

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
ROCHESTER



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UNITED STATES DISTRICT COURT CLERK
WESTERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
GATES-CHILI CENTRAL SCHOOL)
DISTRICT,)
)
Defendant.)

15 CV 6583 CJS

Civil Action No. _____

COMPLAINT

The United States of America, by its undersigned attorneys, hereby files this Complaint, and alleges the following upon information and belief:

1. The United States brings this action against the Gates-Chili Central School District ("District") for violation of Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131-12134, and the Title II implementing regulation, 28 C.F.R. Part 35, by failing to reasonably modify its policies, practices, or procedures to permit a student, D.P., to bring her service dog ("Service Dog") to school unless accompanied by a separate, full-time, adult handler ("Handler") provided by D.P.'s mother (the "Parent"). 42 U.S.C. § 12132; 28 C.F.R. § 35.136(a).

2. Congress enacted the ADA in 1990 "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities[.]" 42 U.S.C. § 12101(b)(1). In so doing, Congress found that the forms of discrimination encountered by individuals with disabilities include "the discriminatory effects of overprotective rules and

policies” and the “failure to make modifications to existing facilities and practices.” *Id.* § 12101(a)(5). The ADA’s mandate that a public entity, such as a public school or school district, modify its policies, practices, and procedures to permit the use of a service animal by a student with a disability furthers the ADA’s overarching goals of ensuring equal opportunity, full participation, and independence for individuals with disabilities. *See id.* § 12101(a)(7); 28 C.F.R. § 35.136(a).

JURISDICTION and VENUE

3. This Court has jurisdiction over this action under Title II of the ADA, 42 U.S.C. § 12133, and 28 U.S.C. §§ 1331 and 1345, because it involves claims arising under federal law and is hereby commenced by the United States.

4. The Court may grant the relief sought in this action pursuant to 28 U.S.C. §§ 2201-2202 and 42 U.S.C. § 12133.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because: (1) the Defendant District is located and operates in the Western District of New York, and (2) a substantial part of the events or omissions giving rise to the claims occurred in the Western District of New York. 28 U.S.C. § 1391.

PARTIES

6. Plaintiff is the United States of America.

7. Defendant, Gates-Chili Central School District, along with its respective departments, agencies, and other instrumentalities, is a “public entity” within the meaning of 42 U.S.C. § 12131(1) and 28 C.F.R. § 35.104, and is therefore subject to Title II of the ADA, 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35.