

61 IDELR 174

113 LRP 27916

Palm Springs (CA) Unified School District

Office for Civil Rights, Western Division, San Francisco (California)

09-13-1036

May 3, 2013

Related Index Numbers

[10.030 Discrimination](#)

[200.052 Shortened School Day](#)

[405.030 Discrimination](#)

Case Summary

A California district discriminated against 18- to 22-year-old students in a transition program not only by shortening their school day without evaluating their individual needs, but also by discontinuing mainstreaming opportunities and eliminating their PE class without parent input. OCR found the district could resolve the compliance concerns by taking the steps set forth in a resolution agreement. OCR explained that a student with disability is entitled to the same number of instructional hours as her nondisabled peers unless her IEP team makes an individualized determination that she requires a shortened school day. The fact that the students in the transition program had reached the legal age of majority did not allow the district to unilaterally reduce their instructional hours. "[T]he Section 504 regulations do not suggest that students with disabilities lose their right to equal treatment when they turn 18 years old," OCR wrote. OCR pointed out that the district did not evaluate any of the students in the transition program to determine their need for a shortened school day or PE class. Nor did the district consider the students' ability to participate in mainstream high school activities such as lunch, assemblies, or pep rallies. Instead, the district changed the students' programs based on generalized beliefs about the types of classes and activities that were appropriate for adults. Concluding the district violated Section 504 and Title II, OCR directed the district to restore the full-day transition program, consider each affected students' need for compensatory education, and ensure equal access to programs and activities based on each student's unique needs.

Judge / Administrative Officer

Zachary Pelchat, Team Leader

Full Text

Dear Superintendent Anderson:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed against the Palm Springs Unified School District (District). The Complainant alleged class wide discrimination against students with disabilities in the District's Adult Transition Program (Transition Program). Specifically, the

Complainant alleged the District (1) provides fewer hours of instruction for students with disabilities in the Transition Program than it does for other nondisabled secondary students and (2) reduced the number of hours provided to all students in the Transition Program without conducting individualized assessments.

OCR investigated this complaint under the authority of Section 504 the Rehabilitation Act of 1973 (Section 504) and its implementing regulations. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of Federal financial assistance. OCR also has jurisdiction as a designated agency under Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The District receives Department funds, is a public education system, and is subject to the requirements of Section 504 and Title II.

OCR investigated this complaint by conducting interviews with the Complainant, District administrators and staff, and reviewing documents provided by the District. OCR concluded that the evidence established a violation of Section 504 and Title II. The applicable legal standards, relevant facts gathered during the investigation and the reasons for OCR's determination are summarized below.

I. Legal Standards

Under the Section 504 regulations, at 34 C.F.R. § 104.4(a) and (b), no qualified individual 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. The Title II regulations, at 28 C.F.R. § 35.130(a) and (b), create the same prohibition against disability-based discrimination by public entities. Under 34 C.F.R. § 104.4(b)(1)(ii) and 28 C.F.R. § 35.130(b)(1) a recipient public school system may not, on the basis of disability, afford a qualified disabled individual an opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others.

Under 34 C.F.R. § 104.4(b)(4) a recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that: (i) have the effect of subjecting qualified disabled individuals to discrimination on the basis of disability. The Title II regulations contain a similar provision applicable to public entities, at 28 C.F.R. § 35.130(b)(3).

The Section 504 regulations, at 34 C.F.R. § 104.33, require public school districts to provide a free appropriate public education (FAPE) to all students with disabilities in their jurisdictions. An appropriate education is defined as regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled students are met, and that are developed in accordance with the procedural requirements of §§ 104.34-104.36 pertaining to educational setting, evaluation and placement, and due process protections. Implementation of an individual education program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements. OCR interprets the Title II regulations, at 28 C.F.R. §§

35.103(a) and 35.130(b)(1)(ii) and (iii), to require districts to provide a FAPE at least to the same extent required under the Section 504 regulations.

Under 34 C.F.R. § 104.34(a), a student with a disability must be educated with non-disabled students to the maximum extent appropriate to the needs of the disabled student. School districts must place disabled students in the regular educational environment unless it can be demonstrated that education in the regular setting with the use of supplementary aids and services cannot be achieved satisfactorily. If a school system operates a facility that is identifiable as being for individuals with disabilities, it must ensure that the facility and services and activities are comparable to the other facilities, services and activities of the school system.

II. Factual Findings

Background on District's Transition Program

- The District has four comprehensive high schools: Cathedral City, Desert Hot Springs, Palm Springs and Rancho Mirage. The District has a continuation school and two alternative centers, where students may be enrolled in home school, independent study and other academic programs. The District also provides adult education at the Palm Springs Adult School, where ESL, GED test preparation and other community education classes are offered.

- The District operates its Transition Program for students with disabilities ages 18-22 at the Cathedral City and Desert Hot Springs High Schools. The data provided the District indicates that there are currently 44 students in the Transition Program.

- The District described the Transition Program as a "vocational and community based work experience and training program for students with moderate to severe disabilities." The District stated that the Transition Program is available to students who meet the following criteria:

1) The student has an IEP and a severe cognitive delay that impacts his or her ability to independently function in the community.

2) Due to the student's disability, he or she participated in a high school course of study that will lead to a high school certificate of completion¹, typically a District functional skills class.

3) The student's IEP team agreed that the placement would be beneficial for the student.

4) The student must agree to participate in the program and agree to attend.

- Prior to the 2012-2013 school year, the Transition Program was offered from approximately 8am-3pm at three high schools sites: Cathedral City, Desert Hot Springs and Palm Springs. The 8am-3pm timeframe was consistent with the schedule for the District's traditional and alternative high schools.

- District staff told OCR that, prior to the 2012-2013 school year, a typical day in the Transition Program would be as follows: Transition Program students arrive to school at approximately 8am and take PE as their first period class. From approximately 9am-12pm (including time for

transportation), students would be at community worksites such as retail stores, senior living facilities, the local animal shelter and restaurants. Students returned to their high school campus to eat lunch at 12pm and received classroom or community-based instruction from 1pm-3pm in the afternoon.

Changes to the Transition Program

- The District's Special Education Coordinator (Coordinator) stated that during the 2011-2012 school year, she undertook a review of the District's Transition Program. The Coordinator stated that as a part of her review, she visited other school districts and learned that some transition programs operate from 8am-1pm and that students do not take PE. The Coordinator also visited Transition Program classes in the District. The Coordinator stated that based on her review, she believed the District could meet the Transition Program's goals with an 8am-1pm school day.

- The District subsequently changed the hours, available classes and activities in the Transition Program. In March 2012, the District informed Transition Program staff that beginning in the 2012-2013 school year, the program's hours would be changed to 8am-1pm and that PE would no longer be provided to Transition Program students. The District stated that it eliminated the Transition Program class at Palm Springs High School due to small enrollment and moved its students to the two remaining sites.

- In addition, the District instructed staff that "mainstreaming" with the general high school population was not appropriate for Transition Program students. The examples of "mainstreaming" activities that were no longer allowed included attending assemblies, pep rallies, dances or other extracurricular activities that were not open to the adult general public.

- In April 2012, the District sent a letter to parents of Transition Program students, which stated in pertinent part:

... our district needs to focus on the fact that students in these classes are, in fact, adults receiving education on high school campuses but are not high schools students. Therefore, next year we will be shifting our program to provide a stronger emphasis on the vocational and community domains of our instruction. We will be modifying our day so that the young adults in our [Transition Program] attend school between the hours of 8:00 and 1:00. Previously our students would participate in PE class each morning; however, in order to access more work sites and focus on instruction, this class will no longer be offered to [Transition Program] students. Too, [Transition Program] students will not participate in any high school calendar early release/late start days. This will ensure our [Transition Program] staff is able to organize consistent community and vocational opportunities, focusing on specific activities appropriate to young adults aged 18-22.

- OCR reviewed the IEPs for each Transition Program student. The IEPs indicate that in order to effectuate the program changes, the District revised students' IEPs with an amendment page which stated that the program hours had changed to 8am-1pm and PE was no longer offered. Most of the addendums have a box checked indicating the student's "[p]arent agreed that a meeting is not needed for this amendment." The District did not conduct individualized

assessments regarding whether the new program hours met the individual needs of each affected student. Similarly, the District did not conduct individualized assessments of whether the discontinuation of PE was appropriate for each student.

Impact of Changes to the Transition Program

- As stated above, the Transition Program is currently offered at Cathedral City and Desert Hot Springs High Schools. Each school has two Transition Program classes. One of the Transition Program classrooms at Desert Hot Springs is for the most profoundly disabled students. Students in the "profound" class do not go to community worksites but may work on daily independent living skills in the area surrounding the high school campus, such as crossing the street. District staff clarified that every Transition Program student does not go to a community worksite every day. Rather, students may go to worksites in small groups of three to four and the remaining students stay in the classroom.

- In its initial data response, the District stated that it only eliminated the first period PE class and did not eliminate any core instructional time when it shortened the Transition Program's hours. However, OCR's investigation clarified that PE accounted for 00 minutes of the two hours that were cut from the program and that afternoon instructional time was in fact eliminated as a result of the shortened hours.

- The District also stated that PE remained available for Transition Program students "who qualify for it and demonstrate a need." When OCR asked the District how a Transition Program student would qualify for PE, the District stated that a student could have a "PE assessment." However, the school site staff was completely unaware that PE remained available and did not know how students would demonstrate the requisite need. In addition, this information was not included in the notice sent to parents regarding the Transition Program changes.

- In addition, OCR's investigation established that a wide range of "mainstreaming" activities and classes are no longer available to Transition Program students. For example, Transition Program students are no longer allowed to eat lunch in the cafeteria with general education students, and must stay in their classroom. Participation in elective classes is similarly not allowed. The District stated that these restrictions were appropriate because Transition Program students are adults and that their appropriate chronological peer group is other adults in the community.

III. Analysis Different Treatment

The regulations implementing Section 504 and Title II, at 34 C.F.R. 104.4(b)(1)(ii) and 28 C.F.R. 35.130(b)(1), respectively, prohibit school districts and other public education providers from providing students with disabilities lesser opportunities to participate in, or benefit from, a benefit or service that is provided to nondisabled students. The regulations specify a number of circumstances under which students with disabilities must receive different educational services from those provided to nondisabled students, in order for their individual needs to be met adequately. The provision of unnecessarily different services, however, is discriminatory (see 34 C.F.R. pt 104, Appendix A).

As a matter of equal treatment, students with disabilities may not be provided with inferior facilities, or less qualified teachers than those provided to nondisabled students. For the same reasons, unless an individual determination has been made that a student with disabilities requires a shortened school day, students with disabilities are entitled to a school day that is as long as that provided to their nondisabled peers. Here, the District argues that because Transition Program students are adults, they are not entitled to the same instructional time as nondisabled high school students. Although it is accurate that students in the Transition Program may be older than the typical nondisabled high school students, several factors weigh against the District's position.

First, the Transition Program operates at the District's high schools and is part of its secondary education program. It is not part of the District's Adult Education School. Under the Individuals with Disabilities Education Act, transition services must begin by age 16, when students with disabilities are in high school. And although Transition Program students are chronologically adults, they access the program via the District's obligation to provide a FAPE to students with disabilities until age 22. While a student's individual needs undoubtedly warrant a change in the transition services provided between age 16 and 22, the Section 504 regulations do not suggest that students with disabilities lose their right to equal treatment when they turn 18 years old. Because the Transition Program is part of the District's secondary program, and is provided to students via the District's FAPE obligations, the appropriate comparator for equal treatment purposes is nondisabled students at the secondary level.

In addition, the evidence in this case establishes that there are chronological peers of the Transition Program students at the high school level who receive a full school day. Specifically, students over the age of 18 who are credit deficient may attend the District's continuation school, where classes are offered from 7:45am-2:45pm. In addition to core academic classes, the continuation school also offers students the opportunity to take vocational classes through the Regional Occupation Program. Thus, students at the continuation school are comparable to Transition Program students both in terms of their age and the combination of vocational and instructional services offered through their educational program. Further, under some circumstances nondisabled students above the age of 18 may also continue at a comprehensive high school including students who turn 18 during their senior year and students 18 and above who are credit deficient and choose to remain at the high school to complete their graduation requirements instead of attending the continuation school.

Absent an individualized determination that a Transition Program student needs less than a full school day, equal treatment requires that they have the same opportunity for a full school day as nondisabled high school students. Here, students with disabilities in the Transition Program receive approximately two hours less of instruction time each day than is provided, or available, to their nondisabled peers. Students in the Transition Program have also been categorically restricted from participating in elective classes and extracurricular activities. Based on the above, the preponderance of the evidence supports a conclusion that the District is out of compliance with Section 504 and Title II because it provides disabled students in the Transition Program with less opportunity to participate in and benefit from the District's educational program than it provides to nondisabled students.

FAPE Procedural Requirements

As described above, the Section 504 regulations, at 34 C.F.R. § 104.33, require public school districts to provide a FAPE to all students with disabilities in their jurisdictions. An appropriate education is defined as regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled students are met and that are developed in accordance with the procedural requirements of §§ 104.34-104.36 pertaining to educational setting, evaluation and placement, and due process protections. Under § 104.35(a) of the regulations, the District is required to conduct an evaluation of students prior to making a significant change in placement.

The District's decisions to reduce the program hours by two hours per day and eliminate PE constituted a significant change in placement for which the District was required to follow certain procedural requirements. Prior to reducing the program hours, the District should have convened an IEP meeting for each student to make an individualized determination of its appropriateness and impact, given the needs of the student. However, the District predetermined that all students in the program would receive a shortened day and would no longer take PE or participate in any elective courses. These changes were based on generalized beliefs about the types of classes and activities that are appropriate for adults, not on an individualized assessment of the appropriate services for each student. Although the District provided parents with notification of the program changes in its April 2012 letter and integrated the changes into each student's IEP through an addendum, IEP teams did not assess whether the new program actually provided each student with a FAPE.

For example, with respect to its decision to eliminate PE, the District determined it was categorically inappropriate for Transition Program students to continue with PE because, by the time they reached the Transition Program, they may have already taken PE for four years. The District applied this determination to students without consideration of their individual disability-related needs, eliminating PE even for students who had movement and exercise related goals in their IEPs. Although the District stated that students can continue to take PE if they demonstrate a need for the class, that option was not explained to students or parents and school site staff was uniformly unaware of this possibility.

Similarly, the District based its decision to eliminate elective courses and access to extracurricular activities on the generalized belief that it is inappropriate for adult Transition Program students to interact with minor-age high school students. Again, the District did not consider whether access to certain classes and activities was appropriate for any individual student based on his or her disability-related needs. Rather, the District predetermined that these classes and activities would not be available. OCR also found evidence that the District's decisions in this arena were motivated, at least in part, by concerns about one inappropriate interaction between an adult male Transition Program student and a female high school student. To the extent that the District is concerned about inappropriate fraternization between adult disabled and minor students, it may address those concerns through actions that do not inappropriately segregate all Transition Program students, such as behavior interventions and staff training. However, categorically eliminating access to electives and activities for an entire

class of disabled students is not an appropriate solution to inappropriate behavior by a single student.

Further, the Section 504 regulations, at 34 C.F.R. § 104.34(a), require that students with disabilities must be educated with non-disabled students to the maximum extent appropriate to the needs of the disabled students. OCR notes with concern that as a consequence of the program changes described above, students in the Transition Program are further segregated from other nondisabled students. Depending on the work site calendar, transportation and staff capacity, students may only go to community worksites two or three times a week. As a result of the changes to the program which categorically restricted the class participation options and movement of Transition Program students, and foreclosed their participation in both academic and non-academic activities of the high schools, students who do not go out to a worksite may now spend their entire day segregated in the Transition Program classroom with other disabled students without an individual finding that such isolation is appropriate for them.

Based on above, a preponderance of the evidence supports a conclusion that the District is in violation of Section 504 and Title II based on its failure to make individualized determinations regarding changes to the services provided to students with disabilities in the Transition Program.

IV. Resolution

The enclosed Resolution Agreement (Agreement) commits the District to specific actions and timeframes to ensure Transition Program students are provided with equal educational opportunities, and that decisions regarding the placement and services of students in the Transition Program are made based on an individualized determination of each student's disability and educational needs. Under the Agreement, the District will (1) reinstitute the 8am-3pm school day, or a comparable length of time, for the Transition Program, (2) ensure that access to PE, elective classes and the lunch period is based on individualized determinations regarding a student's disability and educational needs, (3) convene IEP meetings for each student in the program to determine any appropriate make-up services, (4) provide written notification of the program changes to students, parents, legal guardians and staff, and (5) consult with staff to strengthen the afternoon curriculum offered to Transition Program students.

Based on the foregoing, OCR is closing this complaint as of the date of this letter and concurrently notifying the Complainant. This letter is a letter of finding issued by OCR to address an individual OCR case. Letters of finding contain fact-specific investigative findings and dispositions of individual cases. Letters of finding 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.

OCR routinely advises recipients of Federal funds and public educational entities that Federal regulations prohibit intimidation, harassment or retaliation against those filing complaints with OCR and those participating in the complaint resolution process. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

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

If you have questions about this letter, please contact OCR Attorneys Yohance Edwards, at (415) 486-5581, or Kendra Fox-Davis, at (415) 486-5418.

Resolution Agreement Palm Springs Unified School District

The Palm Springs Unified School District (District), without admitting to any violation of state or federal law, agrees to implement this Resolution Agreement (Agreement), in order to resolve the issues investigated by the U.S. Department of Education Office for Civil Rights (OCR) under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) in the above referenced case.

I. Adult Transition Program

a. Beginning in the 2013-2014 school year, the District will reinstitute the 8am-3pm school day, or a school day of comparable length, for the Adult Transition Program (ATP). The District agrees that any decision to provide an ATP student with less than the seven hour school day provided to nondisabled high school students will be made based on an individualized determination of the student's disability and educational needs made by the student's Individualized Education Program (IEP) team.

b. The District agrees that all decisions regarding placement and services for ATP students, including participation in physical education (PE), elective classes and extracurricular activities, will be made based on an individual determination of each student's disability and educational needs. The District will not categorically restrict ATP students from participation in PE, elective classes and extracurricular activities.

c. The District agrees it will make decisions regarding participation in lunch period and access to the cafeteria based on an individual determination of each student's disability and educational needs. The District will not categorically require ATP students to eat lunch in their classrooms during the lunch period. If individual students need specialized services or supervision in order to participate safely in this activity, the District will provide these services based on an individualized determination by the students' IEP teams.

II. Individual Remedies

a. Prior to the beginning of the 2013-2014 school year, the District will convene an IEP meeting for each current ATP student including current ATP students who are scheduled to age out of ATP at the end of the 2012-2013 school year, and will consider and make a determination on the following:

i. The appropriate make-up services to be provided to each student, based on the reduced hours of instruction provided to the student during the 2012-2013 school year. In determining the amount and nature of make-up services to be offered, the placement team must consider, discuss, and document its findings on, at a minimum:

1. the difference between the specific instruction and services provided to the student during the 2012-2013 school year and during previous years;

2. a comparison of the student's level of performance at the beginning of the 2012-2013 school year and at the end of the year, and an assessment of any delays that resulted from the shortened school day; and

3. the student's overall academic and functional needs.

ii. The timeline for providing the make-up services during the Summer 2013 Extended School Year or the 2013-2014 school year; and

iii. Whether the student will participate in PE, elective classes, and/or extracurricular activities during the 2013-2014 school year, and any support or supervision needed to facilitate the student's safe participation in these activities. If after an IEP team member has indicated that he or she believes the student would benefit from an activity mentioned in this paragraph, the IEP team decides that a student will not participate in that activity, the team will document the basis for that determination.

b. The District will provide each ATP student and their parents/legal guardians with written notification which will explain the changes to the ATP program that will be made pursuant to Sections I.a-c of this Agreement and the purpose of the IEP meeting described in Section II.a of this Agreement. The District will provide the necessary translation for the written notification.

c. The District will ensure each student's IEP team includes persons knowledgeable about the student's capacity, prior participation and interest in PE, elective courses, and extracurricular activities.

III. Staff Notification and Professional Development

a. The District will provide written notification to all ATP staff, including teachers, assigned substitute teachers, health paraprofessionals and vocational liaisons explaining that the District has reinstated the 8am-3pm, or a comparable time, school day for the ATP. The notification will also state that ATP students will not be categorically restricted from PE, elective classes, the lunch period and extracurricular activities, and that decisions regarding placement and services for ATP students will be based on individual determination of each student's disability and educational needs.

b. Prior to the end of the 2012-2013 school year, the District will convene a meeting with all ATP staff, including teachers, assigned substitute teachers, health paraprofessionals and vocational liaisons to discuss the curriculum provided in ATP classrooms from 1pm-3pm,

including how the curriculum and instruction provided during this period can meet the goals of the ATP and ensure sufficient IEP implementation for each ATP student.

IV. Reporting

a. By June 16, 2013, the District will provide OCR with verification that it has taken the actions required by Sections I.a-c of this Agreement.

b. By June 9, 2013, the District will provide OCR with a draft of the notifications described in Section II.b and Section III.a of this Agreement. The District will work cooperatively with OCR to address OCR's comments prior to disseminating the notifications. The District will provide OCR with verification that each notification has been disseminated within 10 days of OCR approval.

c. By June 9, 2013, the District will provide verification that it has convened the IEP meetings as described in Section II.a of this Agreement. The verification will include a copy of each student's IEP and a list of students who will receive make up services, including the nature and duration of the services.

d. By June 9, 2013, the District will provide OCR with verification that it convened the meeting with ATP staff described in Section III.b of this Agreement. The verification will include the date of the meeting and a list of staff in attendance.

V. Monitoring

a. The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled its terms and is in compliance with the regulation implementing Section 504, at 34 C.F.R. Part 104, and Title II at 28 C.F.R. Part 35, which were at issue in this case.

b. The District further 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 regulations implementing Section 504, at 34 C.F.R. Part 104, and Title II at 28 C.F.R. Part 35 which were at issue in this case. By signing this Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement.

c. The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) days to cure the alleged breach.

¹Under CA Ed. Code § 56390, students with disabilities who meet certain criteria may be awarded a certificate of completion instead of a high school diploma. Districts are obligated to

continue to provide a FAPE for students ages 18-22 who have received a certificate of completion. District staff interviewed by OCR stated that students in the Transition Program typically receive a high school certificate of attendance at the end of four years in high school and a certificate of completion at age 22 when they exit the Transition Program.

Regulations Cited

34 CFR 104.4(a)
34 CFR 104.4(b)
28 CFR 35.130(a)
28 CFR 35.130(b)
34 CFR 104.4(b)(1)(ii)
28 CFR 35.130(b)(1)
34 CFR 104.4(b)(4)
28 CFR 35.130(b)(3)
34 CFR 104.33
28 CFR 35.103(a)
28 CFR 35.130(b)(1)(ii)
28 CFR 35.130(b)(1)(iii)
34 CFR 104.34(a)
34 CFR 104.35(a)

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