



ARCHIVED INFORMATION

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

JUN - 7 2012

Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter of March 30 expressing your concerns about the Office for Civil Rights' (OCR) enforcement of Section 504 of the Rehabilitation Act of 1973 (Section 504) for children with disabilities who also have been identified or receive a free appropriate public education under the Individuals with Disabilities Education Act (IDEA). I am happy to have the opportunity to clarify our policies and approaches to enforcing Section 504 and am sending an identical response to the other cosigners of your letter. OCR has worked diligently to reduce the burden on public school districts while, at the same time complying with Section 1415(l) of Title 20, which provides that children protected by the IDEA should also be able to rely on the rights, procedures, and remedies of Section 504.

Your letter recommends that OCR exempt from investigation complaints of discrimination by students with disabilities who have been identified for IDEA services. However, this question was expressly addressed by Congress in the Handicapped Children's Protection Act of 1986, Pub. L. No. 99-372, 100 Stat. 796. That Act (now codified as Section 1415(l)) was enacted in response to the 1984 Supreme Court decision in *Smith v. Robinson*, which had held that Section 504 did not enlarge the remedies available under the IDEA. Congress overturned that holding by amending the IDEA in the Handicapped Children's Protection Act to provide that nothing in the IDEA "shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of handicapped children and youth." Section 504 is part of title V of the Rehabilitation Act. Given that express statutory instruction, OCR has continued to exercise jurisdiction over complaints by children protected by the IDEA that their rights under Section 504 have been violated.

OCR has sought to harmonize the requirements of Section 504 and the IDEA. For example, the Section 504 regulations enforced by OCR provide that "[i]mplementation of an Individualized Education Program [IEP] developed in accordance with the [IDEA] is one means of meeting the standard" regarding the provision of an appropriate education under Section 504. 34 C.F.R. § 104.33(b)(2). Likewise, the Section 504 regulations provide that "[a] reevaluation procedure consistent with the [IDEA] is one means of meeting" the Section 504 requirements for a periodic reevaluation, 34 C.F.R. § 104.35(d), and that "[c]ompliance with the procedural safeguards of [the IDEA] is one means of meeting" the Section 504 requirements pertaining to procedural safeguards. 34 C.F.R. § 104.36.

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As an alternative, you request that OCR, in cooperation with the Office of Special Education Programs (OSEP), issue regulations that address OCR intervention in the IEP process. Currently, OCR and OSEP engage in extensive efforts to ensure coordination of our regulatory requirements for school districts and others.

OCR has also adopted a number of procedural rules in its *Complaint Process Manual* (CPM) to reduce any burden on school districts that are subject to a complaint of discrimination under Section 504 regarding a student with disabilities who receives IDEA services.¹ To avoid overlapping proceedings, Section 110(a) and (b) of the CPM provides that OCR will not investigate a Section 504 complaint while the same complaint is pending in an IDEA “due process” hearing or in litigation. Moreover, OCR has adopted a general policy, reflected in Section 110(d) of the CPM, that, so long as the proper procedures have been followed, OCR will not review the result of individual placement and other education decisions absent extraordinary circumstances. These well-established provisions ensure appropriate coordination with, and, as appropriate, deference to, the IDEA procedures.

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Lastly, your letter requests that OCR work with the Missouri School Boards’ Association (MSBA) to develop model policies that would constitute compliance with the civil rights laws. I have consulted with the Director of OCR’s Kansas City Office and requested that appropriate personnel reach out to the MSBA and offer technical assistance. Please note, however, that OCR determines recipient compliance on a case-by-case basis, by applying the relevant law to the specific facts found in an individual case. Accordingly, OCR’s offer of technical assistance does not extend to the development and approval of specific policies that would be represented as constituting compliance. OCR looks forward to providing technical assistance to the MSBA that will meet our mutual objective of protecting all students’ civil rights.

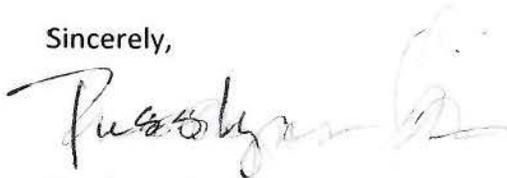
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Thank you for your interest in the rights of individuals with disabilities in education. I look forward to working with you to enhance the protection of students' civil rights. If you have additional questions, please contact Gabriella Gomez, Assistant Secretary for the Office of Legislation and Congressional Affairs, at 202-401-0020.

Sincerely,

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Russlynn Ali
Assistant Secretary for Civil Rights

cc: Randolph Wills, Enforcement Director, Office for Civil Rights
Angela Bennett, Director, Office for Civil Rights – Kansas City



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

JUN - 7 2012

Honorable Sam Graves
House of Representatives
Washington, DC 20515

Dear Congressman Graves:

Thank you for your letter of March 30 expressing your concerns about the Office for Civil Rights' (OCR) enforcement of Section 504 of the Rehabilitation Act of 1973 (Section 504) for children with disabilities who also have been identified or receive a free appropriate public education under the Individuals with Disabilities Education Act (IDEA). I am happy to have the opportunity to clarify our policies and approaches to enforcing Section 504 and am sending an identical response to the other cosigners of your letter. OCR has worked diligently to reduce the burden on public school districts while, at the same time complying with Section 1415(l) of Title 20, which provides that children protected by the IDEA should also be able to rely on the rights, procedures, and remedies of Section 504.

Your letter recommends that OCR exempt from investigation complaints of discrimination by students with disabilities who have been identified for IDEA services. However, this question was expressly addressed by Congress in the Handicapped Children's Protection Act of 1986, Pub. L. No. 99-372, 100 Stat. 796. That Act (now codified as Section 1415(l)) was enacted in response to the 1984 Supreme Court decision in *Smith v. Robinson*, which had held that Section 504 did not enlarge the remedies available under the IDEA. Congress overturned that holding by amending the IDEA in the Handicapped Children's Protection Act to provide that nothing in the IDEA "shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of handicapped children and youth." Section 504 is part of title V of the Rehabilitation Act. Given that express statutory instruction, OCR has continued to exercise jurisdiction over complaints by children protected by the IDEA that their rights under Section 504 have been violated.

OCR has sought to harmonize the requirements of Section 504 and the IDEA. For example, the Section 504 regulations enforced by OCR provide that "[i]mplementation of an Individualized Education Program [IEP] developed in accordance with the [IDEA] is one means of meeting the standard" regarding the provision of an appropriate education under Section 504. 34 C.F.R. § 104.33(b)(2). Likewise, the Section 504 regulations provide that "[a] reevaluation procedure consistent with the [IDEA] is one means of meeting" the Section 504 requirements for a periodic reevaluation, 34 C.F.R. § 104.35(d), and that "[c]ompliance with the procedural safeguards of [the IDEA] is one means of meeting" the Section 504 requirements pertaining to procedural safeguards. 34 C.F.R. § 104.36.

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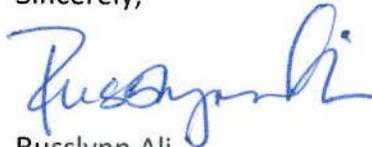
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Sincerely,



Russlynn Ali

Assistant Secretary for Civil Rights

cc: Randolph Wills, Enforcement Director, Office for Civil Rights
Angela Bennett, Director, Office for Civil Rights – Kansas City



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OFFICE FOR CIVIL RIGHTS

JUN - 7 2012

THE ASSISTANT SECRETARY

Honorable Vicky Hartzler
House of Representatives
Washington, DC 20515

Dear Congresswoman Hartzler:

Thank you for your letter of March 30 expressing your concerns about the Office for Civil Rights' (OCR) enforcement of Section 504 of the Rehabilitation Act of 1973 (Section 504) for children with disabilities who also have been identified or receive a free appropriate public education under the Individuals with Disabilities Education Act (IDEA). I am happy to have the opportunity to clarify our policies and approaches to enforcing Section 504 and am sending an identical response to the other cosigners of your letter. OCR has worked diligently to reduce the burden on public school districts while, at the same time complying with Section 1415(I) of Title 20, which provides that children protected by the IDEA should also be able to rely on the rights, procedures, and remedies of Section 504.

Your letter recommends that OCR exempt from investigation complaints of discrimination by students with disabilities who have been identified for IDEA services. However, this question was expressly addressed by Congress in the Handicapped Children's Protection Act of 1986, Pub. L. No. 99-372, 100 Stat. 796. That Act (now codified as Section 1415(I)) was enacted in response to the 1984 Supreme Court decision in *Smith v. Robinson*, which had held that Section 504 did not enlarge the remedies available under the IDEA. Congress overturned that holding by amending the IDEA in the Handicapped Children's Protection Act to provide that nothing in the IDEA "shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of handicapped children and youth." Section 504 is part of title V of the Rehabilitation Act. Given that express statutory instruction, OCR has continued to exercise jurisdiction over complaints by children protected by the IDEA that their rights under Section 504 have been violated.

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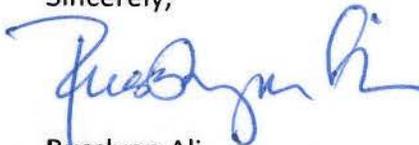
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THE ASSISTANT SECRETARY

JUN - 7 2012

Honorable Billy Long
House of Representatives
Washington, DC 20515

Dear Congressman Long:

Thank you for your letter of March 30 expressing your concerns about the Office for Civil Rights' (OCR) enforcement of Section 504 of the Rehabilitation Act of 1973 (Section 504) for children with disabilities who also have been identified or receive a free appropriate public education under the Individuals with Disabilities Education Act (IDEA). I am happy to have the opportunity to clarify our policies and approaches to enforcing Section 504 and am sending an identical response to the other cosigners of your letter. OCR has worked diligently to reduce the burden on public school districts while, at the same time complying with Section 1415(l) of Title 20, which provides that children protected by the IDEA should also be able to rely on the rights, procedures, and remedies of Section 504.

Your letter recommends that OCR exempt from investigation complaints of discrimination by students with disabilities who have been identified for IDEA services. However, this question was expressly addressed by Congress in the Handicapped Children's Protection Act of 1986, Pub. L. No. 99-372, 100 Stat. 796. That Act (now codified as Section 1415(l)) was enacted in response to the 1984 Supreme Court decision in *Smith v. Robinson*, which had held that Section 504 did not enlarge the remedies available under the IDEA. Congress overturned that holding by amending the IDEA in the Handicapped Children's Protection Act to provide that nothing in the IDEA "shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of handicapped children and youth." Section 504 is part of title V of the Rehabilitation Act. Given that express statutory instruction, OCR has continued to exercise jurisdiction over complaints by children protected by the IDEA that their rights under Section 504 have been violated.

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Russlynn Ali
Assistant Secretary for Civil Rights

cc: Randolph Wills, Enforcement Director, Office for Civil Rights
Angela Bennett, Director, Office for Civil Rights – Kansas City



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JUN - 7 2012

THE ASSISTANT SECRETARY

Honorable Blaine Luetkemeyer
House of Representatives
Washington, DC 20515

Dear Congressman Luetkemeyer:

Thank you for your letter of March 30 expressing your concerns about the Office for Civil Rights' (OCR) enforcement of Section 504 of the Rehabilitation Act of 1973 (Section 504) for children with disabilities who also have been identified or receive a free appropriate public education under the Individuals with Disabilities Education Act (IDEA). I am happy to have the opportunity to clarify our policies and approaches to enforcing Section 504 and am sending an identical response to the other cosigners of your letter. OCR has worked diligently to reduce the burden on public school districts while, at the same time complying with Section 1415(l) of Title 20, which provides that children protected by the IDEA should also be able to rely on the rights, procedures, and remedies of Section 504.

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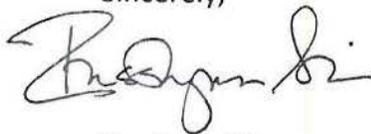
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