



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

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

August 17, 2020

Doug Robinson
Superintendent
Grayson County Schools
790 Shaw Station Road
Leitchfield, KY 42754

Sent via email only to: doug.robinson@grayson.kyschools.us

Re: OCR Complaint No. 03191088

Dear Superintendent. Robinson:

The Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) has completed its investigation of the complaint we received on December 12, 2018 against Grayson County Schools (the District). In this complaint, XXXXXXXXXXXX (the Complainant) alleged that the District discriminated against XXXXXXXXXXXXXXXXXXXX XXXXX (the Student), who attended Grayson County XXXXXXXXX. Specifically, the complaint alleged that the XXXXXXXXXXXXXXXXXXXX Teacher discriminated the Student on the basis of disability by:

1. Failing to implement the Student’s academic accommodations; and,
2. XXX

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. Because the District receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

OCR applies a preponderance of the evidence standard to determine whether the evidence is sufficient to support a particular conclusion. Specifically, OCR examines the evidence in support of and against a particular conclusion to determine whether the

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

greater weight of the evidence supports the conclusion or whether the evidence is insufficient to support the conclusion.

In reaching a determination, OCR reviewed documentation provided by the Complainant and the District and interviewed the Complainant and District personnel. After carefully considering all of the information obtained during the investigation, OCR determined that there is sufficient evidence to support the Complainant's allegations of discrimination in Allegations 1 and 2. OCR's findings and conclusions are discussed below.

LEGAL STANDARDS

Allegation 1 – Implementation of Section 504 Plan

The Section 504 implementing regulation at 34 C.F.R. § 104.33 states that a recipient that operates a public elementary or secondary education program or activity shall provide a FAPE to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. The Section 504 implementing regulation at 34 C.F.R. §104.3(j) defines an individual with a disability as any person who has a physical or mental impairment which substantially limits a major life activity, including learning.

The Section 504 implementing regulation at 34 C.F.R. § 104.33 requires public school districts to provide a 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 procedural requirements of 34 C. F. R. §§ 104.34-104.36 pertaining to educational setting, evaluation and placement, and due process protections. Implementation of a Section 504 Plan developed in accordance with Section 504 is one means of meeting these requirements. 34 C.F.R. § 104.33(b)(2)

Allegation 2 – Disability Harassment/Hostile Environment

The Section 504 implementing regulation, at 34 CFR § 104.4(a), prohibits discrimination on the basis of disability. Disability harassment that is severe, pervasive or persistent can result in the denial or limitation of a student's ability to participate in or receive benefits, services or opportunities from the school's program. If a recipient receives information indicating that a student may have been harassed on the basis of disability, the recipient is responsible for investigating the allegations and, if a hostile environment is found, to take immediate effective action to eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

enclosed. As is our standard practice, OCR will monitor the 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.

We appreciate the District's cooperation in the resolution of this complaint and would like to thank the District's counsel, thank Mr. Vickery, Esq. If you have any questions regarding this letter, please contact me at 215-656-8522 or vicki.piel@ed.gov.

Sincerely,

/s/

Vicki Piel
Supervisory Attorney

cc: David Vickery, Esq. (via email only to: davidvickery101@windstream.net)
Enc.