



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

July 28, 2015

Chris Terrill, Head of Schools  
Pine Lake Preparatory Charter School  
104 Yellow Wood Circle  
Mooresville, North Carolina 28115

RE: OCR Complaint No. 11-15-1147  
Resolution Letter

Dear Mr. Terrill:

This letter is to inform you of the disposition of the above-referenced complaint that was received on March 6, 2015, by the U.S. Department of Education (the Department), Office for Civil Rights (OCR), District of Columbia Office, against the Pine Lake Preparatory Charter School (the School). The Complainant alleged that the School discriminated against his son (the Student) on the basis of disability XXXX. Specifically, the Complainant alleged that in November 2014, the School denied the Student a free appropriate public education (FAPE) when it failed to appropriately evaluate the Student under Section 504 to determine the Student's eligibility for a Section 504 Plan.

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 that receive 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 discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. Because the School receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

In investigating this complaint, OCR reviewed information and documentation provided by the Complainant and the School. OCR also interviewed School personnel and the Complainant. During the course of the investigation, the School expressed interest in voluntarily resolving the complaint, pursuant to Section 302 of OCR's *Case Processing Manual*. The School has agreed to take action to address the complaint as set forth in the enclosed resolution agreement (the Agreement). The provisions of the Agreement are aligned with the complaint allegation and information obtained during the course of OCR's investigation and are consistent with the

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applicable regulations. OCR will monitor the Agreement, which when fully implemented, will resolve the complaint. An explanation of our analysis and conclusion follows.

The regulation implementing Section 504 requires school districts and charter schools to provide qualified students with disabilities a FAPE, defined as the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met. 34 C.F.R. § 104.33(a). OCR interprets the Title II regulations, at 28 C.F.R. §§35.103(a) and 35.130(b)(1)(ii) and (iii), to require school districts and charter schools to provide a FAPE to the same extent required under the Section 504 regulations.

As set out in the Section 504 regulations, at 34 C.F.R. § 104.35, a recipient, in this case, the School, must have adequate procedures and standards for the evaluation and placement of students. With respect to evaluation and placement, the Section 504 regulation, at 34 C.F.R. § 104.35, specifically requires recipients to evaluate students who need, or are believed to need special education or related services before the initial placement of the student and any subsequent significant change in placement. In interpreting evaluation data and in making placement decisions, the recipient must draw upon information from a variety of sources, establish procedures to ensure that information obtained from all such sources is documented and carefully considered, 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. The Section 504 regulations, at 34 C.F.R. § 104.36, also require that the charter school provide parents and guardians with notice of procedural safeguards, including an opportunity for an impartial hearing.

At the beginning of the 2014-2015 school year, the Complainant informed the School that the Student has XXXX. In XXXX, the Student's teachers began providing informal interventions. On XXXX, the team determined that the Student is not eligible for services under Section 504. OCR identified preliminary concerns about whether the School's evaluation process was in compliance with Section 504. Specifically, OCR would need to obtain additional information to determine whether the team contained individuals who were knowledgeable about the Student's XXXX diagnosis and evaluation materials and whether the team applied the correct definition of disability in determining that the Student was not eligible for services under Section 504 (i.e., whether the Student has a physical or mental impairment that substantially limits one or more major life activity).

### **Conclusion**

OCR is closing this complaint investigation effective the date of 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.

The Complainant has been advised that the School 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 any individual is harassed or intimidated because of filing a complaint or participating in any aspect of OCR case resolution, the individual may file a 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. If we receive such a request, we will seek to protect, to the extent provided by law, information that, if released, could constitute an unwarranted invasion of personal privacy.

If you have any questions, you may contact Tracey Solomon, Investigator at (202) 453-5930 or [tracey.solomon@ed.gov](mailto:tracey.solomon@ed.gov).

Sincerely,

/S/

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