



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

January 12, 2021

Dr. Katie Jenner
Secretary of Education
Indiana Department of Education
South Tower, Suite 600
115 W. Washington Street
Indianapolis, IN 46204

sent via E-mail

Dear Secretary Jenner:

The United States Department of Education (Department), Office for Civil Rights (OCR), hereby informs you that it is initiating a directed investigation of the Indiana Department of Education (the SEA) due to disturbing reports involving the SEA's provision of educational services to children with disabilities during the COVID-19 pandemic. OCR is particularly troubled by reports that the parents of disabled students in Indiana schools have filed multiple complaints with the SEA alleging that disabled students have been forced by local school districts into virtual learning programs that were not individualized to meet those students' unique needs as set out in IEPs or §504 plans, and instead the schools have used "one size fits all" remote learning programs.¹ Accordingly, OCR is concerned that the SEA has failed to provide a "free appropriate public education" (FAPE) to each qualified student with a disability as required by federal law and denied students with disabilities equal access to education.

Pursuant to its regulatory authority set forth in 34 C.F.R. § 104.61², OCR will initiate an investigation whenever a report, complaint, or other information indicates a possible failure to comply with the laws and regulations enforced by OCR.³

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 prohibits discrimination on the basis of disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against public entities, including public elementary and secondary educational institutions.

OCR's directed investigation will examine whether the SEA has excluded qualified persons with disabilities from participation in, deny them the benefits of, or otherwise subject them to discrimination under any program or activity, in violation of the Section 504 and its

¹ See, e.g., <https://www.indystar.com/story/news/local/hamilton-county/education/2020/08/06/coronavirus-indiana-parents-say-hse-didnt-provide-special-education/3302796001/>

² Incorporating the procedural provisions applicable to Title VI of the Civil Rights Act of 1964 found in 34 C.F.R. §§ 100.6-100.10 and 34 C.F.R. Part 101.

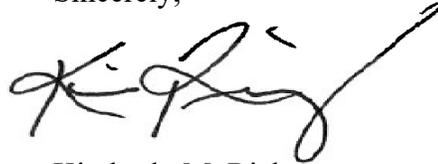
³ See also § 402 of OCR's *Case Processing Manual*: <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>

implementing regulation at 34 C.F.R. § 104.4 and the regulation implementing Title II at 28 C.F.R. § 35.130.

I emphasize that initiating a directed investigation in no way indicates that a violation exists.

The OCR Chicago regional office will conduct this directed investigation. OCR will contact SEA officials within a week of the date of this letter to arrange for the next steps in the investigation, including requesting access to data and personnel. Should you have any questions, please do not hesitate to contact JD Hsin, OCR Senior Counsel, at (202)-453-7901 or jd.hsin@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly M. Richey". The signature is fluid and cursive, with a long, sweeping line extending from the end of the name.

Kimberly M. Richey
Acting Assistant Secretary for Civil Rights