



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

May 15, 2026

**Via e-mail only to:** [redacted content]

Ms. Rachel Hoffman, Superintendent  
Re: School District of Phillips (WI) – OCR Case Number 05-26-1394

Dear Superintendent Hoffman:

This letter is to notify you of the disposition of the above-referenced complaint filed on February 5, 2026, with the U.S. Department of Education, Office for Civil Rights (OCR), against the School District of Phillips (the District), alleging that the District discriminated against a student (Student A) on the basis of disability when it failed to implement provisions of his Individualized Education Program (IEP) during the 2025-2026 school year and excluded him from a field trip.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of federal financial assistance from the Department of Education and as a public entity, the District is subject to these laws.

Based on the complaint allegations, OCR determined the case was appropriate for the Rapid Resolution Process (RRP) pursuant to 110 of OCR's [Case Processing Manual \(CPM\) \(February 19, 2025\)](#). The District expressed interest in resolving the allegations through this process.

To conduct its investigation, OCR reviewed information and documents provided by the Complainant and the District. Before OCR completed its investigation, the District expressed an interest in resolving this complaint pursuant to Section 302 of OCR's CPM. After careful review and analysis of the information obtained to date, OCR determined it is appropriate to resolve the allegations because OCR's investigation has identified issues that can be addressed through a resolution agreement consistent with the applicable regulations, Section 504 and Title II. The bases for OCR's determination are explained below.

### **Summary of OCR's Investigation and Background Facts**

Student A, [redacted content], attended the District throughout the 2025-2026 school year. According to the Complainant, Student A has a disability that impacts his ability to organize schoolwork and stay on task, especially when he is over stimulated or overwhelmed. He received special education services through an Individualized Education Program (IEP) that, according to the Complainant, changed twice between spring 2025 and spring 2026. The Complainant alleged that the following portions of Student A's IEP were not implemented during the 2025-2026 school year: (1) morning and evening check-ins with a case manager; (2) monthly occupational

therapy consults; and (3) specially designed instruction in executive functioning skills for 15 minutes, 4 times per week.

The Complainant alleged that Student A was excluded from a February 5, 2026, school-wide field trip to [redacted content] on the basis of his disability. According to the Complainant, the special education case manager (Case Manager) told Student A he could not attend because of his grades. The Complainant alleged Student A's academic performance is impacted by his disability and his grades were low due to the District's failure to fully implement his IEP.

The District's Superintendent submitted a written narrative dated April 17, 2024, to OCR explaining that the Case Manager informally checks in with Student A when he arrives to school and formally checks in with him before the start of his first academic course of the day, a course the Case Manager co-teaches. At the end of the day, the Case Manager meets with Student A for a formal check-out when he returns items to a cubby in her classroom. The same Case Manager provided Student A with instruction in executive functioning skills for approximately 30 minutes a day, four days per week. The written response also states that Student A received consult-only occupational therapy instead of direct services, but it omits a description of those services, the therapist's recommendations, and how recommendations were implemented.

On April 24, 2026, the Superintendent met with OCR staff and said the check-ins, check-outs, and executive functioning services were provided to Student A on a regular basis at designated times of the week but no supporting documentation was provided to OCR evidencing how those services were carried out in practice nor a description of the specialized instruction actually provided on a day-to-day basis. The Superintendent told OCR she would check to see if there were logs or other records documenting when the sessions occurred and/or what was specifically covered. She further explained that the occupational therapy provision of the IEP involved indirect consultations between District staff and the occupational therapist when the occupational therapist would offer strategies for Student A. The Superintendent said there may have been a misunderstanding that Student A would receive direct services when his IEP states he was to receive indirect "consults" that occurred between school staff and the occupational therapist.

The District did not provide records detailing what occurred during "formal" or "informal" check-ins/outs, or during the specialized instruction for executive functioning. Instead, the District submitted the following written statement from the Case Manager:

Every morning when [Student A] walks in the door I say good morning, I ask how is [he] doing, or how his night was, etc. When he walks in I observe his body language, who he is interacting with, and based on that I decide if further check in is needed. So far this school year there has only been one morning that he came in with concerning behavior. He received a red slip that day and has had no problems since. If I miss [Student A] in the morning I check in with him 2nd period in math class. I spend 135 minutes of my day in the same classroom as [Student A] supporting him or other students. 45 minutes of that is when [Student A] utilizes my room as a resource room during his study hall. At that time I help him complete any missing assignments, help him get organized and discuss any concerns or changes. At the end of the day either before or after 8th period [Student A] drops his

stuff off in my room where I check out with him. I make sure he turned in completed work and has remained on track. If I miss him during this time I check in with him when he is leaving the building to get on the van. I have not kept any notes because he has had a very successful school year. Any notes would be documented in the one red slip and the submission of missing assignments in the grade book."

The Superintendent also relayed to OCR that the Director of Pupil Services noted Student A's check-ins are listed as an accommodation, not specially designed instruction. On May 12, 2026, the Superintendent submitted to OCR a written statement indicating that occupational therapy consults occurred between the Case Manager and the therapist via email in September, October, and November 2025, and in January and February 2026. The Superintendent relayed that the Case Manager's notes from these check-ins show Student A "was doing well," and the Case Manager discussed Student A's progress report, classroom routines, and solving multistep directions greater than 50% of the time. They also discussed how some days he needed more help than other days.

OCR reviewed Student A's IEP dated January 21, 2026, and confirmed that it includes the provisions at issue in this investigation. The IEP detailed three measurable goals related to executive functioning needs. Under the category of "Supplementary Aids and Services," the IEP required morning check-ins for "[o]rganization/work completion" and check-outs at the end of the day for homework organization. Under the category of "Specially-Designed Instruction," the IEP required "direct" and "specialized" instruction in executive functioning skills" for 15 minutes 4 times per week in special education and "indirect" and "specialized" instruction in executive functioning for 15 minutes, 4 times per week in regular education. Under the category of "Related Services Needed to Benefit from Special Education," the District must provide an "[o]ccupational [t]herapy [c]onsult" monthly in the special education classroom.

Student A's IEP describes the placement decision and, in relevant part, how his disability impacts his grades: "[Student A's] disabilities affect his participation in and ability to absorb grade level instruction at the same level as his peers. His difficulty in processing that comes from his [disability] diagnosis, directly affects his exposure to and participation in and comprehension of grade level standards." Student A's IEP further explains that he needs specialized instruction specifically to make the same progress as his peers.

The Superintendent told OCR that Student A's lower grades in two classes kept him back from the field trip in February 2026. In particular, she explained that his Social Studies grade fell because he received a zero on a test or project. Although the Superintendent said she wished to question the Social Studies teacher about it, that teacher left the District before an inquiry could occur. When asked about the Case Manager's report characterizing Student A's school year as "very successful" despite failing grades below the minimum standards to attend a field trip, the Superintendent said Student A was producing more work than he had in previous years.

### **Applicable Regulatory Standards**

The regulation implementing Section 504 at 34 C.F.R. § 104.4(a) provides that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, be

denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. Title II's implementing regulation contains a similar provision for public entities at 28 C.F.R. § 35.130(a). In addition, the Section 504 implementing regulation provides that a recipient shall not afford a qualified student with a disability an opportunity to participate or benefit from an aid, benefit, or service that is not equal to that afforded others. 34 C.F.R. § 104.4(b)(1)(ii). Under the Section 504 implementing regulation at 34 C.F.R. § 104.4(b)(4)(i), a recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting qualified persons with disabilities to discrimination on the basis of disability. *See also* 28 C.F.R. § 35.130(b)(3)(i). Title II requires that public entities such as the District make reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(7).

The Section 504 regulation, at 34 C.F.R. § 104.33, requires recipients to provide a free appropriate public education (FAPE) to each qualified individual with a disability who is in the recipient's jurisdiction, regardless of the nature or the severity of the person's disability. An appropriate education for purposes of FAPE is defined as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of nondisabled students are met, and that are developed in accordance with procedural requirements set forth in 34 C.F.R. §§ 104.34-104.36 regarding educational setting, evaluation, placement, and procedural safeguards, including notice. Implementation of an IEP developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements.

### **Analysis and Conclusion**

As stated above, the District requested to resolve the allegations in this case prior to OCR's completion of its investigation. OCR finds it appropriate to resolve the allegations because it has identified the following issues that can be addressed through a resolution agreement.

Student A's IEP provided for morning check-ins and afternoon check-outs, executive functioning instruction, and occupational therapy. The District denied that it did not provide these services to Student A, but the produced only a brief summary of the Case Manager's schedule and interactions with Student A. Based on the evidence obtained to date, it appears the District may not have kept logs or other records of the services provided to Student A by the Case Manager. Further, the Case Manager's written narrative of her interactions with Student A did not include a description of the specialized instruction for executive functioning skills even though Student A's IEP emphasized that his executive function needs are critical to meeting his education goals. With respect to the occupational therapy consult, the IEP states that Student A will receive this in the regular education setting, but as written, it is unclear how the information conveyed during the consults will be tracked and relayed to Student A and/or his parents, if appropriate.

With respect to the field trip, the District confirmed that Student A was excluded based on his academic performance in Social Studies and Literature. OCR has concern that Student A's IEP may not have been fully implemented, potentially contributing to failing grades that rendered him ineligible for the field trip in February 2026. The Superintendent clarified that the Case Manager's description of Student A's year as "very successful" referred to increased work production relative to prior years, not academic performance. OCR also has concern that the

District may not have considered whether reasonable modifications of policy, practice, or procedure were necessary to avoid disability discrimination.

On May 13, 2026, the District signed the enclosed Resolution Agreement. The Agreement provides that the District will train staff on the District's obligations under Section 504 and Title II; discuss whether compensatory and/or remedial services, or other changes to the IEP are necessary for Student A; discuss the missed field trip and consider how to address or remedy it; and provide notice to Student A's parents of the outcome of the Team's decisions. When fully implemented, the Agreement will resolve the complaint allegations consistent with the information gathered by OCR during its investigation. OCR will monitor the District's implementation of the Agreement until it is fulfilled. OCR will provide the District with written notice of deficiencies in the implementation of the Agreement, and require action to address such deficiencies. If the District fails to implement the Agreement, OCR will take appropriate action.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR looks forward to receiving the District's first monitoring report by **May 28, 2026**. For questions about implementation of the Agreement, please contact Elisabeth Gusfa, Civil Rights Attorney, who will oversee the monitoring and can be reached by e-mail at [Elisabeth.Gusfa@ed.gov](mailto:Elisabeth.Gusfa@ed.gov). If you have questions about this letter, please contact me by telephone at (216) 522-7640 or by e-mail at [Sacara.Miller@ed.gov](mailto:Sacara.Miller@ed.gov).

Sincerely,

/s/

Sacara E. Miller  
Team Leader

Enclosure