



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  
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WEST VIRGINIA

July 5, 2022

*Via Email @ 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

Re: OCR Complaint No. 03221066

Dear Dr. Goldson:

This is to advise you of the resolution of this complaint that was filed with the U.S. Department of Education's Office for Civil Rights (OCR) against the Prince George's County Public Schools, which will be referred to as the District throughout this letter. The Complainant alleged that the District discriminated against XXXXXXXXXX, whom we refer to as the Student, on the basis of disability when it failed to provide the Student with a free appropriate public education by failing to evaluate the Student's disability-related needs XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXX.

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, pursuant to Section 302 of OCR's Case Processing Manual (CPM), by taking the steps set out in the enclosed Voluntary Resolution Agreement, which when fully implemented will resolve this complaint. 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.

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

**Legal Standards**

The Section 504 regulation, at 34 C.F.R. § 104.4, and the Title II regulation, 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. 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.

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.

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.

The Section 504 regulation, at 34 C.F.R. § 104.35(a) requires a recipient to conduct an evaluation of any student who, because of disability, needs or is believed to need special education or related services in accordance with the requirements of 34 C.F.R. §104.35(b) prior to taking any action with respect to the initial placement of the person in regular or special education or any subsequent significant change in placement.

**Factual Background**

XX  
XX,  
XX.

At the start of the XXXXXXXXX school year, all District students attended classes remotely. The Student’s parent believed that the Student’s Section 504 Plan (the Plan) was not appropriate for a remote learning environment and XXXXXXXXXXXXXXXXXXXX, requested that the Plan be updated prior to the annual review date scheduled for XXXXXXXXXXXXXXXX. A school counselor acknowledged the parent’s request on XXXXXXXXXXXXXXXX and replied that a Section 504 meeting would be scheduled for the Student shortly. It is undisputed that a Section 504 meeting was

not convened for the Student until the following school year, on XXXXXXXXXXXXXXXXXXXX. At that meeting, the Section 504 team discussed the Student's progress and updated the Plan based on current data. The team also made a referral to the high school IEP team and on XXXXXXXX, XXXX, the IEP team commenced an evaluation of the Student. On XXXXXXXXXXXXXXXXXXXX, the IEP team reviewed the evaluation results and determined that the Student was eligible for special education as a student with a specific learning disability. From the notes of the Section 504 meeting and IEP meetings held in XXXXXX, there was no discussion as to whether the Student was eligible for compensatory education or recovery services due to the District's failure to evaluate her during the XXXXXXXX school year.

### **Conclusion**

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District requested to resolve the case through a voluntary resolution agreement on May 11, 2022. The District signed the enclosed Voluntary Resolution Agreement on June 28, 2022, 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.

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 please contact Jerry Hand, the OCR attorney assigned to this complaint, at 215-656-8547 or [jerome.hand@ed.gov](mailto:jerome.hand@ed.gov).

Sincerely,

*/s/*

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

cc: Darnell Henderson, Esquire