



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION III  
DELAWARE  
KENTUCKY  
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WEST VIRGINIA

May 4, 2018

**IN RESPONSE, PLEASE REFER TO DOCKET #03171160**

Dr. Kevin M. Maxwell, CEO  
Prince George's County Public Schools  
Office of the Chief Executive Officer  
Sasscer Administration Building  
14201 School Lane  
Upper Marlboro, MD 20772

Dear Dr. Maxwell:

This is to notify you of the resolution of the complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Prince George's County Public Schools (the District). The Complainant, XXXXXX, alleged that the District discriminated against XXXXXX (the Student), on the basis of disability and retaliated against her XXXXXX. Specifically, the Complainant alleged that the District discriminated against the Student on the basis of disability when:

1. XXXXXX
2. XXXXXX
3. XXXXXX

The Complainant also alleged that the District retaliated against her by:

4. XXXXXX
5. XXXXXX
6. XXXXXX
7. XXXXXX

OCR enforces:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. Section 504 also prohibits retaliation.
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities. Title II also prohibits retaliation.

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

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. You will hereinafter be referred to as the Complainant.

During the course of the investigation, the District requested to resolve Allegation 1. Prior to concluding the investigation of this allegation, the District signed the enclosed Resolution Agreement (Agreement) on April 24, 2018, which when fully implemented, will resolve Allegation 1. OCR is dismissing Allegations 2-7 for the reasons stated below.

### **Legal Standards**

Section 504 and Title II of the ADA have equivalent standards. Title II is interpreted as adopting the standards of Section 504 in areas where Title II has not adopted a different standard. Therefore, OCR applied Section 504 in analyzing this complaint.

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. The implementation of an IEP is one way to comply with the FAPE requirement.

### **Factual Summary**

#### **General Background**

XX – paragraph redacted – XX

#### **Allegation 1**

XX – paragraphs redacted – XX

#### **Resolution**

OCR procedures provide that a complaint allegation may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a resolution agreement. The provisions of the resolution agreement must be aligned with the information gathered in our

investigation to date and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the District, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the District requested to resolve this allegation through a Voluntary Resolution Agreement, which was executed on April 24, 2018. 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.

**Dismissal of Allegations 2-7**

XX – paragraphs redacted – XX

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.

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, we 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.

Please be advised that the District may not harass, coerce, intimidate, 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.

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact Sarah Haake at 215-656-8516 or [sarah.haake@ed.gov](mailto:sarah.haake@ed.gov) or me at 215-656-8522 or [vicki.piel@ed.gov](mailto:vicki.piel@ed.gov)

Sincerely,

/s/

Vicki Piel  
Team Leader/Supervisory Attorney  
Philadelphia Office

Enclosure

cc: Gail Veins, Esq., District General Counsel (w/encl), via email only