



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVE. S.W.,
WASHINGTON, DC 20202-1475

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

September 19, 2014

Dr. Karen Garza, Superintendent
Fairfax County Public Schools
8115 Gatehouse Road
Falls Church, Virginia 22042

Re: OCR Complaints Nos. 11-14-1143 & 11-14-1244
Resolution Letter

Dear Dr. Garza:

This letter notifies you of the outcome of the above-referenced complaints that were filed with the District of Columbia Office of the Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), against Fairfax County Public Schools (the Division). The Complainant alleged that the Division discriminated against the Student on the basis of disability when it failed to provide the Student large print reading materials and failed to take appropriate action to make McLean High School and Marshall Academy physically accessible XXXX; the Complainant further alleged that the Division retaliated by failing to provide the Complainant with bi-weekly progress reports, giving the Student Fs in classes instead of incompletes, refusing to return graded assignments, and grading assignments without providing a rubric or other criteria.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities receiving Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit disability discrimination by public entities, including school divisions. The laws enforced by OCR prohibit retaliation against any individual who asserts rights or privileges under these laws or who files a complaint, testifies or participates in an OCR proceeding. Because the Division receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504, Title II, and their implementing regulations.

Pursuant to Section 302 of OCR's *Case Processing Manual*, OCR discussed resolution options with the Division. The Division expressed an interest in resolving the complaints prior to the completion of OCR's investigations. On August 21, 2014, the Division signed a voluntary resolution agreement (copy enclosed), which, when fully implemented, will resolve the complaints. The provisions of the agreement are aligned with the allegations raised in the

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

complaints and information obtained during the course of OCR's investigations, and are consistent with the applicable regulations. OCR has notified the Complainant of the voluntary resolution agreement and we will monitor implementation of the agreement.

This letter sets forth OCR's determination in two individual OCR cases. 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. Complainants may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the Division may not retaliate against an individual who asserts a right or privilege under a law enforced by OCR or who files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR. 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 personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciated the assistance of the Division, in particular, Dawn Schaefer and Jim Burgess, during the resolution of this complaint. If you have any questions, please contact either of the OCR attorneys assigned to these cases: Kendra Riley at (202) 453-5905 or kendra.riley@ed.gov; or Kristi Bleyer at (202) 453-5901 or kristi.bleyer@ed.gov.

Sincerely,

Kay Bhagat
Team Leader
District of Columbia Office
Office for Civil Rights

Enclosure

cc: Dawn Schaefer, Coordinator, Due Process and Eligibility (via e-mail)
Tricia Minson, Esquire (via e-mail)