



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

May 11, 2021

Re: OCR Complaint No: 03211047

Sent Via E-mail: ceo@pgcps.org

Dr. Monica Goldson
Chief Executive Officer
Prince George's County Public Schools
Sasscer Administration Building
14201 School Lane
Upper Marlboro, Maryland 20772

Dear Dr. Goldson,

This letter is to inform you of the resolution of the above referenced complaint filed with the U.S. Department of Education's (Department) Office for Civil Rights (OCR) against Prince George's County Public Schools (the District). The Complainant alleged that his son (the Student) was discriminated against on the basis of disability when the District modified the Student's IEP in October 2020 to allow for the Student to participate in extracurricular activities but did not agree to provide the Student with related services and supports, including transportation.

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 Resolution Agreement. Prior to OCR concluding the investigation of this complaint, the District signed the enclosed Resolution

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

Agreement (Agreement) on May 10, 2021, which when fully implemented will resolve the complaint.

Legal Standards

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. In addition, Districts are required to provide students with disabilities an equal opportunity to participate in nonacademic services, such as extracurricular activities. 34 C.F.R. §104.37. In accordance with 34 C.F.R. § 104.34(b), in providing or arranging for the provision of non-academic and extracurricular services and activities, a recipient shall ensure that an individual with a disability participates with persons without disabilities to the maximum extent appropriate to the needs of the individual with a disability in question. OCR interprets the regulation implementing Title II, at 28 C.F.R. § 35.130, to require a FAPE consistent with the requirements of Section 504. The Title II implementing regulation, at 28 C.F.R. §35.130(7)(i), requires a public entity to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

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- Paragraph Redacted - XX

Conclusion

Pursuant to Section 302 of OCR’s *Case Processing Manual*, the District signed the enclosed Resolution Agreement on May 10, 2021 which, when fully implemented, will resolve the allegation in this complaint. The provisions of the Agreement are aligned with the allegation, 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.

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 thank the District for its cooperation in resolving this complaint. If you have any questions, please contact Koert Wehberg, the attorney assigned to this complaint, at 215-656-5792, or koert.wehberg@ed.gov.

Sincerely,

/s/

Melissa M. Corbin
Team Leader

cc: Gail Viens, Deputy General Counsel – Prince George’s County Public Schools