



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1100

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

August 12, 2014

Dr. Steven L. Walts
Superintendent
Prince William County Schools
P. O. Box 389
Manassas, Virginia 20108

Re: OCR Complaint No. 11-14-1198
Resolution Letter

Dear Dr. Walts:

This letter is to notify you of the outcome of a complaint that was filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on April 26, 2014 against Prince William County Schools (the Division), in particular XXXX (the School). The Complainant alleged that during fall 2013 the School denied his son (the Student) a free appropriate public education through the frequent placement of the Student in the reorientation area, quiet room, restraint, and seclusion without re-evaluating the Student to determine if a revision to his Behavioral Intervention Plan (BIP) or Individualized Education Program (IEP) was necessary in order to meet his individual educational needs and without considering the appropriateness of these interventions given the nature of the Student's disability.

OCR initiated an investigation of this complaint pursuant to its authority to enforce 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 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 education systems. The Division is a recipient of Federal financial assistance from the Department and a public entity therefore it is subject to the provisions of Section 504 and Title II.

Section 504 requires a public school district to provide a free appropriate public education (FAPE) to each qualified individual with a disability. To provide a FAPE, a school division must meet the individual needs of a student with a disability, including behavioral needs, as adequately as it meets the needs of students without a disability. To satisfy the FAPE requirements described in the Section 504 regulation, the educational institution must comply with several evaluation and placement requirements, afford procedural safeguards, and inform students' parents or guardians of those safeguards. 34 C.F.R. §§ 104.35(a), 104.36. More

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specifically, the Section 504 regulation, 34 C.F.R. § 104.35(a), requires a recipient to conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement. In addition, §104.35(c) states that in interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with 104.34 (pertaining to the educational setting).

During the course of OCR's investigation, the Division expressed a willingness to voluntarily resolve the complaint. Pursuant to Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the Division. On August 7, 2014, the Division signed the enclosed agreement to resolve the complaint. The provisions of the agreement are aligned with the issues raised in the complaint, with information obtained during the course of OCR's investigation, and are consistent with the applicable regulations. OCR will monitor implementation of the agreement.

This concludes OCR's investigation of this complaint and should not be interpreted to address the Division's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. 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 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, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

We appreciate the cooperation of the Division and the Division's counsel during the resolution of this complaint. If you have any questions, feel free to contact Sara Clash-Drexler at (202) 453-5906 or Sara.Clash-Drexler@ed.gov or Christa Cothrel at (202) 453-5926 or Christa.Cothrel@ed.gov.

Sincerely,

/S/
Kay Bhagat
Team Leader