



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, DC

June 4, 2014

David C. Stuckwisch, Ph.D.  
Superintendent  
Portsmouth Public Schools  
801 Crawford Street  
Portsmouth, Virginia 23704

Re: OCR Complaint No. 11-14-1170  
Resolution Letter

Dear Dr. Stuckwisch:

This letter is to notify you that the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (Department), has completed its investigation of the complaint that was filed against the Portsmouth Public Schools (Division) on March 26, 2014. The complaint was filed by a parent (Complainant) of a student (Student). OCR investigated whether the Student was discriminated against based on his disability (XXXX) when the Division failed to implement his Section 504 Plan during the 2013-2014 school year at XXXX.

OCR enforces 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 from the Department. OCR also has jurisdiction to investigate under 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 on the basis of disability by state and local government entities, including public education systems, irrespective of whether they receive financial assistance from the Department. The Division is a public entity and a recipient of Federal funds from the Department. Therefore, OCR has jurisdiction over the allegation stated above.

Prior to completing the investigation, the Division expressed an interest in resolving the issues raised in the OCR Complaint. Pursuant to Section 302 of OCR's *Case Processing Manual*, OCR discussed resolution options with the Division. The Division acknowledged that there were problems implementing the Student's Section 504 Plan during part of the 2013-2014 school year and had made staffing changes to ensure proper implementation of the Plan for the remainder of the school year. Additionally, once notified of the OCR complaint, the Division convened a Section 504 team meeting to determine what services the Student needed in order to make up for the time the Plan was not implemented. The team agreed that providing the student with compensatory education over the summer, via summer school, would meet these needs. Additionally, the Complainant raised concerns about transportation to and from summer School, which the Division

agreed to provide. The Division elected to sign the enclosed agreement, which memorializes the Division's commitment to provide compensatory services to the Student, is aligned with the complaint allegations and the information obtained during OCR's investigation and is consistent with the applicable regulations.

This letter is a letter of findings issued by OCR to address an individual OCR case. Letters of findings contain fact-specific investigative findings and dispositions of individual cases. Letters of findings are not formal statements of OCR policy and they should not be relied upon, cited, or construed as such. This letter is not intended, nor should it be construed, to cover any other issues regarding the Division's compliance with the regulations enforced by OCR that may exist and are not discussed herein. Please be advised that the Complainant may file a private suit in Federal court whether or not OCR finds a violation.

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. In accordance with agency procedures, OCR is required to remind you that intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or because one has made a complaint or participated in any manner in an investigation in connection with a complaint.

OCR would like to thank Marie Shepherd, Director of Student Services, for her help resolving this complaint. If you have any questions concerning OCR's determination please contact the attorney assigned to this complaint, Judith Risch, at (202) 453-5925 or via e-mail at [Judith.Risch@ed.gov](mailto:Judith.Risch@ed.gov).

Sincerely,

/S/

Rachel Glickman  
Team Leader  
District of Columbia Office  
Office for Civil Rights

cc: Marie Shepherd, Director of Student Services