



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

July 30, 2018

Via Email/ CitySchoolsCEO@bcps.k12.md.us

Dr. Sonja Brookins Santelises
Chief Executive Officer
Baltimore City Public Schools
200 E. North Avenue, Room 405
Baltimore, MD 21202

Re: OCR Complaint No. 03-18-1092

Dear Dr. Santelises:

This is to advise you of the resolution of the above referenced complaint that was filed with the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) against the Baltimore City Public Schools (the District). XXXXXX (the Complainant) alleged that the District discriminated against XXXXXX (the Student) on the basis of disability by failing to properly implement her Section 504 Plan while she was enrolled at the District's XXXXXX.

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 programs and activities that receive 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. 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.

Before OCR completed its investigation, the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Voluntary Resolution Agreement. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Voluntary Resolution Agreement.

Legal Standards

Section 504 at 34 C.F.R. § 104.4 and Title II at 28 C.F.R. § 35.130, require that no person, on the basis of disability, be excluded from participation in, be denied the benefits of, be treated differently from another person, or otherwise be discriminated against in any program or activity. The Title II regulation does not set a lesser standard than those under Section 504.

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

Accordingly, OCR interprets the Title II regulation to require public entities to provide services to students with disabilities (including a free appropriate public education) to the same extent as is required under the Section 504 regulation.

The regulation implementing Section 504 at 34 C.F.R. §104.33 requires public school districts to provide a free appropriate public education (FAPE) to all students with disabilities in their jurisdictions. 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 Section 504 procedural requirements pertaining to educational setting, evaluation and placement, and due process protections that are specified in 34 C.F.R. §§ 104.34, 104.35, and 104.36.

An individual with a disability under Section 504 is any person who has a physical or mental impairment which substantially limits one or more major life activities. With regard to public elementary and secondary educational services, such an individual is deemed "qualified" when he or she is of an age during which it is mandatory under state law to provide such services, or of an age during which it is mandatory under state law to provide such services to persons with disabilities.

Factual Background

XX – paragraphs redacted – XX

Conclusion

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District requested voluntary resolution on June 14, 2018. On July 19, 2018, the District signed the enclosed Voluntary Resolution Agreement which, when fully implemented, will resolve the allegation raised in this complaint. The provisions of the Agreement are aligned with the allegation and issues raised by the Complainant and the information discussed above that was obtained during OCR's investigation, and are consistent with applicable law and regulation. OCR will monitor the District's implementation of the Agreement until the District is in compliance with the statutes and regulations at issue in the case.

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, or participates in an OCR proceeding. 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.

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact Christina Haviland, the attorney assigned to this complaint, at 215-656-5805, or Christina.Haviland@ed.gov.

Sincerely,

/s/

Melissa M. Corbin
Team Leader
Philadelphia Office
Office for Civil Rights

cc: Darnell Henderson, Esq., XXXXXX
Enclosure