



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

June 27, 2018

Dr. Martin Pollio
Superintendent
Jefferson County Public Schools
VanHoosie Education Center
3332 Newburg Road
Louisville, KY 40218

OCR Complaint # 03-18-1162

Dear Dr. Pollio:

This is to advise you of the outcome of the above referenced complaint that you filed with the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) against Jefferson County Public Schools (the District). XXXXXX (the Complainant) alleged that the District discriminated against XXXXXX (the Student), who attends the XXXXXX (the School) on the basis of disability. Specifically, the Complainant alleged:

1. XXXXXX;
2. XXXXXX;
3. XXXXXX; and,
4. XXXXXX;
 - a. XXXXXX; and,
 - b. 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.
- 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

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

with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department.

The District is a recipient of Federal financial assistance and a public entity. Therefore, 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

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education (FAPE) to students with disabilities. An appropriate education is 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 students without disabilities are met and that are developed in compliance with Section 504's procedural requirements. Implementation of an individualized education program, developed in accordance with the Education of the Handicapped Act, is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

In interpreting evaluation data and making placement decisions, the Section 504 regulation, at 34 C.F.R. § 104.35(c), requires that a school district draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; establish procedures to ensure that information obtained from all such sources is documented and carefully considered; ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and ensure that each student with a disability is educated with peers without disabilities to the maximum extent appropriate to the needs of the student with a disability.

Factual Background

XX – paragraphs redacted – XX

Conclusion

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District signed the enclosed Voluntary Resolution Agreement on June 12, 2018, which, when fully implemented, will resolve the allegations raised in this complaint. The provisions of the Agreement are aligned with the allegations and issues raised by the Complainant, and are consistent with applicable law and regulation. When fully implemented, the Agreement will address all of the allegations in this complaint. Consistent with our procedures, 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, 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.

If you have any questions, please contact Cynthia Wesley, the OCR investigator assigned to this complaint, at 215-656-8548 or cynthia.wesley@ed.gov.

Sincerely,

/s/

Nancy E. Potter
Team Leader