



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION III
DELAWARE
KENTUCKY
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July 26, 2018

IN RESPONSE, PLEASE REFER TO: 03181154

Dr. George Arlotto, Ed.D.
Superintendent
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, MD 21401

Dear Dr. Arlotto:

This is to notify you of the resolution of the complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) against the Anne Arundel Public Schools (the District). The Complainant, XXXXXX, alleged that the District discriminated against XXXXXX (the Student) on the basis of his disability when District personnel failed to implement provisions of his Section 504 Plan in the following ways:

1. XXXXXX
2. XXXXXX
3. 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.
- 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.

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.

APPLICABLE LEGAL STANDARDS

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

Section 504 at 34 C.F.R. § 104.4 and Title II at 28 C.F.R. § 35.130, requires 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. Concerning Title II, under 28 C.F.R. § 35.103, the Title II regulation does not set a lesser standard than those under Section 504. 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. Under the Title II regulation at 28 C.F.R. § 35.171(a)(3), OCR uses its Section 504 procedures to investigate Title II complaints.

Section 504 provides, at 34 C.F.R. § 104.33, that a recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified student with a disability who is in the recipient's jurisdiction. The regulation further states that an appropriate education is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met, and are based upon adherence to the "process" requirements of Section 504 regarding educational setting, evaluation and placement, and procedural safeguards that are specified in 34 C.F.R. §§ 104.34, 104.35, and 104.36. Implementation of an Individualized Education Program (IEP) in accordance with the Individuals with Disabilities Education Improvement Act is one means of meeting the "appropriate education" standard.

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 SUMMARY

XX – paragraphs redacted – XX

OCR received evidence that the Complainant withdrew the Student from the District as of the final week of the 2017-18 school year.

CONCLUSION

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District requested voluntary resolution on April 11, 2018. On July 9, 2018, the District signed the enclosed Voluntary Resolution Agreement, which, when fully implemented, will resolve the allegations 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 and 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. 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 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.

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, to the extent provided by law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

OCR is committed to a high-quality resolution of every case.

Thank you for your cooperation in this matter. If you have questions or concerns, you may contact Randle Haley, Team II attorney, at 215-656-8532 or by email at randle.haley@ed.gov.

Sincerely,

/s/

Beth Gellman-Beer
Team Leader

Enclosure: Voluntary Resolution Agreement

cc: Wendy Chermak