



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION III  
DELAWARE  
KENTUCKY  
MARYLAND  
PENNSYLVANIA  
WEST VIRGINIA

**September 27, 2022**

**IN RESPONSE, PLEASE REFER TO: 03221204**

Dr. Monica Goldson  
Office of the Chief Executive Officer  
Sasscer Administration Building  
14201 School Lane  
Upper Marlboro, MD 20772

Via e-mail at: [ceo@pgcps.org](mailto:ceo@pgcps.org)

Dear Dr. Goldson:

This is to notify you that the U.S. Department of Education, Office for Civil Rights (OCR) has completed its investigation of the complaint filed against the Prince Georges County Public Schools (the District). The Complainant, XXXXXXXXXXXX, alleges that the District discriminated on the basis of disability against her son, XXXXXXXX (the Student). Specifically, the Complainant alleges that the District:

1. denied the Student a free appropriate public education (FAPE) by failing to provide him a XXXXXXXXX as required by his Individualized Education Plan (IEP).
2. retaliated against her for hiring an advocate by denying her request that specific XXXXXXXX accommodations be incorporated into the Student's IEP.

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

In reaching a determination, OCR reviewed documentation provided by the Complainant and the District. After carefully considering all the information obtained during the investigation, OCR has determined that the evidence is insufficient to conclude the District retaliated against the Student (Allegation 2), as alleged.

With regard to Allegation 1, 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 for Allegation 2, and OCR's determination regarding Allegation 1.

**LEGAL STANDARDS:**

*FAPE*

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a 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 IEP developed in accordance with the Individuals with Disabilities Education Act is one means of meeting this standard. OCR interprets the Title II regulation, at 28 C.F.R. §§ 35.103(a) and 35.130(b)(1)(ii) and (iii), to require school districts to provide FAPE to the same extent required under the Section 504 regulation.

*Retaliation*

The regulation implementing Title VI, at 34 C.F.R. § 100.7(e), prohibits recipients of Federal financial assistance from intimidating, threatening, coercing or discriminating against any individual for the purpose of interfering with any right or privilege secured by regulations enforced by OCR or because one has made a complaint, testified, assisted or participated in any manner in an investigation, proceedings or hearing held in connection with a complaint. This requirement is incorporated by reference into the Section 504 regulation at 34 C.F.R. § 104.61. The regulation implementing Title II, at 28 C.F.R. § 35.134, includes a similar requirement.

In order for OCR to make a finding that prohibited retaliation occurred, OCR must determine whether: (1) an individual experienced an adverse action caused by the recipient; (2) the recipient knew that the individual engaged in a protected activity; and (3) there is some evidence of a causal connection between the protected activity and the adverse action. In determining whether an action taken by school is adverse, OCR considers whether the alleged adverse action caused lasting and tangible harm or had a deterrent effect. Merely unpleasant or transient incidents usually are not considered adverse. If any of these elements is not present, then OCR cannot make a finding of prohibited retaliation. If all of these elements are present, OCR would then consider whether the recipient has a legitimate, non-retaliatory reason for taking the action, and whether or not the recipient's reasons are a pretext for retaliation.

**FACTUAL SUMMARY**





## **CONCLUSION**

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.

The Complainant has the right to appeal OCR's determination regarding Allegation #2 within 60 calendar days of the date indicated on this letter. An appeal can be filed electronically, by mail, or fax. The Complainant must either submit a completed online form at <https://ocr cas.ed.gov/content/ocr-electronic-appeals-form>, or mail a written statement of no more than ten (10) pages (double-spaced, if typed): if submitted by mail, it must be submitted to the Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202. If submitted via e-mail, the appeal must but submitted to [OCR@ed.gov](mailto:OCR@ed.gov); if submitted via fax, the appeal must be sent to 202-453-6012. The filing date on an appeal is the date the appeal is postmarked, submitted electronically, or submitted via fax. In the appeal, the Complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect, or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal.

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.

Thank you for your cooperation in this matter. If you have any questions, please contact investigator Josh Galiotto at 215-656-8587 or by e-mail [joshua.galiotto@ed.gov](mailto:joshua.galiotto@ed.gov).

Sincerely,

/s/

Christina M. Haviland  
Supervisory Attorney