



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION I  
5 POST OFFICE SQUARE, 8<sup>th</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921

July 31, 2019

Matthew Nelson  
[mnelson@sanford.org](mailto:mnelson@sanford.org)

Re: Complaint No. 01-19-1046  
Sanford School Department

Dear Superintendent Nelson:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received against Sanford School Department (the District). The Complainant alleges that the District discriminated against her son (Student) on the basis of disability when in the spring of 2018, the District failed to respond to her complaint that other students were subjecting the Student to disability-based bullying (Allegation 1); and convene a team meeting to determine whether the Student's educational needs changed as a result of the bullying (Allegation 2). The Complainant also alleged that after she filed an internal complaint contending that the Student's former educational technician (Education Technician) abused him in the fall of 2017 based on his disability, the District retaliated against the Student by inaccurately lowering his grades and increasing the amount of days he was absent on his grade and attendance reports during the spring of 2018 (Allegation 3). As explained further below, before OCR completed its investigation, the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement (Agreement).

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 any program or activity receiving 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. The laws enforced by OCR prohibit retaliation against any individual who asserts rights or privileges under these laws or their implementing regulations, or who files a complaint, testifies, assists, or participates in a proceeding under these laws. Because the District receives federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

#### Summary of Preliminary Investigation

The Complainant and District confirm that the Student is identified as a student with a disability and attended the District high school until XXXXXXXX 2018, when the Complainant began

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XXXXXXXXXXXXX him. Although the Complainant and Student reside in XXXXX, Maine, the Student attended the District high school because his town of residence only operates a kindergarten through eighth grade school system.

The Complainant contends that during the 2017-2018 school year, she and the Student reported two incidents to the District concerning his interactions with other students and his Education Technician. Specifically, at the beginning of the school year, the Student alleges that he informed the District that other students were bullying him and making him engage in misconduct because of his disability. The District denies receiving any notification that the other students were bullying the Student, even though the District confirms that it disciplined the Student for engaging in the same misconduct, which the Student claims was the culmination of his bullying.

The District does not dispute its receipt of the Student's report of the second incident. Specifically, the District's data indicates that on XXXXX X, 2018, the Student reported that his Education Technician made him feel uncomfortable when he looked in the XXXXXXXX while the Student was inside. On the same day, the District prevented the Education Technician from continuing to work with the Student. Correspondence provided by the District did not indicate that the District investigated whether discriminatory harassment occurred or reported its findings to the Complainant.

The parties dispute the reason for the District's failure to immediately assign the Student a new education technician. The District contends that the Complainant refused education technician services for the Student, while the Complainant denies this claim. Likewise, although both parties recognize that the Student's grades were negatively impacted by the lack of education technician services, the District additionally contends that the Student's grades were affected by his significant XXXXXXXXXXXX during the third and fourth quarter of the 2017-2018 school year.

The District's data shows that on XXXXX XX, 2018, it held an Individualized Education Program (IEP) Team meeting after previously rescheduling it from XXXXX XXth to accommodate the Complainant's schedule. At this meeting, the Complainant informed the District that she could not make a determination about the District's proposed IEP, because she felt ill. The proposed IEP included, among other things, a weekly thirty-minute session with the social worker and education technician services. Correspondence provided by the District indicates that as a short-term solution, it continued to implement the Student's prior IEP until it could hold another IEP Team meeting on XXXXX XX, 2018. Although the District's data does not indicate that an IEP Team meeting was convened before the end of the 2017-2018 school year, the Complainant ultimately agreed to an IEP proposed by the District, which included education technician services but no social work sessions in XXXX 2018.

To complete the investigation, OCR would need to conduct additional interviews, including with the Assistant Principal, the Student's social worker, the Student's case manager, and the Student's teachers. These interviews would provide OCR additional information about whether the District was notified of the Student's bullying, the District's investigation of the

Complainant's report of disability-based harassment, and the District's reason for issuing the Student's spring 2018 grades.

Prior to the conclusion of OCR's investigation and pursuant to Section 302 of OCR's *Case Processing Manual*, the District expressed an interest in resolving this complaint and OCR determined that a voluntary resolution is appropriate. Subsequent discussions between OCR and the District resulted in the District signing the enclosed Agreement which, when fully implemented, will address all of the allegations raised in the complaint. OCR will monitor the District's implementation of the Agreement.

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, assists, or participates in a proceeding under a law enforced by OCR. 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.

If you have any questions, you may contact me at (617) 289-0142 or by e-mail at [Abra.Francois@ed.gov](mailto:Abra.Francois@ed.gov).

Sincerely,

Abra Francois  
Compliance Team Leader

Enclosure

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