



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

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

REGION IV  
ALABAMA  
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TENNESSEE

Dr. Elizabeth Swinford  
Superintendent  
Tuscaloosa County School District  
P.O. Box 2568  
Tuscaloosa, Alabama 35403

RE: Complaint #04-14-1649

Dear Dr. Swinford:

The U.S. Department of Education, Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint, filed on June 27, 2014, by the Alabama Disabilities Advocacy Program (Complainant), alleging discrimination on the basis of disability against Tuscaloosa County School District (District).

Specifically, the Complainant alleged the following:

1. The District failed to timely evaluate the Student for Section 504 services; and
2. The District failed to provide the Student and similarly-situated students with a Free Appropriate Public Education (FAPE) by failing to provide individualized determinations of Homebound educational services.

OCR investigated the complaint pursuant to 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; and Title II of the Americans with Disabilities Act of 1990, 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.

During its investigation, OCR investigated the following legal issues:

1. Whether the District failed to provide the Student with a free appropriate public education (FAPE) when it failed to timely evaluate him for Section 504 services, in noncompliance with the Section 504 implementing regulations, at 34 C.F.R. §§ 104.33 and 104.35, and the Title II implementing regulation, at 28 C.F.R. § 35.130; and,
2. Whether the District failed to provide the Student and similarly-situated students with disabilities with a FAPE by failing to provide individualized determinations of Homebound educational services, in noncompliance with the Section 504 implementing

regulation, at 34 C.F.R. §§ 104.33 and 104.35, and the Title II implementing regulation, at 28 C.F.R. § 35.130.

Prior to the completion of OCR's investigation, the District requested to voluntarily resolve this complaint. Pursuant to Section 302 of OCR's Case Processing Manual, a complaint may be resolved when, before the conclusion of an investigation, the recipient or public entity expresses an interest in resolving the complaint. The attached Resolution Agreement (Agreement) will require the District to take actions to remedy the compliance concerns raised by the above legal issues.

On December 19, 2014, OCR received the enclosed signed Agreement that, when fully implemented, will resolve the 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. The Complainant may file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, 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. If OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions about this letter, please contact Annie Simmons, at (404) 974-9463, or me at (404) 974-9354.

Sincerely,

Scott R. Sausser, Esq.  
Compliance Team Leader

Enclosure