



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

March 4, 2015

IN RESPONSE, PLEASE REFER TO: 03141201

Dr. Gregory E. Thornton
Chief Executive Officer
Baltimore City Public Schools
200 E. North Avenue
Room 405
Baltimore, MD 21202

Dear Dr. Thornton:

This is to notify you of the resolution of the complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), against Baltimore City Public Schools (the District). The Complainant, XXXXXX, alleged that the District discriminated against XXXXXX, (the Student), on the basis of disability. Specifically, she alleged that the District failed to appropriately respond to her XXXXXXXX request to hold an IEP team meeting to discuss the Student's placement at the XXXXXX.

OCR enforces:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. Section 504 also prohibits retaliation.
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities. Title II also prohibits retaliation.

As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to Section 504, and Title II, and their implementing regulations. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

The regulation implementing Section 504 at 34 C.F.R. § 104.35(a) requires that the District evaluate a student who, because of disability, is believed to need special education and/or related aids and services before that student's initial placement or before a significant change in placement. 34 C.F.R. § 104.35(c) requires the District to implement a process to interpret the evaluation data and determine and then deliver an appropriate education. The District uses the IEP process for this purpose. OCR interprets Title II regulations as requiring a free appropriate public education to the same extent as the Section 504 requirements.

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 on disability, be excluded from participation in, be denied the

benefits of, or otherwise subjected to discrimination under any program or activity which receives Federal financial assistance. The regulation implementing Section 504, at 34 C.F.R. § 104.4(b)(1)(i), provides that no qualified individual with a disability shall, on the basis of disability, be denied the opportunity to participate in or benefit from an aid or service. The regulation at 34 C.F.R. § 104.4(b)(1)(ii) provides that a recipient shall not, on the basis of disability, afford a qualified individual with a disability an opportunity to participate in or benefit from an aid, benefit or service that is not equal to that afforded others. The Title II regulation, at 28 C.F.R. § 35.130(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

Under OCR procedures, a complaint or an allegation may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a resolution agreement. The provisions of the resolution agreement must be aligned with the complaint allegations and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the District, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the District requested to resolve the complaint through a Resolution Agreement. On March 2, 2015, the District signed this Agreement. As is our standard practice, OCR will monitor the District's implementation of the Agreement, a copy of which is enclosed. Accordingly, OCR is concluding its investigation of this complaint effective the date of this letter.

This concludes OCR's investigation of this complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. 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 the right to file a private suit in federal court, whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

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

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact Andrea DelMonte, Team Attorney, at (215) 656-8554, or by email at andrea.delmonte@ed.gov.

Sincerely,

/s/

Melissa M. Corbin
Team Leader

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Enclosure

cc: Darnell Henderson, Esquire