



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, D.C.

March 11, 2014

Marcus J. Newsome, Ed.D.  
Superintendent  
Chesterfield County Public Schools  
P.O. Box 10  
Chesterfield, VA 23832

Re: OCR Complaint No. 11-13-1115  
Resolution Letter

Dear Dr. Newsome:

This letter is to notify you of the outcome of the complaint that was filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on February 14, 2013 against Chesterfield County Public Schools (the Division), in particular Falling Creek Middle School (the School). The Complainant alleged that the Division discriminated against her son (the Student) on the basis of disability. Specifically, she alleged that:

Allegation 1: The Division discriminated against the Student based on his disability when it failed to evaluate him for special education or related services.

Allegation 2: In XXXX 2012, the Division discriminated against the Student based on disability when it suspended him XXXX for conduct related to his disability without conducting a manifestation determination.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance (FFA) from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 et seq., and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public educational systems, regardless of whether they receive FFA from the Department. The Division receives FFA from the Department, is a public entity and, therefore, is subject to the provisions of Section 504 and Title II.

Pursuant to Section 302 of OCR's *Case Processing Manual*, OCR discussed resolution options with the Division. During the course of OCR's investigation, the Division expressed an interest in resolving the complaint under a voluntary resolution agreement, which is attached. The

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Division signed the enclosed agreement which, when fully implemented, will resolve the complaint. The provisions of the agreement are aligned with the allegations raised in the complaint and information obtained during the course of OCR's investigation, and are consistent with the applicable regulations. OCR will monitor implementation of the agreement.

We have advised the Complainant that the Division may not harass, coerce, intimidate, or discriminate against any individual for filing a complaint or participating in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment. Also, 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, personal information that, if released, could constitute an unwarranted invasion of privacy.

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.

We appreciated the assistance of the Division, including the Division's counsel, LaRana Owens, during the resolution of this complaint. If you have any questions, feel free to contact Kristi Harris at (202) 453-5916 or via e-mail at [kristi.harris@ed.gov](mailto:kristi.harris@ed.gov) or Duane Scott at (202) 453-6596 or via e-mail at [duane.scott@ed.gov](mailto:duane.scott@ed.gov).

Sincerely,

Dale Rhines  
Program Manager  
Office for Civil Rights  
District of Columbia Office

Enclosure