



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

September 20, 2016

Via email: chad.beasley@alleghany.k12.nc.us

Mr. Chad Beasley, Superintendent
Alleghany County Schools
85 Peachtree Street
Sparta, NC 28675

Re: OCR Complaint No. 11-16-1169
Letter of Findings

Dear Mr. Beasley:

The Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) has completed its investigation of the complaint we received on February 9, 2016 against Alleghany County Schools (the District). The Complainant filed the complaint on behalf of a former student (the Student) at XXXX School (the School) and the Student's guardian.¹ The Complainant alleges that the District retaliated and discriminated against the Student on the basis of disability. Specifically, the complaint alleges that:

1. The District denied the Student a free appropriate public education (FAPE) when it failed to comply with Section 504 evaluation and procedural requirements:
 - a. in September 2015, before subjecting the Student to a shortened school day; and
 - b. in January 2016, when the School's principal denied the Student's guardian's request for a longer instructional day.
2. The District discriminated against the Student by subjecting the Student to out-of-school suspension in December 2015 and January 2016 for his disability-related behavior.
3. The District retaliated against the Student when in January and February 2015, a teacher graded the Student's classwork with sad faces after the Student's guardian advocated for individualized instruction and a longer instructional day for the Student.

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

¹ The Student is currently enrolled in a specialized resource setting at Sparta Elementary School in the District.

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

disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. 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.

In reaching a determination, OCR reviewed documents the District and interviewed the Complainant, Student's Guardian, and District staff.

After carefully considering all of the information obtained during the investigation, OCR identified compliance concerns regarding Allegation 1a, which the District agreed to resolve through the enclosed resolution agreement. However, OCR found insufficient evidence to support Allegations 1b, 2 and 3. OCR also identified compliance concerns regarding the District's Section 504 evaluation and placement procedures, which the District agreed to resolve through the enclosed resolution agreement.

OCR's findings and conclusions are discussed below.

Background

During the 2015-2016 school year, the Student attended the School through February 2016.² The District has identified the Student as a student with disability³ and has provided services to the Student pursuant to his IEP since 2014. Provisions of the Student's IEP have included modified assignments, pull-out services, and individualized instruction.

In **XXXX**, the Student began receiving partial-day school instruction from 8:05 a.m. through 11:50 a.m.⁴ The Student's change in placement occurred to address his escalating behavior. Specifically, his Regular Education Teacher and Exceptional Children (EC) Teacher recalled that the Student exhibited aggressive and threatening behaviors towards teachers and staff, and destroyed school property. Consequently, the Student's guardian and the Principal discussed and agreed to shorten the Student's class instruction to meet aspirational goals of redirecting his behavior. The Regular Education Teacher recalled that the Student's guardian "was concerned that [the Student] couldn't maintain himself during a full school day." Therefore, the Regular Education Teacher stated that the Student's guardian "requested the partial school day to give him some success for part of the day without his behavior becoming an issue." Similarly, in support of his decision, the Principal stated, "We just wanted to give him a successful school day...to try to avoid discipline situations." The Principal further acknowledged that the School did not convene an IEP meeting prior to his decision to permit the Student's partial-day instruction because the EC Teacher was on maternity leave. Instead, he reported that an IEP meeting was held upon the EC Teacher's return. OCR corroborated through documentary evidence that the IEP meeting occurred on October 28, 2015, approximately two months after the Student's partial-day instruction began.

² Since February 22, 2016, the Student has been enrolled at **XXXX** in the STAR program, which is a specialized program to address the needs of children with significant educational or behavioral concerns.

³ The Student has **XXXX**.

⁴ This instructional period included lunch, which began at 10:50 a.m.

During the October 28, 2015 IEP meeting, the IEP team discussed the Student's upcoming reevaluation for continued eligibility of services.⁵ During this meeting, participants including the Regular Education Teacher, EC Teacher, and the Principal reported that they assessed the Student's academic performance and behavioral conduct as it pertained to his change of placement. School staff also told OCR that they assessed the Student's partial day instruction every thirty (30) days as evidenced by IEP records, which document meetings held on December 10, 2015, January 7, 2016 and February 9, 2016.

Because the Student's behavior had been a concern, the IEP team also discussed the Student's Functional Behavioral Assessment (FBA). The District's Behavioral Specialist, who had observed the Student since September 2015 to identify behavioral concerns, prepared the FBA on October 28, 2015. According to the FBA, the Student entered other students' space and disrupted learning; made animal noises and crawled on the floor like an animal; distracted students from instruction; tore up work he did not like; destroyed objects in the room; refused to comply with requests; and targeted people at times when escalated. The FBA further indicated that the Student would exhibit these behaviors daily to three times a week, and sometimes multiples times a day, with each episode lasting between five minutes and one and a half hours.. Based on the intensity of the Student's behavior, his conduct was considered serious.

The FBA was used to develop a Behavior Intervention Plan (BIP) drafted on November 11, 2015. The Behavioral Specialist indicated and OCR reviewed and corroborated that the BIP outlined procedural steps and targeted strategies to prevent and deescalate the Student's behavior. Such strategies included equipping the Student with tools/objects to help him self-regulate his behavior, relocating him to a separate space or soft room to regroup, and involving third parties such as the EC Teacher and the Principal. While the Regular Education Teacher reported that staff committed to implementing the outlined strategies in the BIP, she contended that the intervention measures were not always effective. She stated, "[t]he BIP involved involving a third person to help deescalate [the Student]. We tried using a staff member that knew him well. The problem was that the third person would deescalate momentarily and then, once they left, he would escalate his behavior again." She continued to state that, "so many things with him didn't work well or worked briefly. We were constantly trying to adapt." The Behavioral Specialist similarly reported that the Student had some success with the alternatives presented in the BIP; however, she acknowledged difficulties such as when objects intended to help the Student deregulate his behavior became projectile and endangered classmates. For this reason, the effectiveness of specific intervention tools included in the Student's BIP was addressed during the Student's monthly IEP meetings.

On December 1, 2015, the Student was suspended for three days for disruptive behavior. The District in its narrative response, reported that the Student was disrupting other students, refused to remain in his assigned space, chased classmates around the room, and crawled on his hands and knees with a calm down tool in his mouth. Reportedly, the Student continued these behaviors when staff tried to remove him from the situation by chasing other students down the hallway and entered and disrupted other classrooms. The EC teacher reported that in this matter,

⁵ The IEP team was comprised of the Student's guardian, EC Teacher, Regular Education Teacher, Behavioral Specialist, Psychologist and Principal. IEP records also indicate that the Complainant has participate in the Student's IEP meetings

she followed BIP protocol and removed students from the classroom, which allowed the Student to have a soft room.

On December 10, 2015, the IEP team convened. OCR reviewed documentation which indicated that in addition to discussing the Student's BIP, the IEP team also reviewed the Student's reevaluation results. Based on the reevaluation, the IEP team found the Student eligible for continued special education services and changed the Student's classification to Serious Emotional Disability from Developmental Delay. The IEP team also changed the Student's educational placement to increased small group instruction in the EC classroom. The IEP team noted that the change was warranted to address the Student's continued aggressive behavior towards students and staff. The IEP team also declined the Student's guardian's request for individualized services.⁶

Although the Student's guardian initially supported partial day instruction, she told OCR that the Student had since regressed. Consequently, she requested a longer instructional day for the Student during a January 7, 2016 IEP meeting. She also indicated that she reiterated her request to the Principal on January 27, 2016, which was subsequently denied. Staff⁷ interviewed for the investigation acknowledged that the Student's guardian advocated for extending the Student's school day. The Regular Education Teacher reported that the IEP team considered the extension, but decided not to honor the Student's guardian's request because the Student was still exhibiting "significant behaviors." Specifically, she stated that the "IEP team considered the Complainant's and the Student's guardian's recommendations, but we decided to do other solutions." Similarly, the Principal told OCR that the IEP team was not "seeing the results we needed" to support extending the Student's instructional day. Instead, the Principal stated that the IEP team agreed to provide the Student with individualized instruction to ultimately support extending the Student's school day incrementally. OCR reviewed documents prepared contemporaneously during the January 7 IEP meeting and corroborated that the IEP team considered the Student's guardian's request to extend his partial day instruction.

During the Student's individualized instruction which began in January 2016, the Student's guardian reported that the Student received sad faces during his daily class assessments. She stated that the idea originated from the Principal during a prior IEP meeting. The Student's guardian interpreted the sad faces as negative feedback and believed that such actions were in retaliation for advocating for services for the Student. The Student's Individualized Instructor confirmed that the Student's guardian provide this feedback to the School. She further noted incidents where the Student assaulted her and was otherwise physically threatening, including a

⁶ OCR previously dismissed an allegation stemming from the District's decision not to provide individualized instruction for the Student. During a clarification call, the Student's guardian contended that the Student's IEP was inadequate because the District denied her multiple requests for individualized instruction. As such, she acknowledged that she was dissatisfied with the IEP team's decision. However, when probed, the Student's guardian did not identify how the District improperly considered recommendations for individualized instruction or any other information that would suggest that the District failed to follow the procedures required by Section 504. Generally, OCR does not review or second-guess individual evaluation, placement, and other educational decisions as long as the District follows the procedures required by Section 504. Because the Student's guardian did not allege that the District failed to follow the procedures required by Section 504, OCR dismissed this allegation.

⁷ The Principal, Regular Education Teacher, Special Education Teacher, and Behavioral Specialist reported that the Student's guardian requested to extend the Student's instructional day.

February 5, 2016 incident that culminated in his suspension for three days. In that matter, the Principal reported that the Student refused to go to a safe room. Specifically, the Student's disciplinary referral indicated that the Student disrupted three classes, all of which were evacuated; refused to follow staff directives; and destroyed school property.⁸

During a subsequent IEP meeting on February 17, 2016, the IEP team proposed and approved the Student's placement to Sparta Elementary in a resource class due to the Student's behavior.

Legal Standards and Analysis

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education (FAPE) to students with disabilities. An appropriate education is regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and that are developed in compliance with Section 504's procedural requirements. Implementation of an Individualized Education Program (IEP) developed in accordance with the Individuals with Disabilities Education Act is one means of meeting this standard. OCR interprets the Title II regulation, at 28 C.F.R. §§ 35.103(a) and 35.130(b)(1)(ii) and (iii), to require school districts to provide a FAPE to the same extent required under the Section 504 regulation.

The Section 504 regulation, at 34 C.F.R. § 104.35(a), requires a school district to evaluate any student who needs or is believed to need special education or related services due to a disability. A district must conduct an evaluation before initially placing the student in regular or special education and before any subsequent significant change in placement.

In interpreting evaluation data and making placement decisions, the Section 504 regulation, at 34 C.F.R. § 104.35(c), requires that a school district draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; 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 student, the meaning of the evaluation data, and the placement options; and ensure that each student with a disability is educated with peers without disabilities to the maximum extent appropriate to the needs of the student with a disability.

The Section 504 regulation, at 34 C.F.R. § 104.4, and the Title II regulation, at 28 C.F.R. § 35.130(a), provide that no qualified individual with a disability shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under the District's programs or activities on the basis of disability.

When investigating an allegation of different treatment, OCR first determines whether there is sufficient evidence to establish an initial, or prima facie, case of discrimination. Specifically, OCR determines whether the District treated the Student less favorably than similarly situated

⁸ The District, in its narrative response to the complaint, confirmed that students were evacuated from three classes that the Student disrupted.

individuals without disabilities. If so, OCR then determines whether the District had a legitimate, nondiscriminatory reason for the different treatment. Finally, OCR determines whether the reason given by the District is a pretext, or excuse, for unlawful discrimination.

Allegation 1a

The District denied the Student FAPE when it failed to comply with Section 504 evaluation and procedural requirements in September 2015, before subjecting the Student to a shortened school day.

Section 504 requires a reevaluation of a student with a disability prior to a significant change in placement. OCR determined that the Student's partial day instruction constituted a significant change in placement, which therefore necessitated a reevaluation. In its narrative response, the District readily acknowledges that it failed to conduct a reevaluation. Instead, the Principal reported that while an IEP team convened monthly beginning in October, in support of the Student's placement, the meetings, including a re-evaluation in December, occurred *after* the Student's September change in placement. Further, OCR was unable to establish through testimonial or documentary evidence that at the time the placement decision was made, the District complied with the Section 504 procedural requirements, including drawing upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; followed procedures to ensure that information obtained from all such sources is documented and carefully considered; ensured that the placement decision was made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. Rather, the investigation reflected that the Principal made the decision unilaterally after collaborating with the Student's guardian. As such, OCR found sufficient evidence that the District failed to comply with the Section 504 evaluation and procedural requirements before commencing a significant change in placement for the Student.

Allegation 1b

The Complainant and the Student's guardian alleged the School failed to comply with Section 504 procedural requirements when the Principal denied the Student's guardian's request for a longer instructional day. In considering such placement change, OCR first considered whether the District's decision was made by a group of knowledgeable persons, including persons knowledgeable about the Student, the meaning of the evaluation data, and the Student's placement option. Here, the Student's guardian told OCR that she proposed extending the Student's instructional day during the January 7 IEP meeting. She further acknowledged, and District staff corroborated, that the people who participated in the IEP meeting were knowledgeable about the Student. Specifically, the IEP team comprised of the Principal, Regular Education Teacher, Special Education Teacher, and Behavioral Specialist, all of whom were interviewed for the investigation. Because the IEP team credibly spoke about the Student and his educational needs, OCR found that the IEP team was knowledgeable about the Student, the meaning of the evaluation data, and the placement options.

OCR also considered whether the Student’s guardian’s request was documented and carefully considered. Both the Student’s guardian and District staff acknowledged that her request to extend the school day was discussed at the January 7 IEP meeting. In weighing the Student’s guardian’s request, District staff reported that the IEP team decided to pursue intermediate measures short of extending the instructional day because the Student continued to exhibit aggressive behavior. In particular, the Regular Education Teacher recalled that in consideration of the Student’s guardian request, the IEP team approved individualized instruction to support extending the Student’s instructional day incrementally. OCR reviewed contemporaneous notes from the January 7 IEP meeting, which corroborated that the IEP team documented and carefully considered the request to extend the Student’s instructional day. Accordingly, OCR found insufficient evidence that the District denied the Student FAPE.

Moreover, although the Student’s guardian renewed her request to the Principal to extend the Student’s instructional day on January 27th because she disagreed with the District’s decision, OCR generally does not review or second-guess individual evaluation, placement, and other educational decisions as long as the District follows the procedures required by Section 504. Because OCR found that the District complied with procedural requirements of Section 504, OCR will take no further action regarding Allegation 1b.

Allegation 2

Because the Complainant and the Student’s guardian alleged that the District improperly subjected the Student to out-of-school suspension for his disability-related behavior, OCR investigated whether the District’s suspension of the Student violated Section 504. The Section 504 regulation, at 34 C.F.R. § 104.35(a), requires a school district to reevaluate a student with a disability before any significant change in placement. OCR considers an expulsion, long-term suspension, or other disciplinary exclusion of more than 10 school days to be a significant change in placement. A series of short-term exclusions that add up to more than 10 days and create a pattern of exclusions may also be a significant change in placement. When a significant change in placement is for disciplinary reasons, the first step in the reevaluation is to determine whether the student’s disability caused the misconduct (also referred to as a manifestation determination). That determination should be made by a group of persons who are knowledgeable about the student, the meaning of the evaluation data, and the placement options. If the group finds that the student’s disability did not cause the misconduct, the district may discipline the student in the same manner as it disciplines students without disabilities. If a school district finds that the student’s disability caused the misconduct, the district may not exclude the student for more than 10 days and must continue the reevaluation to determine the appropriateness of the student’s current educational placement.

OCR reviewed the Student’s disciplinary files at the School for the 2015-2016 school year. As stated earlier, the disciplinary files reflect that the Student received three days of out-of-school suspension on December 1, 2015 for disruptive behavior. On February 1, 2016, he also received three days of OSS for disruptive and physically threatening behavior. Based on OCR’s review, the total number of days that the Student was suspended was less than 10 days. Therefore, the District’s actions did not constitute a significant change in the Student’s placement which would

have triggered the District's obligation to determine whether the Student's behavior was a manifestation of his disability.

Further, OCR evaluated the District's response to the Student's behavior, which culminated in the Student's December 2015 and February 2016 suspensions. IEP records reflect that the District identified that the Student's behavior impeded his learning. Consequently, the District took steps to address the Student's behavior, including introducing the Behavioral Specialist in September 2015; conducting a FBA in October 2015; and implementing a BIP following the Student's December 1 suspension. Thereafter, the IEP team convened monthly to address the Student's BIP and his escalating behavior.⁹

Finally, OCR considered whether the School treated the Student differently based on his disability when it suspended him for his conduct on February 5. The Student's BIP provides, in relevant part, that in instances where there is harm to people and/or property, the school discipline policy would be used to determine consequences. The District's discipline policy further provides that the building administrator such as the principal is authorized to determine appropriate disciplinary action for such behavior. Here, the Student reportedly destroyed property, physically threatened students and staff, and disrupted classrooms. The Principal told OCR that he characterized such actions as disruptive behavior. In matters involving disruptive behavior, the Principal stated that it is his policy to refer students for out-of-school suspension. OCR reviewed out-of-school suspensions for the 2015-2016 school year and corroborated the Principal's assertion. Specifically, the Principal referred three students, including the Student, for out-of-school suspensions. All of the 3 students were suspended for disruptive behavior/conduct, including a student without a disability. Because the evidence supports that the Principal suspended the Student consistent with his discipline policy, there is insufficient evidence that the School treated the Student differently based on his disability in this instance. In sum, OCR found insufficient evidence to support allegation 2.

Allegation 3

The Section 504 regulation, at 34 C.F.R. § 104.61, which incorporates the procedural provisions of the regulation implementing Title VI of the Civil Rights Act of 1964, prohibits retaliation against any individual who asserts rights or privileges under Section 504 or who files a complaint, testifies, or participates in an OCR proceeding.

⁹ OCR also considered whether the District had an obligation to modify the Student's BIP in response to the Student's escalating behavior. District staff, including the Behavioral Specialist and Regular Education Teacher, reported that some of the BIP's strategies to deescalate the Student's behavior were not successful. However, the Behavioral Specialist further reported that assessing the effectiveness of a BIP necessitates an evaluation over a period of time, which had yet to occur in this matter. She noted that while the BIP was effective since December 2015, the District incurred a number of missed school days due to inclement weather and the winter holiday break. Accordingly, OCR determined that the short proximity in time between the effective date of the Student's BIP and his continued escalating behavior did not trigger the District's obligation to determine whether a modification to the Student's BIP was needed. OCR cautions the District that if a student's IEP team determines that sufficient information exists to question the effectiveness of a BIP, Section 504 would require the IEP team to promptly reevaluate the student to determine if a modification to the student's BIP or a change of placement is necessary.

When analyzing a claim of retaliation, OCR will look at: 1) whether the Complainant engaged in a protected activity (e.g., filed a complaint or asserted a right under a law OCR enforces); 2) whether the District took a materially adverse action against the Complainant; and 3) whether there is a causal connection between the protected activity and the materially adverse action. If all these elements are present, this establishes an initial, or *prima facie*, case of retaliation. OCR then determines whether the District has a legitimate, non-retaliatory reason for its action. Finally, OCR examines whether the District’s reason for its action is a pretext, or excuse, for unlawful retaliation.¹⁰

OCR first considered whether the Student’s guardian engaged in a protected activity. An individual engages in a protected activity if she opposes an act or policy that she reasonably believes is discriminatory or unlawful under one of the laws that OCR enforces, or makes a complaint, testifies, assists, or participates in any manner in an OCR investigation, proceeding, or hearing. In this matter, the Student’s guardian disapproved of the District’s decision not to provide the Student with individualized instruction or extension of his instructional day, which she alleged amounted to a denial of FAPE. Further, the Student’s guardian actively participated in the Student’s IEP meetings and otherwise advocated for the Student, a student with a disability. Accordingly, OCR found that the Student’s guardian engaged in a protected activity.

OCR next considered whether the District took a materially adverse action against the Student. Here, the Complainant and the Student’s guardian alleged that the Student received sad faces for daily coursework between January and February 2016. The Individualized Instructor responsible for educating the Student during this time period clarified that the sad faces were intended as a communication tool to provide feedback to the Student’s guardian. She further reported that the Student rather than District staff was responsible for assessing his day. She stated, “We want[ed] him to evaluate his own day; that was a skill for students. [The faces] were only used to say that...I didn’t complete my work, not that I didn’t do the work.” The Student’s Regular Education Teacher corroborated the Individualized Instructor’s testimony and stated that the Individualized Instructor “was big on self-empowerment and she set that up for the Student to self-evaluate himself each day to assess his tasks.” Notably, the Student’s guardian did not dispute the Individualized Instructor’s statements. Moreover, the Student’s guardian told OCR that she was unaware that the Student was responsible for assessing his own day and determining when he deserved the sad faces he received. Because testimonial evidence suggests that the Student’s sad faces resulted from self-assessments instead of actions motivated by the District, OCR found insufficient evidence that the District took a materially adverse action against the Student. Therefore, there is insufficient evidence to state a *prima facie* case of retaliation.

Additional Concerns

During the investigation, OCR identified that the District had not adopted procedures for the evaluation and placement of students with disabilities as required under 34 C.F.R. §104.35(b). Although District staff has generally complied with procedural requirements of Section 504 in practice, the District has not standardized such practices through written procedures. Because the District has expressed an interest in resolving the complaint, OCR proposes that the District

¹⁰ Because the Complainant filed on behalf of the Student and the Student’s guardian, OCR investigated whether the District retaliated against the Student for the Student’s guardian’s protected activity.

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establish standards and procedures for the evaluation and placement of students with disabilities pursuant to the attached Resolution Agreement.

Conclusion

On September 19, 2016, the District agreed to implement the enclosed Resolution Agreement (Agreement), which commits the District to take specific steps to address the identified areas of noncompliance. The Agreement entered into by the District is designed to resolve the issues of noncompliance. Under Section 303(b) of OCR’s *Case Processing Manual*, a complaint will be considered resolved and the District deemed compliant if the District enters into an agreement that, fully performed, will remedy the identified areas of noncompliance (pursuant to Section 303(b)). OCR will monitor closely the District’s implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may conduct additional visits and may request additional information as necessary to determine whether the District has fulfilled the terms of the Agreement and is in compliance with Section 504 and Title II with regard to the issues raised. As stated in the Agreement entered into the by the District on September 19, 2016, if the District fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings, including to enforce the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This concludes OCR’s investigation of the complaint. This letter should not be interpreted to address the District’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 District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

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 appreciate the District's cooperation in the resolution of this complaint. If you have any questions regarding this letter, please contact Erika Westry, the OCR attorney assigned to this complaint, at 202-453-7025 or Erika.Westry@ed.gov.

Sincerely,

| _____ /S/

Alessandro Terenzoni
Supervisory Attorney, Team II
Office for Civil Rights
District of Columbia Office