



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200  
SAN FRANCISCO, CA 94105

REGION IX  
CALIFORNIA

March 7, 2016

Mr. Rick Fauss  
Superintendent  
Redding School District  
5885 East Bonnyview Road  
Redding, California 96001

(In reply, please refer to case no. 09-15-1224.)

Dear Superintendent Fauss:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against Redding School District (District). The complainant alleged that the District discriminated against her daughter (Student) on the basis of disability. Specifically, OCR investigated:

1. Whether the Student<sup>1</sup> was subjected to harassment by other students on the basis of disability, and whether the District failed to respond appropriately and effectively to notice of the harassment; and
2. Whether the District failed to consider if amendments to the Student's Section 504 plan were necessary to address changes to the Student's disabilities and bullying that could affect the Student's ability to receive a Free and Appropriate Public Education (FAPE).

OCR investigated the complaint pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504) 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, as amended (Title II) and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The District is a recipient of Federal financial assistance from the Department and a public entity. Therefore, OCR has jurisdiction over this complaint.

OCR gathered evidence through interviews with the Student's mother (complainant), the Student and District staff, and reviewed documents and correspondence provided by the complainant and the District. Based on the information obtained, OCR found sufficient evidence of noncompliance with Section 504 and Title II with respect to the issues investigated in this case. The applicable legal standards, the facts obtained during the investigation, and the reasons for our determination are summarized below.

OCR's investigation showed the following:

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<sup>1</sup> OCR notified the District of the Student's name at the beginning of the investigation. OCR is withholding the Student's name from this letter to protect the Student's privacy.

### Background

- The Student was enrolled in the XXXXXX grade at a school in the District (School) during the 2014-2015 school year. She qualified for special education and related services under a Section 504 plan based on several disabilities. The Student has a chronic health condition, and her Section 504 plan stated that she missed a significant number of days of school due to her health condition and medical appointments. Her accommodations included timeouts when she needed to gain composure and an “anytime pass,” which allowed her to visit the XXXXXX grade Team Leader’s office to refocus.
- The School Principal told OCR that the Student’s disabilities impacted her attendance, and that her Section 504 plan allowed her additional time to complete assignments if absent from school.
- Starting in August 2014 and continuing through May 2015, the complainant notified the School on several occasions that she believed that the Student’s peers had harassed her in school and on social media due to her disabilities.

### August Reports & Response

- On August XX, 2014, the complainant e-mailed the Principal and asked for a meeting to review the Student’s Section 504 plan to ensure that it reflected her needs for the current school year, including with respect to class scheduling. The complainant stated, “...we had a traumatic event at school at the beginning of last year and [I] am working to avoid anything like that again this year.” On the same day, the Principal responded to the complainant’s e-mail, agreed to meet, and stated that the Student’s needs would be accommodated in her Section 504 plan; the complainant told OCR that her initial concerns as relayed on August XX, 2014 were effectively and timely addressed by the School.
- On August XX, 2014, the complainant notified the Principal by e-mail that the Student had been hospitalized, and informed her that there were rumors circulating on social media about the Student’s whereabouts.
- On August XX, 2014, the complainant sent a follow-up e-mail to the Team Leader reiterating that “a big rumor mill” was circulating on social media as to the Student’s whereabouts while she was hospitalized. These rumors included an Instagram picture of the Student with the word “missing” on it, and speculation about where she was since she was not at school. The complainant stressed that the Student’s safety upon returning to school was very important, and she asked to meet with the Team Leader and the Principal regarding a safety plan for the Student.
- The Principal told OCR that because she did not know which students were involved, the School did not conduct an investigation into the alleged rumors or take any steps to address any potential effects of the possible harassment on the Student.

- She also told OCR that the School had decided to take a broad approach regarding bullying on social networking sites, which included the development of a Positive Action Committee in the fall 2014 semester to highlight a positive character trait each month, and a school rally, which emphasized a positive school culture and the power of teamwork at the end of October, which was designated as Bully Awareness month.
- In addition, the Team Leader visited classrooms twice during the fall 2014 semester to review the School's behavior expectations. The District provided a copy of the presentation to OCR. While the presentation did include slides on bullying and harassment, including cyberbullying, racial harassment, and sexual harassment, it focused primarily on disciplinary consequences for students. It did not provide students with guidance about how to report harassment, or the remedies or support available to students who either participated in or were subject to harassment. The Team Leader told OCR that the presentation did not include any information on disability harassment, or on the procedures for reporting harassing behavior to an adult.

### February Reports & Response

- In mid-February, 2015, the Student returned to school after being hospitalized. The Student told OCR that the transition back to school was difficult. She explained that a lot of people did not want to be friends with her because she was too sad, that someone held up her arm at school, showed it to her peers and said, "What have you been doing this weekend?", and that students had called her names, but she was not comfortable sharing the specifics. The Student subsequently went to see a counselor (Counselor). She told OCR that because everyone was talking about her, she could not take it anymore and did not want to be at school due to the statements being made by her peers.
- The complainant told OCR that the student who had held up the Student's arm made another comment on the same day in front of the class, when the Student asked to leave the classroom to take her medication, which resulted in the class laughing at her and the Student subsequently calling her mother to be picked up from school.
- Before meeting with the Counselor, the Student met with the Team Leader. The Student expressed, among other things, that a smaller group of friends stated that they needed space from the Student and that she was "too much drama." The Student asked the Team Leader not to discuss her concerns with the other students. The Team Leader told the Student he would honor the request, but later spoke to one of the Students (Student 2). The Team Leader told OCR that he told Student 2 that the Student had experienced "a lot", and that while she had a right to have "space", the School needed to ensure that individuals were not saying negative things to make her feel worse than she already did. Among other things, the Team Leader reported that Student 2 informed him that she needed "space" from the Student because Student 2's mother had told her to keep her distance.

- The Counselor confirmed that the Student had come to see her on February XX, 2015, a few days after the Student's visit to the Team Leader. The Student stated that she had not felt warmly welcomed when she returned to school. She stated that some of her closest friends had become distant, and that she had heard that their parents had told them to stop being friends with her. She also stated that she walked past several girls when one of them grabbed her arm, which had cut marks on it, and showed it to the class. As a result, the Student refused to return to classes for the remainder of the day.
- The Counselor reported that the complainant was concerned when she picked the Student up from the Counselor's office. The complainant asked the Counselor to look into the matter as soon as possible. She also notified the Counselor of her intention to withdraw the Student from the School and enroll her in a neighboring district (District 2).
- The Counselor stated that she and the Team Leader responded to the incident the following day. The Counselor stated that she was only aware of the name of one student who had participated in the aforementioned incident. She stated that she did not speak with that student, as she did not have a rapport with XXX grade students. She also stated that she did not report back to the complainant about the School's response.

#### School Withdrawal

- On February XX, 2015, the complainant e-mailed School staff to again request a meeting to review the Student's Section 504 plan. In her e-mail, the complainant stated, "Due to the environment being such that [the Student] can't attend school there, she will be out until the meeting takes place."
- On the same day, a District administrator notified the Principal and the Team Leader that she had received a call from District 2 regarding an interdistrict transfer from the Student to District 2. In addition, the School Registrar (Registrar) received verbal notification from the complainant that the complainant was either going to enroll the Student in District 2 or was requesting that she be placed on home and hospital and receive the services of a home and hospital teacher from the District. The complainant also notified the Principal via e-mail that she would bring in a doctor's note for home and hospital for the Student. Based on these communications, the School immediately withdrew the Student from the District effective February XX, 2015. The complainant was not notified that the Student had been withdrawn until March X, 2015.
- On February XX, 2015, District 2 denied the Student's request for enrollment but stated that the Student might be accepted if the services on her Section 504 plan were reduced. The complainant requested a Section 504 meeting, in part, to address this concern.
- On February XX, 2015, the Team Leader and Counselor met with the complainant. They told her that the School could not hold a Section 504 meeting for the Student

because the Student was leaving the District, and District 2 would consider any revisions to the Student's Section 504 plan, if she was accepted.

- On or about February XX, 2015, the School received a doctor's note from the complainant, which recommended home and hospital for the Student. On February XX, 2015, the School sent a form for the parent to fill out to formally request that the Student be placed on home and hospital instruction.
- On March X, 2015, the complainant e-mailed the School and expressed dismay that the School would not revise the Student's Section 504 plan. She stated that she had requested a meeting for the Student for two reasons: 1) "to set up a plan that would provide her more protection both for her emotional well-being and academics"; and 2) to ensure that the plan "better reflect[ed] her current situation, with the input of people who know her best, if after home hospital she felt that she needed to go to another school to be able to do her best and get by day to day."
- The complainant reiterated that after the Student's hospitalization in February, "she returned to school to even more bullying and harassment specifically due to her depression." She added that following the incident when a student grabbed the Student's arm to show the cut marks "inflicted as a result of her depression/anxiety", the Student "was unable to return to school due to stress, anxiety and depression." For these reasons, the Student's doctor recommended placement on "home and hospital to avoid further emotional trauma." She added that she had not "seen or been made aware of any specific actions to deal with and address the bullying taking place." She reminded the School that the Student was still enrolled in the District.
- On March X, 2015, the complainant was informed that District 2 had again denied her request for an interdistrict transfer.
- On March X, 2015, the Principal replied to the complainant's e-mail, apologizing for the failed communication, and stating that it was her understanding that the Student had withdrawn from the District on February XX, 2015. She stated that the District had received a doctor's note on February XX, 2015 for home and hospital, but that the District needed additional paperwork before home and hospital could begin. Upon receipt of the paperwork, the Principal stated that the District was willing to proceed with home and hospital, as well as hold a meeting to discuss the Student's Section 504 plan accommodations in a classroom setting. The Principal provided a proposed date of March XX, 2015 for the Section 504 meeting.
- The Student ultimately enrolled in home and hospital on March XX, 2015, and began home and hospital instruction on March XX, 2015.

#### Truancy Notifications

- The District sent the complainant and the Student a notification of truancy, dated November XX, 2014, in response to the Student's excessive absences; and a second

notification of excessive absences, dated February XX, 2015. The first notification asked the complainant to call the School and discuss the Student's attendance. The second notification also asked the complainant to call the School and schedule an appointment to discuss.

- The Principal and Team Leader told OCR that the letters were issued in error. The Team Leader stated that such letters were generated automatically and students with disabilities who missed school for reasons related to their disability should not receive them. He stated that the fact that the Student mistakenly received the letters was an oversight on his part.

#### Instructional Loss & Compensatory Education

- The Principal told OCR that the Student had not received any compensatory education services to account for the period of time between February XX, 2015 and March XX, 2015, during which she did not receive instruction.
- On April XX, 2015, the complainant e-mailed the Principal and the Team Leader and expressed concern that the Student was receiving failing grades, and that the grades, in part, covered a period of time during which “she was not given any school work to complete and you had her unenrolled from [the School].” The complainant also noted that some of the assignments covered a period of time during which she was out of school on medical leave, and that her Section 504 plan entitled her to additional time on assignments, and inquired whether her grades could be changed.
- The Team Leader responded the same day and stated that he had met with the Instructor and the Registrar, that they had revised the third quarter grades to include “incomplete” designations, and that the Instructor would be responsible for posting the fourth quarter grades.

#### May Reports & Response

- On May XX, 2015, the Instructor e-mailed the Principal and the Team Leader to report that the complainant had called to let her know that the Student was “in the middle of a crisis” and on the way to the hospital. The complainant e-mailed both staff members the same day to report that students on campus were circulating rumors on social media alleging that the Student was using drugs.
- The District reported that the School Vice Principal interviewed four students, but did not interview the Student or collect a written statement from her or on her behalf as Student was unavailable. The students reported that the Student had posted a picture of herself lying in a hospital bed on Instagram, and that they had been told either through other students on social media or through interactions with the Student, that she had started cutting herself, that she was going to be hospitalized for an extended period of time, that she was trying to kill herself, and that she was using drugs.

- As part of the investigation, the Vice Principal completed a form (Form) titled “Harassment/bullying Investigation and Intervention Planning.” Under the section “Follow-Up Actions and Interventions,” she wrote that she had reminded students interviewed of the School’s THINK poster posted on campus regarding speech, text and social media (*T is it True, H is it Helpful, I is it Inspiring?, N is it Necessary?, K is it Kind?*), spoken with them “regarding the impact of speech/text/social media,” as well as the “fragile nature of the victim and minding their own business.” Under the same section, the Vice Principal classified this incident as a Tier 1 incident, which was the lowest-level incident, checked the box next to the words “no follow up or interventions needed.” She wrote:

All communication between the victim and the harasser(s) happened off campus, outside of school hours. Interviews of students did not reveal corroboration or direct guilt of one person. Those interviewed are part of a social group with a history of on[going] changes in allegi[a]nces. The victim is not a student on-campus.

- The Form had been recently implemented by the School after a training that the Counselor attended to address incidents of bullying or harassment.
- On May XX, 2015, the complainant e-mailed the Instructor, Team Leader and Principal to notify them that the Student had returned home but would soon be going to another treatment facility. The complainant told OCR that the Student spent approximately one month in a long-term facility during the summer of 2015. She enrolled in the XXXXX grade in another school district at the beginning of the 2015-2016 school year.
- The Principal did not describe any additional actions taken by the School to address or resolve the allegations of harassment after the reported incidents in August 2014, February 2015 or May 2015. Nor did she describe any remedies for the Student. The Principal also told OCR that for confidentiality reasons, the School typically did not let parents see any written notice of outcome or any steps taken with respect to other students who may be involved in the bullying or harassment.
- The Principal told OCR that while School staff had received behavioral intervention training, they had not received any training on discriminatory harassment or conducting investigations into allegations of discriminatory harassment. She stated that teachers had been informed to contact a Team Leader if they learned of potential bullying or harassment.

#### Policies and Procedures

- The Uniform Complaint Procedure (UCP), Administrative Regulation 1312.3, is used to resolve any complaints of alleged unlawful discrimination, harassment, bullying, and intimidation based on physical or mental disability, among other protected categories, that are filed in the District. The *2014-15 Annual Notification to Parents and Guardians* also notifies parents that the District follows the UCP when addressing such complaints.

- The District also has a bullying policy, Board Policy 5131.2, which includes statements on bullying prevention, non-discrimination, cyberbullying, and intervention. This policy states: “Complaints of bullying shall be investigated and resolved in accordance with the District’s uniform complaint procedures specified in AR 1312.3.”
- Regarding off-campus bullying, the Board Policy states:

When a student is reported to be engaging in bullying off campus, the Superintendent or designee shall investigate and document the activity and shall identify specific facts or circumstances that explain the impact or potential impact on school activity, school attendance or the targeted student’s educational performance.
- OCR also reviewed the School’s Student Handbook (Handbook), which included information about and examples of what constitutes racial harassment and sexual harassment. Both the Team Leader and Principal told OCR, and OCR confirmed, that there is no information about disability harassment in the Handbook.

*Issue 1: Whether the Student was subjected to harassment by other students on the basis of disability, and whether the District failed to respond appropriately and effectively to notice of the harassment.*

### Legal Standard

The regulations implementing Section 504, at 34 C.F.R. §104.4(a) and (b), prohibit discrimination based on disability by recipients of Federal financial assistance. The Title II regulations, at 28 C.F.R. §35.130(a) and (b), create the same prohibition against disability-based discrimination by public entities. School districts are responsible under Section 504, Title II and the regulations for providing students with a nondiscriminatory educational environment. Harassment of a student based on disability can result in the denial or limitation of the student’s ability to participate in or receive education benefits, services, or opportunities.

Under Section 504, Title II, and the regulations, once a school district has notice of possible disability-based harassment between students, it is responsible for determining what occurred and responding appropriately. The district is not responsible for the actions of a harassing student, but rather for its own discrimination in failing to respond adequately. A school district may violate Section 504, Title II and the regulations if: (1) the harassing conduct is sufficiently serious to deny or limit the student’s ability to participate in or benefit from the educational program; (2) the district knew or reasonably should have known about the harassment; and (3) the district fails to take appropriate responsive action. These steps are the district’s responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action.



OCR evaluates the appropriateness of the responsive action by assessing whether it was prompt, thorough, and effective. What constitutes a reasonable response to harassment will differ depending upon the circumstances. However, in all cases the district must promptly conduct an impartial inquiry designed to reliably determine what occurred. The response must be tailored to stop the harassment, eliminate the hostile environment, and remedy the effects of the harassment on the student who was harassed. The district must also take steps to prevent the harassment from recurring. In addition, the process must ensure that the parties are provided notice of the outcome of the complaint.

In determining whether a hostile environment based on disability has been created, OCR evaluates whether or not the conduct was sufficiently serious to deny or limit the student's ability to participate in or benefit from the district's program. OCR examines all the circumstances, including: the type of harassment (e.g., whether it was verbal or physical); the frequency and severity of the conduct; the nature of the student's disability; the age and relationship of the parties; the setting and context in which the harassment occurred; whether other incidents have occurred at the district; and other relevant factors.

In addition, the Section 504 and Title II regulations establish procedural requirements that are important for the prevention and correction of disability discrimination, including harassment. These requirements include issuance of notice that disability discrimination is prohibited (34 C.F.R. §104.8 and 28 C.F.R. §35.106) and adoption and publication of grievance procedures providing for the prompt and equitable resolution of complaints of disability discrimination (34 C.F.R. §104.7[b] and 28 C.F.R. §35.107[b]). The regulations also require that the District designate at least one employee to coordinate compliance with the regulations, including coordination of investigations of complaints alleging noncompliance (34 C.F.R. §104.7[a] and 28 C.F.R. §35.107[a]).

### Analysis

The District was on notice of several incidents in which the Student was allegedly harassed based on disability by her peers. The Student had several disabilities and a chronic health condition which, according to School and District records, resulted in the Student's frequent absences from school, including hospitalizations following periods of heightened anxiety and depression. Based on a review of documentation provided by the complainant and the District, the harassment by the Student's peers was primarily related to the Student's disability-related characteristics, and subsequent self-harm.

With respect to the August 2014 incidents, the complainant notified the School that rumors were circulating on campus regarding the Student's whereabouts during her hospitalization, which included an Instagram picture of the Student with the word "missing" on it. The complainant asked the School to take action to address the rumors and to ensure the Student's privacy. OCR determined that this conduct by the Student's peers constituted potential harassment based on the Student's disabilities, given that one of the manifestations of the Student's disabilities was frequent absences, including hospitalizations. By not taking individualized steps to investigate the allegations, or determining the identity of the alleged harassers, the District did not conduct an inquiry designed to reliably determine what occurred. Instead, the District took generalized steps,

such as reviewing the School's behavioral expectations, developing a Positive Action Committee, and holding a school rally. These steps, while commendable and important in their goal of establishing a positive school climate, were not reasonably calculated to end the harassment toward the Student or prevent its recurrence, as evidenced by the subsequent incidents.

With respect to the February 2015 incidents, both the Student and the complainant notified the School that immediately following her return from hospitalization, the Student's peers told her she was "too sad", "too much drama", and in one instance, a parent stated that another student should no longer associate with the Student. In addition, a student held up the Student's arm to display her cut marks in front of the class. The complainant told OCR that the same student made another comment on the same day also in front of the class, when the Student asked to leave the classroom to take her medication. The complainant stated that the comment resulted in students in the class laughing at the Student, and the Student subsequently calling the complainant to pick her up from school.

OCR did not receive any contrary evidence from the District or from other knowledgeable sources to refute the Student's and complainant's accounts of the other students' conduct, and the information collected by the Team Leader reinforced that other students were either isolating or ignoring the Student on the basis of her having been hospitalized. As such, given that the Student engaged in self-injurious behavior and was often absent or hospitalized due to her disabilities, OCR determined by the preponderance of the evidence that the statements and conduct by the Student's peers constituted harassment based on the Student's disabilities.

While the Team Leader did follow-up with one of the students, the Counselor told OCR that she did not investigate the incidents because she did not have a relationship with the student alleged to have engaged in the harassment. Neither the complainant nor the Student received any information about the outcome of the investigation, even though the District's UCP requires such notice. OCR found that no steps were taken to address any harm to the Student or to prevent future recurrence.

OCR also identified concerns about the District's response to receiving notice that students were posting statements about the Student's hospitalization in May, including that she was cutting herself and allegedly using drugs. Even though the Student posted a picture of herself in the hospital on social media, this would not relieve the recipient of its responsibility to investigate potential harassment. With respect to the May 2015 incidents, the District determined that since the alleged disability harassment had taken place off-campus through social media, and the Student was not physically on campus, a full investigation was not necessary and no follow-up or interventions were needed to remedy the harm to the student. Because the District was on notice that the Student's placement on home and hospital was due, in part, to the alleged harassment she was experiencing on campus, and the Student remained enrolled in the District, the District should have completed its investigation of the potential harassment and determined what steps were needed to address the harm to the Student and prevent its recurrence.

With respect to all three incidents, OCR identified concerns because the District did not utilize its identified grievance procedure, the UCP, to resolve the complaints of harassment and did not inform the Student or complainant of their right to file a formal complaint using that procedure. OCR also found that School staff had not received training on conducting investigations related to allegations of discrimination.

In summary, the preponderance of the evidence showed that the School failed to conduct a prompt, thorough and impartial inquiry in response to repeated notice that the Student may have been subjected to peer-to-peer harassment on the basis of disability. Its response was not reasonably calculated to determine what happened, end any harassment, prevent it from recurring, or eliminate the effects of any hostile environment on the Student. For these reasons, OCR concluded that there was sufficient evidence to support a finding of noncompliance with Section 504 and Title II with respect to the failure to respond appropriately and effectively to notice of harassment.

In addition, OCR found that the District's failure to take appropriate responsive action following the incidents in August 2015 contributed to a continuation of the harassment, including the persistence of statements on social media and in person by other students related to the Student's disabilities and her hospitalization, the action of another student holding up the Student's arm with cut marks in front of other students, and the incident where another student informed the Student that she had been told to keep her distance after her hospitalization. With respect to these statements and incidents, OCR found the Student and complainant to be credible witnesses, and the District offered no contradictory or explanatory evidence.

The persistent nature of the statements, conduct, and other behavior by the Student's peers during the school year limited the Student's ability to participate in or benefit from the District's programs. In part, as a result of the harassment, which was not effectively investigated or addressed, the Student requested not to have to return to the School and the complainant attempted to withdraw the Student from the District. The harassment may have contributed to the Student's doctor's request that the Student be placed on home and hospital, a setting segregated from her peers. For these reasons, OCR found sufficient evidence to support a finding of noncompliance with Section 504 and Title II with respect to this issue.

*Issue 2: Whether the District failed to consider if amendments to the Student's Section 504 plan were necessary to address changes related to the Student's disabilities and bullying that could affect the Student's ability to receive a Free and Appropriate Public Education (FAPE).*

#### Legal Standard

Under Section 504, as part of a school's appropriate response to harassment or bullying on any basis, the school should promptly convene the IEP team or Section 504 team of a student with a disability to determine whether, as a result of the effects of the bullying, the student's needs have changed such that the student is no longer receiving a FAPE. The effects of bullying or harassment could include, for example, adverse changes in the

student's academic performance or behavior. If the school suspects the student's needs have changed, the IEP or Section 504 team must determine the extent to which additional or different services are needed, ensure that any needed changes are made promptly, and safeguard against putting the onus on the student with the disability to avoid or handle the bullying. In addition, when considering a change of placement, schools must continue to ensure that Section 504 FAPE services are provided in an educational setting with persons who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability.<sup>2</sup>

### Analysis

The evidence showed that the School failed to follow appropriate procedures with respect to evaluating the Student's needs and convening the Section 504 team to address identified changes related to her disability and ability to access her education, including whether the alleged bullying and harassment of the Student was negatively impacting her receipt of FAPE. In this regard, the complainant reported to the School on several occasions that the Student's anxiety and depression were negatively impacted by the bullying. She made a request on August XX, 2014 that the School create a safety plan after the Student returned from the August XX, 2014 hospitalization. In addition, the School was on notice that the Student had been hospitalized on two separate occasions for mental health reasons, and that her disability was impacting her ability to receive an appropriate education. Finally, on February XX, 2015, she specifically asked for the Section 504 team to convene to evaluate and discuss the changed circumstances related to the Student's mental health.

OCR found that the School did not convene a Section 504 team meeting until February XX, 2015, after the complainant had already notified the School that she was seeking another placement for the Student. At that time due to confusion about whether the Student was remaining in the District, School staff informed the complainant that they would not revise the Section 504 plan. As such, at the February XX, 2015 meeting, the School did not conduct an evaluation in all areas of suspected disability or determine whether additional related services, evaluations or interventions were needed to assist the Student with returning to an integrated setting with her peers on campus. For these reasons, OCR found that there was sufficient evidence to support a finding of noncompliance with Section 504 and Title II with respect to this issue.

### Overall Conclusion

To address OCR's findings of noncompliance, the District, without admitting to any violation of law, entered into the enclosed resolution agreement which is aligned with the complaint allegations and the information obtained by OCR during its investigation. Pursuant to the agreement, the District will, within specified timeframes: 1) offer to conduct a psychoeducational assessment of the Student and hold a Section 504/IEP meeting to

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<sup>2</sup> For further explanation, please see OCR's Dear Colleague Letter, entitled: "Bullying and Harassment of Students with Disabilities" (<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-bullying-201410.pdf>) (October 21, 2014).

ensure that her disability-based needs are met; 2) provide training and a guidance memorandum for staff on harassment based on disability and the complaint investigation process; 3) revise the School Student Handbook to include information about disability harassment; and 4) provide age-appropriate training for students on disability harassment.

Based on the commitments made in the attached resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the complainant concurrently.

When fully implemented, the resolution agreement is intended to address all of OCR's compliance findings in this investigation. OCR will monitor the implementation of agreement until the District is in compliance with Title II, Section 504 and the regulations at issue in the case.

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 a duly authorized OCR official and made available to the public. The Complainant may have the 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, 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.

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.

OCR thanks the District for its cooperation and courtesy during this investigation. If you have any questions about this letter, please contact Shilpa Ram at [shilpa.ram@ed.gov](mailto:shilpa.ram@ed.gov).

Sincerely,

/s/

Zachary Pelchat  
Team Leader

Enclosure