



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

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ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
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February 7, 2014

Mr. XXX
Superintendent
Paulding County School District
3236 Atlanta Highway
Dallas, Georgia 30132

Complaint #04-13-1367

Dear Mr. XXX:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed by XXX (Complainant) against Paulding County School District (District) on June 14, 2013, alleging that the District discriminated against his son, XXX, (Student) on the basis of disability. Specifically, the Complainant alleged that the District failed to implement the Student's Individualized Education Plan (IEP) by failing to provide him with accommodations for a written statement he made after witnessing a fight on May 2, 2012. The Complainant also alleged that the Student was harassed on the basis of disability by one of the students involved in the fight when he put brass knuckles in the Student's book bag and threatened to shoot him if he told anyone, and after the Complainant reported the incident, the District failed to investigate, resulting in the Student's expulsion and placement in alternative school.

As a recipient of Federal financial assistance from the Department, the District is subject to the provisions of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. Section 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability. As a public entity, the District is subject to Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability. Accordingly, OCR has jurisdiction over this complaint.

OCR began an investigation of the following legal issues:

1. Whether the District denied the Student a free appropriate public education (FAPE) by failing to implement provisions of the Student's IEP, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.33(a) and (b) and the Title II implementing regulation at 28 C.F.R. § 35.130; and
2. Whether the District subjected the Student to a hostile environment on the basis of disability, when another student put brass knuckles in his book bag and threatened to shoot him, and the District failed to respond and take action reasonably calculated to stop

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the harassment, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b) and the Title II implementing regulation at 28 C.F.R. § 35.130(a) and (b).

During OCR's investigation of this complaint, the District offered to resolve the Complainant's allegations. Pursuant to OCR's procedures, 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 University entered into the enclosed Resolution Agreement (Agreement), which when fully implemented, will resolve the issues in this complaint.

OCR will monitor the District's implementation of this Agreement 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.

This concludes OCR's investigation of the 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 duly authorized OCR officials 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. The Complainant may have the right to file a private suit in federal court whether or not 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 provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

This concludes OCR's consideration of this complaint, which we are closing effective the date of this letter. If you have any questions regarding this matter, please contact XXX at (404) 974-XXX, or XXX, Acting Compliance Team Leader, at (404) 974-XXX.

Sincerely,

Cynthia G. Pierre, Ph.D.
Regional Director