case.

The District understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the District understands that during the monitoring of this agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX at 34 C.F.R. Section 106.41(c), which governs equal opportunity in athletics and was at issue in this case.


Superintendent
Amherst-Pelham Public Schools


Athletic Director

Dated: May 4, 2011

Non Responsive

Non Responsive

[REDACTED] Tel: [REDACTED]

Fax: [REDACTED]

Non Responsive

FAX COVER SHEET**Date:** 2/15/2011**To:** OCR**Fax Number:** 617 - 289 - 0150**Re:** Complaint**Pages:** 16**Comments:**

Note: This is a duplicate for your records. Complaint was submitted via email on 2/14/11.

The documents accompanying this telecopy transmission contain confidential information and/or personal health information, PHI, belonging to the sender, which may be legally privileged. You, the recipient, are obligated to maintain it in a safe, secure, and confidential manner. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this telecopy in error, please notify the sender immediately to arrange for the return of these documents.

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Non Responsive

bars █ from equal access to the educational resources and activities that are promoted by ARHS and that are available to nondisabled students. Because her disabilities interfere with her performance under standardized testing conditions, this discrimination has the potential of affecting her ability to be accepted into college.

Relevant Background:

ARHS has an extensive array of support services to assist students in the college admissions planning process. It has a special college advisor and a secretary who processes and tracks college applications. It manages a website (Naviance) that helps students to prepare for admissions tests and track their planning process. It partners with the Princeton Review, a commercial test prep company, to advertise and offer testing preparatory classes. Finally, it publishes a Junior Handbook, provided to all students in 11th grade, that details supports and resources for preparing for the SAT and ACT. This Handbook invites students with Section 504 Plans to work with the Guidance Department in order to access testing accommodations through the respective testing organizations. Further, ARHS functions as a national testing site for the SAT, an arrangement for which it is financially compensated. If a student requires 100% extended time on the SAT, ARHS provides afterschool proctoring so that students can take this test over multiple test dates. The Junior Handbook indicates that students can receive accommodations for either the SAT or ACT. The ARHS school literature advises students to consider both admissions tests as some students perform significantly better on one or the other. Both are accepted at most colleges. To assist students in deciding which test is best for them, ARHS even offers a practice test for Juniors that enables them to try both testing formats. █ participated in this practice test and wishes to take the ACT.

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The SAT and ACT testing organizations have different procedures for accessing testing accommodations. Both testing organizations approve testing accommodations based upon documentation. The SAT's College Board contracts with particular school districts and compensates them for proctoring both standard and extended time testing. The ARHS is contracted with the College Board. The ACT has a different arrangement. It does not have preestablished sites for testing with special accommodations. Rather, it relies upon the cooperation of disabled students' schools and compensates the schools for supervising testing. The ACT offers National Testing Centers that offer standard testing and 50% extended time testing services. If a student requires 100% extended time or other special accommodations, the ACT requires that a school agree to be a testing supervisor. █ cannot even apply for 100% extended time on the ACT until a school signs the application and agrees to such. Any school that agrees to provide ACT supervision is compensated financially for the service. Thus, the provision of school-based testing supervision is an integral component of the accommodations available for college admissions testing for disabled students. Without this service provided by the student's school district, the ACT accommodations are beyond access and meaningless.

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While the ACT is independent of the school, there is a clear precedent for ARHS providing accommodations so that students can access outside programs and resources. ARHS routinely provides accommodations to help disabled students access outside programs and resources (e.g., athletic events, clubs, taking classes at local colleges while in high school, field trips, foreign exchange programs, internships, commercial college admissions testing prep services, etc.). In fact, ARHS has already

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partnered with a private organization in order to implement [REDACTED]'s 504 Plan. In 2010, [REDACTED] was referred by ARHS to BookShare.org, a commercial organization that provides digitalized reading materials for the disabled, in order to provide for assistive technology accommodations on her 504 Plan. For a student who has a 504 Plan affording standardized testing accommodations, support for college admissions testing is comparable.

Non Responsive

Up until February of 2010, we were led to believe ARHS would reluctantly provide supports for [REDACTED]'s access to college admissions testing. In June of 2010, the ARHS Guidance Department gave us applications for extended time on the SAT and ACT and said it would cooperate with the process. [REDACTED] was subsequently approved for 50% extended time on the SAT in July. It was agreed that we would request 50% extended time with the hope that this amount of extended time would meet [REDACTED]'s needs. We were informed that, should testing accommodations be granted, we could always revise the request to include 100% extended time if needed. We were never told that ARHS only assists with accommodations for the SAT and not for the ACT. Further, the ARHS Junior Handbook did not explain that [REDACTED] could only get 100% extended time with the SAT.

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In the past 6 months, [REDACTED]'s migraine condition has worsened and it has become increasingly clear that she cannot safely manage a lengthy testing session that would be in excess of four hours without jeopardizing her health and testing performance. In October, she took the PSAT with 50% extended time. She was unable to complete the test within this time frame and she developed migraine symptoms during the testing session. [REDACTED] has missed a number of school days because of migraine symptoms. She is currently being treated in the Neurology Clinic of Boston Children's Hospital.

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In December and January, we met with ARHS personnel to renew [REDACTED]'s 504 Plan. Changes to the wording of her Plan were approved to more accurately reflect the nature of testing accommodations [REDACTED] has been already receiving. It was agreed that a request would be made to revise [REDACTED]'s SAT accommodations to include 100%, rather than 50%, extended time. The Assistant Principal, [REDACTED] signed the request for this revision with the SAT's College Board. This request was filed with the College Board on 2/8/11 and is pending approval.

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On 2/8/11, I contacted [REDACTED] and [REDACTED] of ARHS to request that ARHS agree to supervise testing for [REDACTED] on the ACT. On 2/11/11, I received an email reply from Ms. [REDACTED] indicating that ARHS would not support this accommodation. I appealed to the Superintendent and Principal and did not receive a response. I have asked for an explanation for this denial and have not received a response.

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Non Responsive

I am concerned that this decision may have been retaliatory given my past efforts to advocate for my daughter and [REDACTED]'s allegations of disability harassment. During the January 504 meeting, Ms. [REDACTED] appeared very angry and expressed strong opposition to assisting [REDACTED]'s access to college admissions test accommodations and disability services while at college. When asked to approve minor wording changes that would make [REDACTED]'s Plan clearer, Ms. [REDACTED] quite angrily stated that she felt the changes were only being requested because of [REDACTED]'s upcoming college planning. Although I was only attempting to advocate for my daughter's needs, I was accused of inappropriately "wordsmithing". In

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what I considered to be a very unprofessional manner, Ms. [REDACTED] expressed obvious annoyance with what she stated was "the most detailed 504 Plan at our school". Further, she indicated that ARHS has no interest or obligation to assist [REDACTED] in planning for college admission. Given ARHS's extensive array of college support services for typical students, I was frankly surprised that Ms. [REDACTED] was suggesting appropriate supports are not equally available to disabled students. My husband and I interpreted the statements of the Assistant Principal, who was a focus of a previous OCR complaint, to be hostile and retaliatory.

Non Responsive

Non Responsive

Since this denial, we have been unable to find a remedy. On 2/11/11, the ACT confirmed that [REDACTED] cannot access these accommodations without an agreement from a testing supervisor from a school, must take the ACT in June if she wishes to have these test results available for the college application process in September. We cannot access accommodations unless the documentation is submitted by or before May 1st. The uncertainty and implied hostility of this situation are causing [REDACTED] significant distress and anxiety.

Non Responsive

Non Responsive

Conclusion:

I am filing this complaint because I believe ARHS is unreasonably denying an accommodation, testing supervision for extended time on the ACT, that would enable [REDACTED] to access the same services and resources that are available to typical students. [REDACTED]'s 504 Plan indicates ARHS has agreed to provide testing accommodations for "standardized testing". I believe this provision should be interpreted to include reasonable support for accommodations on college admissions tests. Since the ACT is willing to provide compensation and ARHS has staff available for this kind of test proctoring on the SAT, this request should not be a burden. While the school is not solely responsible for the approval of these accommodations, it clearly has a key role in [REDACTED]'s access to such accommodations. Given that students are encouraged by ARHS to consider both the SAT and ACT, the school is obligated to exercise due diligence to ensure a disabled student can access the same opportunities that are available to typical students. Singling out one admissions test for preferential treatment is unreasonable and undermines [REDACTED]'s ability to attend the college of her choice. We believe this denial is discriminatory.

Non Responsive

Because of the time-sensitive nature of this situation, I am seeking a speedy resolution to this problem.

Respectfully yours,

[REDACTED]
Parent

2/14/11

(b)(7)(C)

504 STUDENT ACCOMMODATION PLAN

Non Responsive

Name: [REDACTED]

Birthdate: [REDACTED]

Grade: 11

School: Amherst Regional High School Date of Meeting: December 6, 2010 and January 31, 2011

1. Describe the nature of the concern:

Non Responsive

[REDACTED] is diagnosed with Attention-Deficit/Hyperactivity Disorder, Celiac Disease, Migraine Disorder, and an Anxiety Disorder Not Otherwise Specified. When [REDACTED] is unmedicated (distracted), anxious, or tired, her processing speed, including written output, may be adversely effected. These conditions affect her ability to complete school work both inside and outside of the school building. She has difficulty with attention, focusing, and executive functioning. When anxiety presents, maintaining focus to receive verbal information is challenged, which impedes her ability to organize her assignments and taking efficient notes. When [REDACTED] is required to process information quickly or when she is fatigued, she experiences generalized anxiety. Further, she experiences anxiety and panic symptoms while taking tests and completing assignments. Fluctuating health problems, including symptoms related to Celiac Disease and recurrent migraine attacks, also interfere with school work at home. Because [REDACTED] is a talented student, her difficulties are not always apparent to others. Due to anxiety, she has difficulty with self-advocacy around her needs.

Non Responsive

Non Responsive

[REDACTED] is required to process information quickly or when she is fatigued, she experiences generalized anxiety. Further, she experiences anxiety and panic symptoms while taking tests and completing assignments. Fluctuating health problems, including symptoms related to Celiac Disease and recurrent migraine attacks, also interfere with school work at home. Because [REDACTED] is a talented student, her difficulties are not always apparent to others. Due to anxiety, she has difficulty with self-advocacy around her needs.

Non Responsive

Non Responsive

2. Describe the basis for the determination of disability: Neurodevelopmental Assessment Report from [REDACTED] Clinical and Educational Psychologist, dated 11/9 and 11/10/2010; The Children's Hospital report by Dr. [REDACTED] Letter from [REDACTED] MD, dated 2/24/10, Anxiety Disorder NOS, diagnosis in 2009 by [REDACTED] MD, and [REDACTED] LCSW, dated 6/10/10; Letter from physician at Amherst Pediatrics, dated 12/02/10. Education Assessment, dated December 2010. See file for additional testing.

Non Responsive

Non Responsive

3. Describe how the disability affects a major life activity:

Non Responsive

[REDACTED]'s disabilities affect her ability to attend to instructional details and work efficiently in and out of the classroom. Environmental distractions increase focusing problems. When completing independent or written work, she experiences problems with executive functioning. [REDACTED] makes careless errors and misses important details, particularly regarding directions. [REDACTED] experiences panic and anxiety symptoms when she is faced with complex tasks, which makes note-taking and intake of verbal information challenging.

Non Responsive

Non Responsive

[REDACTED] has medical conditions that affect her academic functioning. As a result of Celiac Disease, she must eat a strict, gluten-free diet and avoid gluten cross-contamination from food preparation practices. Some art supplies, containing gluten, must also be avoided. [REDACTED] is not always aware of when she has experienced accidental gluten ingestion. However, even minor quantities of gluten may cause otherwise unexplained headaches, stomachaches, chronic fatigue, and decreased concentration and focusing.

Non Responsive

Non Responsive

Several times a month, [REDACTED] experiences migraine symptoms that may last for several hours. Often, she

must sleep for several hours in order to recover from a migraine. As a result of migraines, she is often unable to complete ordinary academic activities in school and at home.

Non Responsive

[REDACTED] has a significant Anxiety Disorder which causes her to experience panic attacks, generalized anxiety, confusion, and impaired cognitive processing. Her anxiety is aggravated by stress and fatigue.

Non Responsive

[REDACTED] becomes more anxious when she has time pressures and is juggling multiple tasks. Anxiety symptoms increase focusing problems and may trigger migraine symptoms. When highly anxious, [REDACTED] has difficulty completing tests and assignments in an efficient manner. [REDACTED] is self-conscious regarding her disabilities and becomes anxious when discussing them with school personnel.

Non Responsive
Non Responsive

Each of the above-listed disabilities and their symptoms adversely affect [REDACTED]'s ability to complete work efficiently. She has difficulty completing assignments on-time and adhering to assignment deadlines. Her anxiety is reduced when she is provided teacher support and accommodations. ***She responds best to positive teacher interventions that help to allay anxiety.***

Non Responsive

Reasonable Accommodations

- 100% extended time for exams, quizzes, and standardized tests. Advanced request for this accommodation will not be required and should always be assumed. If [REDACTED] experiences panic or anxiety symptoms which interfere with her ability to complete an exam during the extended time, additional time for completion of the exam will be granted, even if multiple days are needed.
- 100% extended time for in-class and out-of-class assignments. If anxiety or migraine impedes submission of work within 100% extended time, additional time based on the number of days impacted by the symptoms will be granted.
- Tests and exams will be postponed if disability interfered with test preparation and request is made by parent. Parent will activate this request via email to the guidance counselor or teacher.

Non Responsive

- Due to the unanticipated nature of her anxiety and panic attacks, [REDACTED] will not be asked to explain the basis for her need or the effects of her disability when requesting accommodations. Questions can be brought directly to her mother, [REDACTED], or her guidance counselor.

Non Responsive

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- To provide support for anxiety/panic symptoms during the school day, [REDACTED] will have regular and easy access to a hall pass to use as needed. [REDACTED] will also carry her own pass in her backpack for use in the event she has a panic attack in class and is unable to communicate her need to access the guidance or nurse's office to the teacher. In this situation, [REDACTED] will show the teacher this pass prior to leaving the classroom and sign out on the teacher's classroom sign-out sheet by the door.

Non Responsive

Non Responsive

- Exams, tests, and quizzes to be taken in a low-distraction environment upon request by student.

Non Responsive

- For tests and exams that last more than two hours, including extended time, [REDACTED] will be given additional time for a snack or short break upon request. Testing sessions should not last more than two hours without a break.

Non Responsive

- Teachers will provide clear, complete, and specific written instructions for assignments which will outline both assignment expectations and grading criteria. Teachers will confirm [REDACTED]'s understanding of these expectations.

Non Responsive

- Teachers will break down long-term assignments into manageable parts for [REDACTED] If an assignment has multiple components due over a long period of time, [REDACTED] will bring each component to the teacher to review upon completion of each step. Teacher will provide clear feedback on [REDACTED]'s progress and be specific with their recommendations and next step directions. Non Responsive
 - Access to peer/teacher notes upon request. Non Responsive
 - Preferential seating in classroom upon request. Non Responsive
 - In World Language oral examinations and classroom exercises, [REDACTED] will be permitted to write her responses before offering them orally. Non Responsive
 - In World Language, teacher will provide questions in written format prior to oral responses, upon request by [REDACTED] If multiple choice answers are offered, these will also be offered in writing. Non Responsive
 - In World Language, if comprehension difficulties occur, [REDACTED] will be provided clarification of instructions in English upon request. Non Responsive
 - [REDACTED] will be given access to a comprehensive text reading software program with features of a word processor, graphic organizer, word prediction, and be provided access to texts in audio format. Non Responsive
 - The school will make reasonable accommodations to limit [REDACTED]'s exposure to gluten-containing materials in the classroom and during school-sponsored activities. If [REDACTED] is to participate in a school-related activity that involves travel or which may expose her to gluten-containing materials, the responsible school party will contact [REDACTED]'s parent no less than 72 hours before the activity in order to collaborate about appropriate accommodations. Non Responsive
- Non Responsive If [REDACTED] is experiencing difficulty requesting accommodations with her teachers, she will meet with her guidance counselor who will then act as an intermediary and advocate for [REDACTED] Non Responsive

Review/Reassessment Date: December 2011

Participants at 504 Meeting (Name and Title):

Non Responsive [REDACTED] (Student), [REDACTED] (Parent), [REDACTED] (Step-Parent), [REDACTED] (Educational Advocate), [REDACTED] (Psychologist), [REDACTED] (Assistant Principal), [REDACTED] (English Teacher), [REDACTED] (Video/Audio Teacher), [REDACTED] (Science Teacher), [REDACTED] (Guidance Counselor) Non Responsive

Non Responsive [REDACTED] [REDACTED] 1/31/11 [REDACTED] - 2/2/11 Non Responsive

Assistant Principal's Signature and Date

Parent/Guardian Signature and Date

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College Admissions Testing Advice for ARHS Students

ARHS offers the PSAT on a Saturday in October. Announcements are made often at school and an e-mail is sent to parents to inform families of this opportunity. The PSAT serves as the basis for National Merit Scholarship consideration for juniors only, and is essentially a practice SAT. We encourage all juniors to take the test, and believe that sophomores who are enrolled in Algebra II and Honors Geometry can learn something about standardized testing from taking it. Sophomores who are enrolled in algebra or College Prep Geometry can certainly take the test for practice, but they should realize that they currently lack much of the math knowledge that will be tested, and thus may not find taking this test to be a rewarding experience. College Board fee waivers are available to juniors only.

Most students who apply to four-year colleges will need to take standardized admission tests, either the SAT or the ACT. As a general rule, students should not take these tests before the winter of the junior year.

Some students should consider taking SAT Subject tests earlier than the junior year. These are students who have strong interests in science, are excelling in Honors Chemistry in tenth grade or Honors Biology in either ninth or tenth grade, and who will not take AP Biology in eleventh grade. Scores approaching 700 or better will be viewed favorably by highly selective colleges. Scores under 600, even if achieved early in high school, will not enhance an application to a highly selective college. ARHS students find that our curriculum is most closely aligned with the SAT Subject tests in Literature, Biology, Math and Languages. The history tests are not aligned with our curriculum, and only students who read extensively about history on their own should take these tests. The chemistry test includes some units that are not covered in our chemistry course. Students need to teach themselves this material, with the support of our teachers.

Beginning with the class of 2010, the College Board will be using a Score Choice System. This means that students will be able to choose the Reasoning or Subject Test scores they wish to send to the colleges to which they are applying. It will not be possible to pick and choose between Reasoning Test sub-scores, but it will be possible for students to select the individual Subject Test scores they wish to send, regardless of the test date.

Increasingly, students in the Northeast are finding the ACT to be a good alternative to the SAT. All colleges accept it as equivalent. A few colleges want subject tests in addition. The ACT has a science section in addition to reading, math, English and optional writing. It is sometimes thought of as more of an achievement test, more geared to curriculum than the SAT. Students can select their best ACT composite score and not send other administrations. Students who are disappointed with their SAT scores might want to consider taking the ACT.

Both the SAT and ACT are offered multiple times each year. Consult www.collegeboard.com and www.actstudent.org for more information and to register for the tests. Fee waivers are available to income-eligible students.

If you have any questions, please contact your student's guidance counselor or Myra Ross, the ARHS College Advisor, at rossm@arps.org.

ARHS College and Career Planning | ARHS Home Page

Last Updated: Wednesday, October 01, 2008

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College Admission Tests (Sat Reasoning Tests, SAT Subject Tests, ACT, TOEFL)

Most four year colleges and a few programs at community colleges require some kind of standardized admission testing. Most ARHS students take the SAT Reasoning test, once in the spring of the junior year and again the next fall. The SAT Reasoning test has three sections – Critical Reading, Math and Writing. The ACT is an equal alternative that many ARHS students take in addition to or instead of the SAT. It includes a composite score and a science section in addition to English, Reading, Math and Writing.

Register for SAT tests online at www.collegeboard.com.

Register for the ACT at www.actstudent.org. (Sign-up for "optional writing section.")

What do the tests cost? SAT and ACT reasoning tests cost about \$46 if you register on time. A major credit card or fee waiver is required for online registration. Print materials are available in the Guidance Office.

Fee waivers are available for SAT and ACT testing and college applications to anyone who is eligible for the free/reduced price lunch program. Students can get a total of two Reasoning Test waivers and two subject test waivers while in high school. See the Guidance secretaries for waivers.

What about accommodations? Students with Individualized Educational Plans or 504 plans who use extended time testing or other accommodations at school and who wish to have these accommodations on SAT Reasoning or Subject Tests or the ACT need to apply directly to the testing companies for them. They should see their special education liaison or guidance counselor well in advance of registration deadlines for instructions on how to use the online application for eligibility. The testing agencies make the final determination regarding accommodations. This can sometimes take several months, so families should begin the application process as early as possible – ninth or tenth grade is best. (Students with IEPs are not required to submit test scores to Massachusetts public universities.)

Are tests required for admission? Many colleges at all levels of selectivity are now "test-optional," meaning that they place little to no importance on an applicant's test scores. These colleges have differing policies regarding testing so it is important to read their websites carefully. Students should take appropriate tests; then they can decide whether or where to send the scores. See fairtest.org for a complete list of these colleges.

Highly selective colleges often require either the ACT or the SAT Reasoning tests and two or three SAT Subject tests. It is wise to check the requirements of colleges in the junior year to ensure that the appropriate tests are taken.

When do I take the SAT/ACT?

Juniors who wish to take SAT Subject tests usually take the SAT Reasoning test in March and two Subject tests in May or June. It is possible to take up to three Subject tests on one day, but two is the optimal maximum. It is not possible to take both Reasoning and Subject tests on the same day.

ARHS students most commonly find success with Subject tests in Math (level I or II), literature, foreign language or a science (Biology or Chemistry). Our history curriculum does not align with the tests very well, but students with a high interest who read a lot about history on their own sometimes do very well on either the U.S. or World History tests. Students who are considering a major in engineering should consider taking a Subject test in chemistry or physics, as a physical science Subject test is required by a few highly selective engineering programs.

Many seniors retake the SAT Reasoning test in the fall (October, November or December). SAT Subject tests are rarely repeated by ARHS students.

An increasing number of ARHS students take the ACT as well as the SAT. There are February, April, June, September, October and December ACT test dates. It is not offered at ARHS.

Students who are considering early decision/early action or University of California applications (due in November of the senior year) should complete "first-round" testing in the spring.

What happens to the scores?

Once a student has taken an SAT Reasoning or Subject test, a cumulative record is started at ETS in Princeton. (PSATs are not part of the cumulative record.) Students will be able to choose to send the best SAT Reasoning administration or individual Subject test scores to most colleges. Some colleges will require that all scores be sent. Most juniors should not send scores to any colleges on test registration forms. Seniors should send them, when college choices and scores are better known. Four reports can be sent free within a week of the test administration. There is a fee for each additional college. Students on free/reduced lunch get eight colleges free.

If students take the ACT more than once, they can choose the score that they would prefer to send to colleges. The ACT record is not cumulative so there are separate fees for sending scores from each administration. Many, but not all, ARHS students do better on the ACT.

When preparing for the ACT, students should pay particular attention to the science section, which may be unfamiliar. It tests reading comprehension, graph interpretation and how well students can sift out extraneous information, more than prior science knowledge. **While taking the test, it is best to begin by reading the questions; don't waste time reading all of the provided content first.**

TOEFL

The Test of English as a Foreign Language is a test for non-native English speakers. Some colleges require students whose native language is not English to take it in addition to the SAT or ACT. Others may require it depending on students' level of English proficiency as measured by the SAT or ACT. **Because testing**

requirements differ from college to college, students whose first language is not English should always pay attention to college website information for international students, even if they have a green card or are U.S. citizens. Discuss whether you should take this test with the college advisor and the ELL teachers before registering for it, best in the fall of twelfth grade, because it is costly, and fee waivers cover only half. The Internet-based TOEFL (IBT) is given at various sites in Massachusetts, Holyoke being the closest. Registration materials and information about the test are available online at www.toefl.org.

PREPARING FOR STANDARDIZED TESTS

As with athletics, academics, music, theatre and many other pursuits, standardized test performance improves with practice for most students. It is in your best interest to be well-prepared. Below are some free or low cost things you can do to prepare for the tests. Given some self-discipline, test-preparation does not have to be expensive. The ARHS Guidance Office Library has books available for loan as well as samples of SAT and ACT tests. Remember that standardized tests are only one component of an application, far less important than the academic level of challenge and grades. Remember, too, that many colleges are "test-optional."

For the SAT

- Make good use of the test preparation materials provided by the College Board (<http://sat.collegeboard.com/practice>)
 1. Study the materials you received with your PSAT score.
 2. Sign up for the SAT Question of the Day.
 3. Use "My College Quicksart," to which you are entitled free if you took the PSAT. Develop a customized SAT study plan based on your PSAT/NMSQT test performance, highlighting skills for review and practice.
 4. Consider The Official SAT Online Course (\$69), which provides eighteen interactive lessons, practice quizzes and tests, and score reports.
 5. Take advantage of the free SAT and ACT Preparation materials available in the Guidance Office.
- Use the comprehensive Method Test Prep program provided to you free through Naviance.
- Use number2.com for free SAT preparation.
- Visit the free Kaplan online quiz bank: http://www.kaptest.com/College/SAT/Kaplan-Programs/Online-Programs/CO_sat_satqbankol.html?cid=201739. Kaplan also offers print and software materials and a preparation course at various prices.
- Purchase and use an SAT preparation book, either *The Official SAT Study Guide* from the College Board, or a number of other options from a local book store. Kaplan, Barrons and Princeton Review are the most popular. They usually cost

about \$20.

- Visit www.princetonreview.com. Read and do everything that is free. Attend a free strategy event. Princeton Review also offers print and software materials and a preparation course at various prices.
- Consider materials from www.powerprep.com, offering low cost SAT and ACT preparation (\$25.00) and vocabulary building (\$10.00) software.
- Take the LSSE SAT Preparation course at ARHS; taught by C. Herland and J. Wilby; six 90-minute sessions Tuesdays and Thursdays 3:00-4:30 February; \$135, reduced fees for students on free or reduced lunch; sign up through LSSE; course will likely be repeated in the spring and next fall.

For the ACT

- ACT Online Prep™; test preparation program designed by ACT test development professionals; \$19.95 for one year.
- The Real ACT Prep Guide; official ACT prep guide— includes 3 actual retired ACT tests—each with an optional Writing Test.
- Preparing for the ACT (80 pages, FREE; available online and in the Guidance Office).
- Online Practice test questions and Test tips -FREE.
- Kaplan and Princeton Review (see above) offer ACT-prep classes.
- Princeton Review Assessment (PRA); free; includes “Scores Back” strategy session; This is a diagnostic comparison of the ACT and SAT, offering estimated scores on both, to aide students in deciding which test would best represent them in the college admissions process.

[ARHS College and Career Planning](#) | [ARHS Home Page](#)

Last Updated: Friday, January 21, 2011

AMHERST REGIONAL HIGH SCHOOL**Preparing for Standardized Tests**

As with athletics, academics, music, theatre and many other pursuits, standardized test performance improves with practice for most students. Below are some free or low cost things you can do to prepare for the tests. Remember that standardized tests are only one component of your application, far less important than your academic level of challenge and your grades. Remember, too, that many colleges are "test-optional."

- Make good use of the test preparation materials provided by the Collegeboard (http://www.collegeboard.com/student/testing/sat/prep_one/prep_one.html)
 1. Study the materials you received with your PSAT score.
 2. Sign up for the SAT Question of the Day
 3. Use "My College Quickstart," to which you are entitled free if you took the PSAT. Develop a customized SAT study plan based on your PSAT/NMSQT test performance, highlighting skills for review and practice.
 4. Consider The Official SAT Online Course (\$69), which provides eighteen interactive lessons, practice quizzes and tests, and score reports.
 5. Take advantage of the free SAT Preparation materials available in the Guidance Office.
- Use number2.com for free SAT preparation
- Visit the free Kaplan online quiz bank: http://www.kaptest.com/College/SAT/Kaplan-Programs/Online-Programs/CO_sat_satqbank01.html?cid=201739. Kaplan also offers print and software materials and a preparation course at various prices.
- Purchase and use an SAT preparation book, either The Official SAT Study Guide from the Collegeboard, or a number of other options from a local book store. Kaplan, Barrons and Princeton Review are the most popular. They are usually under \$20.
- Visit www.princetonreview.com. Read and do everything that is free. Attend a free strategy event. You need not sign up for the expensive class to benefit from their program.
- Consider materials from www.powerprep.com, offering low cost SAT and ACT preparation (\$25.00) and vocabulary building (\$10.00) software.
- Take the LSSE SAT Preparation course at ARHS; taught by C. Herland and J. Wilby; six 90-minute sessions Tuesdays and Thursdays 3:00-4:30 January 29-February 14; \$120, reduced fees for students on free or reduced lunch; sign up through LSSE; course will likely be repeated in the spring and next fall.
- SAT courses are also offered at very reasonable rates at community colleges. Contact them for information.
- Princeton Review Assessment (PRA); Free; Saturday, March 29, 8:00-12:00 a.m.; "Scores Back" strategy session Monday, April 7, 6:00-8:00 p.m.; This is a diagnostic comparison of the ACT and SAT, offering estimated scores on both, to aide students in deciding which test would best represent them in the college admissions process.

Office for Civil Rights Consent Form

Page 1 of 2



U.S. Department of Education

50

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United States Department of Education

Office for Civil Rights

CONSENT FORM- FOR USE OF PERSONAL INFORMATION

Non Responsive

Complainant's Name (print or type): [REDACTED]

Institution Against Which Complaint Filed: Amherst Regional High SchoolPlease sign and date section A or section B and return to the above address:

I have read the Notice about Investigatory Uses of Personal Information. I understand that the Privacy Act of 1974, 5 U.S.C. § 552a, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552, govern the use of personal information submitted to all Federal agencies and their individual components, including OCR. I will cooperate with OCR's investigation and complaint resolution activities undertaken on my behalf. I understand that my failure to cooperate with OCR's investigation may result in the closure of my complaint.

A. I give OCR my consent to reveal my identity (and/or that of my minor child/ward on whose behalf the complaint is filed) to the institution alleged to have discriminated, as well as other persons and entities outside if OCR, in the course of its investigation or for enforcement activities, finds it necessary to do so.

Signature

Date

2/14/11

OR

B. I do not give OCR my consent to reveal my identity (and/or that of my minor child/ward on whose behalf the complaint is filed). I understand that OCR may have to close this complaint if OCR is unable to proceed with an investigation without releasing my identity (and/or that of my minor child/ward on whose behalf the complaint is filed).

Signature

Date

OR

Alternatively, if you are not filing this complaint on your own behalf or on behalf of your own minor child/ ward, you are responsible for obtaining written consent from the person on whose behalf the complaint is filed or, if he or she is a minor, that person's parent/ guardian.



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

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921

MAY 05 2011

Ms. Maria Geryk
Superintendent, Amherst Regional Public Schools
170 Chestnut Street
Amherst, MA 01002

Re: Complaint No. 01-11-1098
Amherst Regional School District

Dear Superintendent Geryk:

This letter is to notify you that the U.S. Department of Education, Office for Civil Rights (OCR) is closing the above-referenced complaint against the Amherst Regional School District (District), alleging discrimination on the basis of disability, because the matter was resolved during the course of OCR's Early Complaint Resolution (ECR) process.

As you know, the Complainant alleged that staff at the District's high school (School) are failing to implement a provision in her daughter's (the Student) Section 504 Plan providing for 100% extended time on standardized tests, by refusing to cooperate with the Complainant and/or Student in making this request to, and obtaining this service from, the ACT Board. The Complainant also alleged that School staff may have refused to cooperate with her and/or the Student in securing 100% extended time on the ACT to retaliate against the Complainant for filing an earlier complaint with OCR.

While evaluating the complaint, OCR staff spoke with the District and the Complainant about the availability of ECR as a resolution option, whereby OCR would suspend its investigation and facilitate a voluntarily resolution directly between the parties. The District and Complainant agreed to participate in ECR after OCR staff explained the terms described in OCR's "Agreement to Participate in Early Complaint Resolution" and "Confidentiality Agreement."

OCR commenced the ECR process with the District and Complainant in March 2011, which ultimately resulted in a signed agreement between the parties dated April 27, 2011 (copy enclosed). Because this agreement resolves the allegations that OCR accepted for investigation, we are closing the complaint as of the date of this letter.

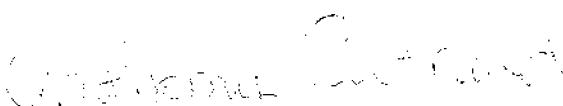
As OCR staff discussed with both the District and the Complainant, OCR will not monitor and is not a party to the resolution agreement in this case. Furthermore, a breach of that agreement alone does not present a potential compliance issue under the regulations we enforce. However, if the District fails to honor the agreement, the Complainant may file a new complaint with OCR for that breach. If a new complaint is filed, OCR will not address the alleged breach of the agreement. Instead, OCR will determine whether to investigate the original allegation. When making this determination, OCR will consider the nature of the breach, its relation to the alleged discrimination and any other factors as appropriate. To be considered timely, the new complaint must be filed either within 180 days of the date of the original act of alleged

Page 2, Superintendent Geryk, OCR Complaint No. 01-11-1098

discrimination, or within 60 days of the date the Complainant obtains information that a breach of the ECR agreement occurred, whichever date is later.

I wish to thank you, Attorney Regina Tate, Dr. Marta Guevara, and other District staff for the cooperation extended to OCR during the course of this investigation and the ECR process. If you have any questions about the information contained in this letter, please contact Senior Investigator Mary-Anne Khoulani at (617) 289-0036 or by e-mail at Mary-Anne.Khoulani@ed.gov, or Attorney Ramzi Ajami at (617) 289-0086 or by e-mail at Ramzi.Ajami@ed.gov. You may also contact me directly at (617)289-0019.

Sincerely,


Donna L. Russell

Team Leader/Civil Rights Attorney

Enclosure

cc: Regina Tate, Esq.

**Early Complaint Resolution Agreement
Between Amherst Regional School District and [REDACTED]**

Non Responsive

Non Responsive In order to resolve the allegations raised in OCR Complaint No. 01-11-1098 filed with the U.S. Department of Education, Office for Civil Rights (OCR) by [REDACTED] (Parent) regarding her child, [REDACTED] (Student), against the Amherst Regional School District (District), the District and Parent agree as follows:

Non Responsive

1) The District will take the following actions:

a. Assist the Parent/Student in completing the necessary paperwork to secure 100% extended time accommodation for the Student's participation in the June ACT exam. Such paperwork will be submitted by May 1, 2011 to the ACT Board. In addition, the District will work collaboratively with the ACT Board to provide the Student with that accommodation, including, if necessary, assigning a staff member to be a proctor and/or identifying and securing a site for the exam.

b. Arrange a meeting between the Superintendent and the Parent by May 31st, 2011, to discuss the Parent's concerns regarding comments that were exchanged at the most recent Section 504 meetings. The Superintendent and Parent may be accompanied by counsel or other individuals if the parties so desire. If the Parent intends to bring counsel to the meeting, the Parent shall inform the Superintendent or her assistant prior to the meeting.

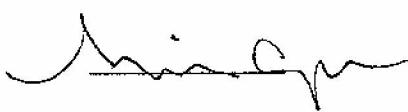
2) The terms of this agreement are for the purposes of early resolution only, and do not constitute an admission by the District that it or its employees have acted in a manner which violates either state or federal law.

3) To the extent that the Parent/Student must take certain actions with the District to obtain for, and provide to the Student, the 100% extended time accommodation for the ACT exam, the Parent/Student shall do in a timely and collaborative manner.

4) The District hereby affirms that the high school psychologist who has had a working relationship with the Parent in the past will not access the Student's confidential records, including for processing the request for 100% extended time accommodation for the ACT exam.

Amherst Regional School District

Parent



Maria Geryk

[REDACTED] Superintendent

Date: 4/27/11



Date: 4/27/11

Non Responsive

U.S. DEPT. OF EDUCATION
REGION I
RECEIVED

October 12, 2012

2011 OCT 14 A 10:49

MA

Non Responsive

Office for Civil Rights
US Department of Education
5 Post Office Square, 8th Floor
Boston, MA 02109-3921

Non Responsive

Re: [REDACTED] Complaint and Pelham School District

To whom it may concern:

On May 25, 2011, I filed a complaint with the Massachusetts Department of Elementary and Secondary Education alleging several violations of state and federal laws. While the MA DESE resolved some of my concerns to some extent by indicating that the district was in fact out of compliance, several problems have continued since the DESE closed my case. I am also concerned at this juncture about discrimination and/or retaliation we have experienced following my complaint to MA DESE.

Attached please find the following supporting documents:

- A copy of the complaint I filed against the Amherst-Pelham School District, dated May 25, 2011;
- A copy of the response submitted by Amherst-Pelham on July 13, 2011;
- A copy of a public records request I submitted to the district on July 18, 2011;
- A copy of the MA DESE's findings, dated July 25, 2011, relative to my complaint;
- A letter from Amherst-Pelham to MA DESE dated July 31, 2011, challenging one of MA DESE's findings of non-compliance;
- A letter from the Superintendent of Amherst-Pelham dated August 4, 2011, asserting that the district would not comply with my public records request unless I agreed to pay them "in excess of \$20,000";
- A letter I submitted to the Secretary of State, dated August 9, 2011, appealing Amherst-Pelham's refusal to fulfill my public records request;
- A copy of the corrective action plan, dated September 12, 2011, submitted to MA DESE by Amherst-Pelham;
- A copy of the MA DESE's letter closing its investigation;
- Emails from [REDACTED] to me and to Dr. [REDACTED] indicating that the district is considering not paying for the independent evaluation;

Non Responsive

Non Responsive

- An email from Lisa Desjarlais (through DESE Mail Service) with information about the MCAS Alternate Assessment.

My original complaint to MA DESE asserted the seven issues listed below, concerning which MA DESE made the following findings:

- 1. The district did not respond in a timely or appropriate manner to my request for an evaluation.* MA DESE found the district to be out of compliance on this issue.
- 2. The district did not perform data collection in conformance with my son's IEP, and therefore did not comply with the performance criteria required pursuant to the IEP.* MA DESE found the district to be out of compliance on this issue.
- 3. The IEP proposed for my son by the district did not contain current performance levels as required by law. Furthermore, as a result, many of the IEP goals currently proposed for my son by the district are not measureable and/or substantially similar to prior IEP goals.* MA DESE indicated that this concern was outside of its jurisdiction and would not be investigated.
- 4. The district did not reply in compliance with the law to my request for an independent education evaluation, and not reply at all to a second request for a different independent evaluation.* MA DESE found the district to be out of compliance on these issues. While the MA DESE ordered corrective action on this issue, it did not direct the district to respond to me in any way and/or send me a formal agreement. To date, I have not received any compliant documentation and/or guidelines whatsoever in connection with my request for these evaluations, and the district is now accusing me of hiring an unacceptable independent evaluator and preparing to not pay for the evaluations. In fact, the district has still not responded at all to my second request for an independent evaluation.
- 5. The district refused to provide a legally compliant number of IEP progress reports for my son.* MA DESE found the district to be out of compliance on this issue, but subsequently found the district to be in compliance after Amherst-Pelham changed its district-wide policy to conform to its practice of providing only two annual progress reports.
- 6. The special education director informed me that the independent evaluator may not be permitted to conduct observations of [REDACTED]* MA DESE found the district to be in compliance on this issue, after the district permitted my independent evaluator to observe the program. (This issue has been resolved to my satisfaction.)
- 7. I requested a copy of the draft IEP before the meeting, but the school did not provide it to me.* MA DESE found the district to be in compliance on this issue, although MA DESE noted that it encourages districts to share drafts. Nonetheless, I specifically informed the district that I required an advance copy of the draft in order to meaningfully participate in the meeting, and the district agreed to provide it to me (see my original complaint). As a result, I was unable to be prepared for the meeting and was therefore unable to participate meaningfully.

Non Responsive

Since this original complaint, it has become clear that several issues remain unresolved. Also, several new issues have arisen. Therefore, I hope that the Office for Civil Rights can assist me with resolving several issues, as follows:

- A. I would like guidance on whether or not the MA DESE should have investigated and made a finding on my complaints numbered 3 and 7 above. I think that the MA DESE discriminated against my son on the basis of his disability when it refused to require the school district to ensure that my son's IEP contained measureable annual goals, and refused to find the district out of compliance for its failure to provide me with a draft IEP, as requested and promised.
- Number 3: While I would understand the question of *whether or not the goals are appropriate* to be 'outside the jurisdiction' of MA DESE, the question of *whether the goals are measureable* is a concrete question of observable fact.
 - Number 7: While I understand that the district is not required to provide me with drafts, the facts remain that 1) I requested the drafts; 2) the district agreed to provide drafts; and 3) I informed the district that I would be unable to meaningfully participate if I was not provided with an advanced copy of the draft. Ultimately, when all of the school district staff has seen the draft before the Team meeting, but a parent is denied access to the draft, the playing field is significantly shifted against the parent. Furthermore, it is my understanding that I have access to my son's student records regardless, and that I am entitled to a copy of whatever is in his file.
- B. The Amherst-Pelham school district discriminated against my son on the basis of his disability and/or retaliated against him when, as a direct result of my correctly pointing out that its progress reporting practice was not in compliance with the law, it amended its policy to justify its a) failure to provide progress reports in the past; and b) providing fewer progress reports to my son and to all special education students throughout the district.
- C. The MA DESE discriminated against my son on the basis of his disability when it failed to cite the district for its retaliatory change in its district-wide progress reporting policy.
- D. The Amherst-Pelham school district discriminated and/or retaliated against my son on the basis of his disability by, I believe, misrepresenting the law concerning independent evaluations. As far as I know, the only requirement is that the evaluator be qualified. It is my understanding that 'independent' in this context simply means 'someone who does not work for the district'. Furthermore, despite MA DESE investigating this issue and finding the district to be out of compliance, I still, to date, have never received a single formal document indicating that the district will fund the evaluations (FBA and assessment of [REDACTED]'s independence). *Thus, still, I have no guidelines whatsoever from the district about who can conduct the evaluation and/or how the district plans to pay for these evaluations!* The evaluator I selected has been operating completely blind to the process and procedure for getting paid for his work. *See attached emails from Ms. [REDACTED] to me and to Dr. [REDACTED].* Furthermore, Dr. [REDACTED] is not doing anything "for me privately" outside the scope of these two evaluations. My understanding is that I hired him to perform the two independent evaluations I requested, and the district will pay him, and this is how the process works.

I'm not sure legally who he "works for" under these circumstances, but frankly, without appropriate, legally complaint responses from the district, I have no information on this other than to say that I requested these evaluations months and months ago, and the district is now telling me after the fact that they do not want to pay him, even though they are otherwise required to do so, because he's not independent. This is unacceptable, and my son is in the middle, with our ability to meet his needs already significantly delayed by the district's inaction.

- E. The Amherst-Pelham school district discriminated against my son on the basis of his disability when it proposed, outside a team meeting, that he take the alternate assessment "portfolio" version of the MCAS. This conversation was verbal and took place on September 23, 2011; specifically, the school's principal, Lisa Desjarlais, proposed that [REDACTED] take the Alternate Assessment. My understanding is that the determination of how a student takes MCAS is a Team determination. I later learned that [REDACTED] performed poorly on MCAS, so it seems that despite the fact that the Team determined (recently, in fact) that [REDACTED] was capable of taking the MCAS with accommodations, Ms. Desjarlais is interested in changing the method of test taking rather than working with the Team to ascertain why [REDACTED] has not acquired the requisite skills to perform well on the test, as he is entitled to, AND WHAT THE Team can do to address that. Furthermore, my understanding is that passing the MCAS alternate assessment does not meet the criteria needed to earn a high school diploma, and would thus significantly limit [REDACTED]'s future options. *See attached email dated September 23, 2011, which appears to be from "Department of Elementary and Secondary Education Mail Service". This is information about the MCAS Alternate Assessment that was forwarded to me by Ms. Desjarlais.*
- F. The Amherst-Pelham school district discriminated against my son on the basis of his disability when it refused to comply with my public records request unless I agreed to pay them "in excess of \$20,000" and/or failed to respond in accordance with the MA Public Records Laws. *See attached letters to district, from district, and to Secretary of State.*

Non Responsive
Non Responsive
Non Responsive

Thank you in advance for helping me advocate for my son to receive the services and processes he is entitled to. I am frustrated that I cannot seem to get this process to work for my son's success and achievement. I am happy to answer any questions you may have or provide additional information or documentation.

Non Responsive
Sincerely,





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

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921

Non Responsive

Mr.

[REDACTED]
MA

NOV 21 2011

Complaint No. 01-12-1016
Amherst-Pelham School District

Non Responsive Dear Mr. [REDACTED]:

On October 14, 2011, the U.S. Department of Education's (Department), Office for Civil Rights (OCR) received the above-referenced complaint that you filed against the Amherst-Pelham School District (District) alleging discrimination against your son on the basis of disability. You also informed us that you had previously filed a complaint with the Massachusetts Department of Elementary and Secondary Education (MADESE) with overlapping allegations, and provided a copy of MADESE's Closure Letter dated September 23, 2011. Your complaint also included allegations against MADESE and, although you have not filed a complaint against MADESE with OCR, we are also responding to those allegations in this letter.

OCR spoke to you via telephone on October 31, 2011, and reviewed the additional information you provided on November 8, 2011. As explained to you in a telephone call on November 9, 2011, and, again below, OCR is dismissing your complaint. For purposes of this letter, OCR will refer to each allegation by its letter designation in your complaint.

OCR is responsible for enforcing 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), both of which prohibit discrimination on the basis of disability. The District is subject to the requirements of Section 504 because it is a recipient of Federal financial assistance from the Department, and it is subject to the requirements of Title II because it is a public entity operating an educational system.

Regarding allegation (A)(3), you allege that MADESE discriminated against your son on the basis of disability when it would not investigate, due to lack of jurisdiction, your allegation that the goals in his IEP were not measurable. As explained via telephone, OCR does not have the authority to question MADESE's jurisdiction and is dismissing this allegation because it fails to state a violation of Section 504, Title II, or any of the laws OCR enforces. During the phone call, we also explained that whether the goals in an IEP are measurable or not is not a matter appropriate for OCR to investigate. OCR does not second-guess or review substantive educational decisions, such as the appropriateness of goals and how they are measured, so long as a school district adheres to the procedural requirements of Section 504. As MADESE informed you, any disagreement or concern that you may have regarding the measurability of the goals in your son's IEP is a matter to be addressed by your son's IEP team. Failing resolution with your son's IEP team, you have the right to a due process hearing conducted by an impartial hearing officer. You indicated to OCR that the District provided you with your procedural safeguards explaining your right to a due process hearing. To request a hearing, you may contact the MADESE at:

Bureau of Special Education Appeals
75 Pleasant Street
Malden, MA 02148-4906
781-338-3398 (fax)
<http://www.doe.mass.edu/bsea/forms.html> (hearing form)

Regarding allegation (A)(7), you allege that the District discriminated against your son when it did not provide you with an advanced copy of a draft IEP as it said it would. As you acknowledged in your complaint, MADESE ruled on this issue and found that the law does not require the District to provide you with drafts. Because MADESE applies similar investigative and legal standards as OCR and MADESE has already addressed this allegation, OCR is dismissing this allegation.

Regarding allegation (B), you allege that the District retaliated against your son when it amended its policy of issuing progress reports four times a year to twice a year after you pointed out that the District was not following its written policy. During the October 31, 2011, telephone call, OCR explained to you that in evaluating an allegation of retaliation, OCR looks for information suggesting that: (1) a complainant engaged in a protected activity; (2) the District had notice of the protected activity; (3) the District took an adverse action against you; and (4) there is sufficient information to infer a causal connection between the protected activity and the adverse action. In addition, OCR explained that an adverse action is not just a transient, unpleasant incident, but also an action that causes a lasting and tangible harm or has a deterrent effect on a complainant.

Your MADESE complaint constitutes a protected activity of which the District had notice. When asked what adverse action you or your son experienced as a result of the policy change, you stated that "it is deleterious to [your] ability to track [your son's] progress," and damages him more than other students "given the nature of [his] disability." While OCR can appreciate your desire to receive progress reports more frequently, the fact that all students, including your son, receive the same number of progress reports each year suggests that the change in policy was not an action specifically targeting you or your son. You also told OCR that you had asked your son's IEP team for more frequent progress reports, but the team disagreed with the need for that. OCR explained, as above, that you should address such a disagreement over a substantive educational decision with an impartial hearing officer. Therefore, OCR is dismissing this allegation because without alleging an adverse action, it fails to state a retaliation allegation under a law OCR enforces.

Regarding allegation (C), you allege that MADESE discriminated against your son when it failed to cite the District for retaliation after it amended the written progress report policy that was the subject of allegation (B). As with allegation (A)(3), OCR does not have the authority to question MADESE's decision that the District's policy brought the District into compliance with state law. Regardless, as with allegation (B), the underlying allegation of retaliation does not provide information suggesting there was an adverse action. Therefore, OCR is dismissing this allegation because it fails to state a violation of Section 504, Title II, or any of the laws OCR enforces.

Regarding allegation (D), you allege that the District discriminated against your son when it disagreed with you about the need for an independent evaluation and how this evaluation would be implemented. The need for an independent evaluation and the evaluation itself are substantive educational decisions best addressed by the team or at due process. In your November 8 email to OCR, you also cited the delay in the District providing you with a response to your request for an evaluation. However, this

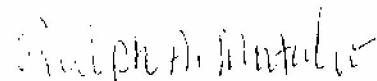
matter was already resolved in your MADESE complaint. You also cited state law regarding independent evaluations, but OCR does not enforce state law. Therefore, OCR is dismissing this allegation.

Regarding allegation (E), you allege that the District discriminated against your son when the school principal suggested, outside of a team meeting, that your son take an alternate assessment after he performed poorly on the MCAS, the state testing program. You told OCR that the principal made the suggestion to you twice. However, you informed OCR that she did not make any decision about what exam he should take unilaterally or outside of an IEP team process. Therefore, OCR is dismissing this allegation because it fails to state a violation of Section 504, Title II, or any of the laws OCR enforces.

Regarding allegation (F), you allege that the District discriminated against your son when it refused to fulfill your request for documents in accordance with the "MA Public Records Laws." As OCR explained, OCR does not have jurisdiction to enforce state law. Therefore, OCR is dismissing this allegation because it fails to state a violation of Section 504, Title II, or any of the laws OCR enforces.

We thank you for bringing your concerns to our attention and are sorry that we are unable to assist you further in this matter. If you have any questions regarding this letter, please contact Molly O'Halloran, Civil Rights Investigator, at (617) 289-0058, or molly.o'halloran@ed.gov, or Sandy Lin, Civil Rights Attorney, at (617) 289-0095 or sandy.lin@ed.gov. You may also contact me directly at (617) 289-0045.

Sincerely,



Ralph A. Montalvo
Compliance Team Leader