



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

June 3, 2016

IN RESPONSE, PLEASE REFER TO: 03161112

Mr. Kevin M. Maxwell
Superintendent
Prince George's County Public Schools
14201 School Lane
Upper Marlboro, MD 20772

Dear Mr. Maxwell:

This refers to the complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the Prince George's County School District (the District). The Complainant alleged that the District discriminated against her son, XXXXXX (the Student), on the basis of disability by:

1. Failing to implement his Section 504 Plan XXXXXX
2. XXXXXX

OCR enforces Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 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. OCR also enforces Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to Section 504, Title II and their implementing regulations.

LEGAL STANDARDS:

The regulation implementing Section 504 prohibits the District from discriminating on the basis of disability. The Section 504 regulation, at 34 C.F.R. § 104.4(a), states that no qualified individual shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. The Section 504 implementing regulation, at 34 C.F.R. § 104.33, requires that a recipient of Federal financial assistance that operates a public elementary or secondary education program or activity provide a free appropriate public education (FAPE) to each qualified individual with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. An appropriate education is defined as regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled students are met, and that are developed in accordance with the procedural requirements of 34 C.F.R. §§ 104.34–104.36 pertaining to educational setting, evaluation and placement, and due process protections. Implementation of an individualized education plan (IEP) developed in accordance with the Individuals with

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 Education Act (IDEA) is one means of meeting this standard. The Section 504 regulation, at 34 C.F.R. 104.35, requires districts to establish standards and procedures for evaluation and placement. Section 104.35 also requires consideration by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. Title II prohibits the same form of discrimination by public entities. Therefore, OCR applies the Section 504 standard when analyzing the same claims under Title II.

FACTUAL SUMMARY:

Allegation #1: The District failed to implement the Student's 504 Plan XXXXXX

The Student currently xx- paragraph redacted-xx

Allegation #2: The District failed to consider XXXXXX

xx- paragraphs redacted-xx

RESOLUTION:

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a voluntary resolution agreement. The provisions of the agreement must be aligned with the issues investigated and be consistent with applicable regulations. Such a request does not constitute an admission of liability on the part of a recipient, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the District requested to resolve the complaint allegations through a voluntary resolution agreement (the Agreement) which was executed on May 13, 2016. Accordingly, OCR is concluding its investigation of this complaint. A copy of the signed agreement is enclosed. As is our standard practice, OCR will monitor the District's implementation of the Agreement.

This letter is not intended, nor should it be construed, to cover any other issues regarding the District's compliance with Section 504 and Title II, and their implementing regulations that may exist and are not discussed herein.

Under the Freedom of Information Act it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, you may contact attorney Randle Haley, of our staff, at 215-656-8532 or by email randle.haley@ed.gov.

Sincerely,



Beth Gellman-Beer
Team Leader

Page 3 – Mr. Kevin M. Maxwell

Enclosure