



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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August 4, 2023

**IN RESPONSE, PLEASE REFER TO: 03231184**

**VIA E-MAIL ONLY: [seanbulson@hcps.org](mailto:seanbulson@hcps.org)**

Dr. Sean W. Bulson  
Superintendent  
Harford County Public Schools  
102 South Hickory Avenue  
Bel Air, Maryland 21014

Dear Dr. Bulson:

This letter is to advise you of the outcome of the complaint filed by the Complainant on February 24, 2023, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Harford County Public Schools in Maryland (the District). OCR investigated whether the District discriminated against the Student on the basis of his disability during the [Redacted content] school year when, at [Redacted content] (the School), his [Redacted content] teachers failed to implement the following provisions of his Section 504 plan:

[Redacted content]

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. 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, on April 18, 2023, the District expressed a willingness to resolve the complaint pursuant to Section 302 of OCR's Case Processing Manual (CPM). On July 31, 2023, the District signed the enclosed Resolution Agreement, which when fully implemented will resolve the four allegations.

**FACTUAL SUMMARY**

During the [Redacted content] school year, the Student was in [Redacted content] at the School. At the start of the school year, the Student's Section 504 plan, written on [Redacted content], was in effect. The Student's Section 504 plan was modified on several occasions in the school year, including next [Redacted content]. The District stated that all of the Student's teachers

received a copy of the Student’s Section 504 plans at the beginning of the year and each time the Plan was amended.

[Redacted content]

[Redacted paragraph]

[Redacted paragraph]

[Redacted content]

[Redacted paragraph]

[Redacted paragraph]

- i. [Redacted content]

[Redacted content]

[Redacted paragraph]

[Redacted paragraph]

[Redacted paragraph]

[Redacted content]

[Redacted paragraph]

[Redacted paragraph]

**LEGAL STANDARD**

The Section 504 regulation, at 34 C.F.R. § 104.4, and the Title II regulation, at 28 C.F.R. § 35.130(a), provide that no qualified individual with a disability shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under a recipient’s programs or activities on the basis of disability.

The Section 504 regulation, at 34 C.F.R. § 104.33, also requires recipients to provide a free appropriate public education (FAPE) to each qualified student with a disability in its jurisdiction. 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. OCR interprets the Title II regulation, at 28 C.F.R. §§ 35.103(a) and 35.130(b)(1)(ii) and (iii), to require recipients to provide a FAPE to the same extent required under the Section 504 regulation.

In investigating a denial of a FAPE under Section 504, OCR first looks at the services to be provided as written in a student's plan or as otherwise agreed to by the student's team. If OCR finds that a recipient has not implemented a student's plan in whole or in part, it will examine the extent and nature of the missed services, the reason for the missed services, and any efforts by the recipient to compensate for the missed services in order to determine whether this failure resulted in a denial of a FAPE.

## **CONCLUSION**

Based on our investigation, the Student's 504 Plans during the [Redacted content] school year included terms related to [Redacted content]. While OCR has not completed its investigation, at this stage, OCR has preliminary concerns that the Student may not have had [Redacted content] as described in the 504 plan(s), and that the Student may [Redacted content].

Before OCR completed its investigation of this complaint, pursuant to Section 302 of OCR's CPM, the District requested to resolve the case through a voluntary resolution agreement, and OCR determined such a resolution was appropriate. The District signed the enclosed Agreement on July 31, 2023, which when fully implemented, will address the evidence obtained and all of the allegations investigated in this complaint. The Resolution Agreement requires that the District: (1) conduct a meeting between the teachers for the Student in the upcoming academic year, to meet with the counselor and / or principal to discuss the implementation of the Student's Section 504 plan, allowing teachers to ask any questions about what terms means; and (2) conduct a Section 504 meeting with the Student's parents and the District to address any educational concerns in relation to the District's failure to implement the Student's Section 504 plan. 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 Dale Leska at [Dale.Leska@ed.gov](mailto:Dale.Leska@ed.gov) or 215-656-8562.

Sincerely,

/s/

Catherine Deneke  
Supervisory Attorney  
Philadelphia Office

cc: Kimberly Neal, [Kimberly.Neal@hcps.org](mailto:Kimberly.Neal@hcps.org)

Enclosure: Resolution Agreement