



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

61 Forsyth St., Suite 19T10
ATLANTA, GA 30303

REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

October 31, 2014

Mr. E. Wayne Gent
Palm Beach County School District
Fulton-Holland Educational Services Center
3300 Forest Hill Boulevard
West Palm, Florida 33406

Re: Complaint #04-14-1560

Dear Mr. Gent:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint filed on May 6, 2014, against the Palm Beach County School District (District), alleging discrimination on the basis of disability. Specifically, the Complainant alleged that that District's age eligibility requirement for middle school athletics discriminates against students with disabilities by denying them an equal opportunity to participate in athletics.

OCR accepted this complaint for investigation because the allegations fall within the jurisdiction of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; 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 at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

OCR, therefore, opened the following issue for investigation:

- Whether the District's age eligibility requirement for middle school athletics discriminates against students with disabilities by denying them an equal opportunity to participate in athletics, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.37 (a) and (c), and the Title II implementing regulation at 28 C.F.R. § 35.130 (a) and (b).

During the course of OCR's investigation of this complaint, the District offered to resolve the 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, which when fully implemented, will resolve the issue in this complaint.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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. Further, 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. If you have any questions regarding this complaint, please contact Mr. Brandon Washington, Investigator, at (404) 974-9442, or Mr. Arthur Manigault, Compliance Team Leader, at (404) 974-9376.

Sincerely,

s/

Cynthia G. Pierre, Ph.D.
Director, Atlanta Office
Office for Civil Rights

Enclosure