



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

March 12, 2014

Dr. John Stewart
Interim Superintendent
Polk County School District
P. O. Box 391
Bartow, Florida 33831

Re: Complaint #04-13-1281

Dear Dr. Stewart:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint filed on April 15, 2013, against the Polk County School District (District). The Complainant alleged that the District discriminated against the Student, on the basis of disability, by subjecting him to a change in placement and failing to implement his Individualized Education Plan (IEP) at Stambaugh Middle School (School) during the 2012-13 school year, thereby denying him a free appropriate public education (FAPE).

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

Based on the allegations, OCR investigated the following issue:

- Whether the District denied the Student a FAPE during the 2012-13 school year, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.33(a) and (b)(1) and 104.35, and the Title II implementing regulation at 28 C.F.R. § 35.130.

During the course of OCR's investigation of this complaint, the District offered to resolve this complaint through a voluntary resolution agreement. Pursuant to Section 302 of OCR's Case Processing Manual (CPM) a complaint may be resolved when, before the conclusion of an investigation, the recipient requests to resolve the complaint. Based on the foregoing, OCR accepted the District's request to resolve this complaint and the District entered into the enclosed Resolution Agreement (Agreement), which when fully implemented, will resolve the issue in this complaint.

OCR will monitor the District's implementation of the Agreement resolving this complaint to ensure that it is fully implemented. If the District fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II. Also, the Complainant may file a private lawsuit in federal court regardless of whether OCR finds a violation.

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

Intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces or because one has made a complaint or participated in any manner in an investigation in connection with a complaint.

This concludes OCR's consideration of this complaint, which we are closing effective the date of this letter. Thank you for your cooperation during this matter. If you have any questions regarding this complaint, please contact Ms. Lisa Murfree, Investigator, at (404) 974-9390 or Mr. Arthur Manigault, Compliance Team Leader, at (404) 974-9376.

Sincerely,

Cynthia G. Pierre, Ph.D.
Regional Director

Enclosure