



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

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June 5, 2014

Dr. Stephen Nowlin
Superintendent
Jefferson County School District
2100 18th Street South
Birmingham, Alabama 35209

RE: Complaint #04-14-1375

Dear Dr. Nowlin:

The U.S. Department of Education, Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint, filed on January 15, 2014, against Jefferson County School District (District), which alleged that the District discriminated against students with disabilities. Specifically, the Complainant alleged that the District fails to provide a free appropriate public education (FAPE) to students with disabilities receiving homebound services by failing to make individualized determinations of the homebound instruction hours to be provided to those students (i.e., by limiting homebound instruction to two sessions weekly for a maximum of three hours of instruction per week and requiring that students be out of school for 30 consecutive days before homebound instruction can begin).

OCR investigated the complaint pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit public entities from discriminating on the basis of disability. As a recipient of Federal financial assistance from the Department and a public educational institution, the District is subject to Section 504 and Title II.

During its investigation, OCR investigated the legal issue of whether, during the 2013 - 2014 school year, the District fails to provide a FAPE to students with disabilities receiving homebound services by failing to make individualized determinations of the homebound instruction hours to be provided to those students (i.e. by limiting homebound instruction to two sessions weekly for a maximum of three hours of instruction per week and requiring that students be out of school for 30 consecutive days before homebound instruction can begin), in noncompliance with the Section 504 implementing regulation, at 34 C.F.R. § 104.33, and the Title II implementing regulation, at 28 C.F.R. § 35.130.

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

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Prior to the completion of OCR's investigation, the District requested to voluntarily resolve this complaint. Pursuant to Section 302 of OCR's Case Processing Manual, a complaint may be resolved when, before the conclusion of an investigation the recipient or public entity expresses an interest in resolving the complaint. The attached Resolution Agreement (Agreement) will require the District to take actions to remedy any compliance concerns regarding disability with respect to homebound services.

On June 4, 2014, OCR received the enclosed signed Agreement that, when fully implemented, will resolve the complaint. OCR will monitor the District's implementation of this Agreement to ensure that it is fully implemented. If the District fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II. The Complainant may file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, or discriminate against any individual because he or she has filed a complaint, or participated in the complaint resolution process. If this happens, the Complainant may file another 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 OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions about this letter, please contact Annie Simmons, at (404) 974-9463, or Scott Sausser, Esq., Compliance Team Leader, at (404) 974-9354.

Sincerely,

Scott R. Sausser, Esq.
Compliance Team Leader

Enclosure