



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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February 28, 2023

IN RESPONSE, PLEASE REFER TO: 03221408

Sent via email only to: ceo@pgcps.org

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

Dear Dr. Goldson:

This letter is to notify you of the disposition of the above-referenced complaint that the U.S. Department of Education, Office for Civil Rights (OCR), received on September 19, 2022. The Complainant alleged that the District discriminated against her daughter (the Student) on the basis of disability. Specifically, the Complainant alleged that the District discriminated by denying the Student a free appropriate public education (FAPE) by:

1. failing to fully implement the provision of the Student's Individualized Education Program (IEP) requiring the District to provide the Student with:
 - a. daily services of a Private Duty Nurse (PDN) during the XXXXXXXXXXXX school years;
 - b. four (4) thirty-minute speech and language sessions per month since XXXXXXXX;
 - c. three (3) thirty-minute Occupational Therapy sessions per month since XXXX XXXX;
 - d. two (2) thirty-minute Adapted Physical Education services per week provided by an Adapted Physical Education Teacher since XXXXXXXX; and
2. denying the Complainant's request for Home Hospital Instruction (HHI) XXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXX

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 with disabilities by public entities, including public education systems and

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

There is no dispute that the Student did not receive HHT services XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXX The District emails reflect that the Complainant was told that, while the Student XXXXXXXX, she was able to participate in reading and math lessons virtually and she was able to work with the speech and language pathologist for 30 minutes one of the weeks. In addition, the emails reflect that the Regional Coordinator told the Complainant that the Student’s team gathered activities and assignments for the Student to compete while she was home recovering; however, there is no documentation to confirm that this was provided to the Student. The emails also indicate that the District intended to invite other related service providers to join while the Student was logged in virtually, but there is no documentation to confirm that the other related services were provided.

The Complainant provided OCR with email documentation demonstrating that, on XXXXXXXX, the Regional Coordinator informed the Complainant that the school team determined that the Student would receive a total of 10 hours for the remaining 12 days of school that she missed. However, the District did not provide OCR with any documentation regarding the discussions regarding compensatory services, and there is no evidence demonstrating that such services were provided to the Student.

Conclusion – Allegation 1 and 2

OCR has concerns that the District failed to provide a FAPE to the Student when her PDN was absent during the XXXXXXXXXXXXXXXX year, and she therefore missed school and missed related services such as speech and language services, occupational services and adapted physical education. OCR also has concerns that the occupational therapist vacancy during the XXXXXXXX denied the Student FAPE services. Last, OCR has concerns that the Student was denied a FAPE while on XX school year. While the evidence reflects that the District has engaged in various discussions regarding compensatory services, it is clear that the Complainant disputes the total hours missed and the offer of specific hours. Further, it is not clear that the District has made any final determinations regarding compensatory services. Moreover, OCR has concern that other students may have been impacted by the inconsistency of services provided by the PDN agency contracted by the District to provide such services, and by the occupational therapist vacancy during the XXXXX.

Pursuant to Section 302 of OCR’s *Case Processing Manual*, the District requested to resolve the case through a voluntary resolution agreement. The District signed the enclosed Agreement on February 28, 2023, which when fully implemented, will address OCR’s concerns regarding Allegation 1 and 2. To address OCR’s concerns, the Agreement requires that the District convene the Student’s multidisciplinary team to assess whether the Student was denied FAPE during the 2021-2022 and current school year, and if so, determine appropriate compensatory education services, and develop a plan for delivering such services. The Agreement also requires that the District provide documentation of any other student impacted by the lack of PDN services and occupational therapy vacancy, and for every such student, conduct an assessment of the impacted student for compensatory education services, and develop a plan for delivering such services. OCR will monitor the District’s implementation of the Agreement.

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.

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 you for your cooperation during the resolution of this complaint. If you have any questions, you may contact Tashell Jenkins, Team Attorney, at (215) 656-6021 or by email at tashell.jenkins@ed.gov or Robert Ford, Investigator, at (215) 656-8537 or by email at robert.ford@ed.gov.

Sincerely,

/s/

Craig D. Ginsburg
Supervisory Attorney
Philadelphia Office

Enclosure

cc: Darnell Henderson, Esq.
Albert Chichester
Keith Marston