



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGIN

December 4, 2015

IN RESPONSE, PLEASE REFER TO DOCKET #03151230

Dr. Kevin M. Maxwell
Chief Executive Officer
Prince George's County Public Schools
Sasscer Administration Building
14201 School Lane
Upper Marlboro, MD 20772

Dear Dr. Maxwell:

This is to notify you of the resolution of the complaint that was filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the against Prince George's County Public Schools (the District) alleging discrimination on the basis of disability. The Complainant alleged that the District discriminated against XXXXXX (the Student), on the basis of disability XXXXXX, by failing to implement the provision of his Section 504 Plan requiring XXXXXX.¹

OCR enforces:

- Section 504 of the Rehabilitation Act of 1973, 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.
- Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulation at 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities such as elementary and secondary education systems.

Because the District receives Federal financial assistance from the Department and is a public entity, the District is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

OCR applies a preponderance of the evidence standard to determine whether the evidence is sufficient to support a particular conclusion. Specifically, OCR examines the evidence in support of and against a particular conclusion to determine whether the greater weight of the

¹ XXXXXX

evidence supports the conclusion or whether the evidence is insufficient to support the conclusion.

OCR considered information provided by the Complainant and the District. Additionally, OCR conducted interviews of the Complainant and District personnel. Based on the information obtained by OCR during its investigation, OCR has determined that there is sufficient evidence to support the Complainant's allegation.

Legal Standards

The regulation implementing Section 504 at 34 C.F.R. § 104.33 requires public school districts to provide a free and appropriate 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 a student with disabilities as adequately as the need of non-disabled students are met, and that are developed in accordance with the procedural requirements of subsections 104.35-104.36 pertaining to evaluation and placement and due process protections. Implementation of an individualized education program developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one mean of meeting these requirements. OCR interprets the Title II regulations at 28 C.F.R. §§ 35.130(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.

The regulation implementing Section 504 at 34 C.F.R. §§104.4(a), (b)(1)(i), (ii) and (vii), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance. A recipient, in providing any aid, benefit, or service, may not, on the basis of disability, deny a qualified person with a disability the opportunity to participate in or benefit from an aid, benefit, or service; afford a qualified person with a disability the opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others; or otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

Section 504 and the ADA have equivalent standards. Title II is interpreted as adopting the standards of Section 504 in areas where Title II has not adopted a different standard.

Factual Background

x – paragraphs redacted – x

Analysis and Conclusion

XXXXXX. The District's failure to properly implement the Student's Section 504 Plan on December 15, 2014 denied him a FAPE under Section 504 and Title II of the ADA. Accordingly, OCR's investigation substantiated the Complainant's allegation that the Student XXXXXX.

To remedy this violation, the District entered into a Voluntary Resolution Agreement with OCR on December 4, 2015. A copy of the signed Agreement is enclosed. When fully implemented,

the resolution agreement will address all of OCR's compliance concerns. Accordingly, OCR is concluding its investigation of this complaint. As is our standard practice, OCR will monitor the implementation of the agreement until the District is in compliance with the statute(s) and regulations at issue in the case.

This concludes OCR's investigation of the complaint. This letter is not intended, nor should it be construed, to cover any other issues regarding the District's compliance with Section 504 or Title II, and their implementing regulations other than those addressed in this letter. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

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 with this matter. If you have any questions, please contact Beverly Johnson, Investigator, at 215-656-8581 or Beverly.Johnson@ed.gov.

Sincerely,

/s/

Vicki Piel
Team Leader/Supervisory Attorney
Philadelphia Office

Enclosure

Cc: Gail Veins, Prince George's County Office of General Counsel (via email only w/encl.)