



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

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September 25, 2014

Alberto Carvalho
Superintendent
Miami-Dade County School District
1450 N.E. Second Avenue, Suite 912
Miami, Florida 33132

Re: Complaint #04-14-1492

Dear Mr. Carvalho:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint filed on March 28, 2014, against the Miami-Dade County School District (District). Specifically, the Complainant alleged that the District is discriminating against her son (Student) on the basis of disability, by failing to conduct an autism evaluation for the Student pursuant to the Complainant's request, by denying the Student the opportunity to participate in field trips with his class, and by failing to implement the toileting provisions in the Student's individualized education program (IEP).

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance, and Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

Based on the allegations, OCR investigated the following issues:

- Whether the District discriminated against the Student, on the basis of disability, and denied the Student a free appropriate public education (FAPE), by failing to implement the toileting provisions in the Student's IEP and by denying the Student the opportunity to participate in field trips with his class, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.33(a) and (b), and the Title II implementing regulation at 28 C.F.R. § 35.130.
- Whether the District discriminated against the Student, on the basis of disability, by failing to evaluate the Student, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.35, and the Title II implementing regulation at 28 C.F.R. § 35.130.

During the course of OCR's investigation of this complaint, the District offered to resolve this complaint through a voluntary resolution agreement. Pursuant to Section 302 of OCR's Case Processing Manual (CPM), a complaint may be resolved when, before the conclusion of an investigation, the recipient requests to resolve the

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complaint. Based on the foregoing, OCR accepted the District's request to resolve this complaint and the District entered into the enclosed Resolution Agreement (Agreement), which when fully implemented, will resolve the issues in this complaint.

OCR will monitor the District's implementation of the Agreement resolving this complaint 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. Also, the Complainant may file a private lawsuit in federal court regardless of whether 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. If we receive such a request, we will seek to protect, to the extent possible, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy. Intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient may 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.

This concludes OCR's consideration of this complaint, which we are closing effective the date of this letter. If you have any questions regarding this complaint, please contact Ms. Claudia Campo, Attorney, at (404) 974-9378, or Mr. Arthur Manigault, Compliance Team Leader, at (404) 974-9376.

Sincerely,

Cynthia G. Pierre, Ph.D.
Regional Director

Enclosure