



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

Mr. Michael Thurmond
Superintendent
DeKalb County School District
1701 Mountain Industrial Blvd
Stone Mountain, Georgia 30083

Re: Complaint #04-14-1747

Dear Mr. Thurmond:

The U.S. Department of Education, Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint, filed on September 12, 2014, against the DeKalb County School District (District) alleging discrimination on the basis of disability.

Specifically, the Complainant alleged that the District discriminated against his son, (Student), a student at Arabia Mountain High School, as follows:

1. By failing to consider all of the Student's applicable medical documentation at the Student's manifestation determination meeting (MDT), which was held on September 4, 2014, resulting in the MDT determining that the Student's misbehavior on August 19, 2014, was not a manifestation of the Student's disability.
2. By charging the Student with the offense of 7C Battery arising out of the incident on August 19, 2014.

OCR is responsible for enforcing 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. OCR is also responsible for enforcing 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. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to the provisions of Section 504 and Title II.

During its investigation, OCR investigated the following legal issues:

1. Whether the District discriminated against the Student on the basis of disability by failing to consider and review relevant information at the Student's MDT meeting on September 4, 2014, in noncompliance with the Section 504 implementing regulations, at 34 C.F.R. §§ 104.35, and the Title II implementing regulation, at 28 C.F.R. § 35.130.

2. Whether the District discriminated against the Student on the basis of disability by charging him with Battery in noncompliance with the Section 504 implementing regulations, at 34 C.F.R. §§ 104.4, 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.

On March 18, 2015, OCR received the enclosed signed Agreement that, when fully implemented, will resolve the complaint. OCR will monitor the District's implementation of this Agreement until the District is in compliance with the statutes and regulations at issue in the case. 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 have a right to 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. 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.

If you have any questions about this letter, please contact Annie Simmons, at (404) 974-9463, or, April England-Albright at (404) 974-9408.

Sincerely,

Deborah Floyd, Esq.
Acting Office Director

Enclosure