



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
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April 17, 2014

Mr. David Lewis
Superintendent
Muscogee County School District
P.O. Box 2427
Columbus, Georgia 31902

RE: OCR Complaint No. 04-13-1162

Dear Mr. Lewis:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint, filed on January 25, 2013, against the Muscogee County School District (District), which alleged that the District discriminated and retaliated against the Complainant's son (Student) on the basis of sex (male) and disability (XXXXXX, XXXXXXXXXXX XXXXXXXX XXXXXXXXXXXXXXXX XXXXXXXX, XXXXXXXXXXX XXXXXXXXXXXXX).

OCR investigated the complaint pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance; and Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation, at 34 C.F.R. Part 106, which prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. OCR also investigated this complaint pursuant to Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The Section 504 regulation, at 34 C.F.R. § 104.61, the Title IX regulation, at 34 C.F.R. § 106.71, and the Title II regulation, at 28 C.F.R. § 35.134, also prohibit retaliation. The District is a recipient of federal financial assistance and a public educational institution. Therefore, it is subject to Section 504, Title IX and Title II.

OCR investigated the following issues:

1. Whether the District discriminated against the Student on the basis of sex by failing to take appropriate responsive action to redress the sex-based harassing conduct directed at him when a classmate touched the Student's genitals, in noncompliance with the Title IX implementing regulation, at 34 C.F.R. § 106.31(a)(b).

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2. Whether the District discriminated against the Student on the basis of disability by failing to take appropriate responsive action to redress the disability-based harassing conduct directed at him when a teacher was reported to have slapped the Student, in noncompliance with the Section 504 implementing regulation, at 34 C.F.R. § 104.4(a), and the Title II implementing regulation, at 28 C.F.R. § 35.130.
3. Whether the District retaliated against the Student because of the Complainant's advocacy when the Student's teacher slapped the Student and disciplined the Student without merit, in noncompliance with the Section 504 implementing regulation, at 34 C.F.R. § 104.61, and the Title II implementing regulation, at 28 C.F.R. § 35.134.

Prior to the completion of OCR's investigation, the District requested to voluntarily resolve this complaint. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation the recipient or public entity expresses an interest in resolving the complaint. The attached Resolution Agreement (Agreement) will require the District to take actions to remedy any compliance concerns regarding sex and disability-based harassment and retaliation.

On April 16, 2014, OCR received the enclosed signed Agreement that, when fully implemented, will resolve the complaint. OCR will monitor the District's implementation of this Agreement to ensure that it is fully implemented. If the District fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Title IX, Section 504 and Title II. The Complainant may file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, or discriminate against any individual because he or she has filed a complaint, or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

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, to the extent provided by law, personally identifiable information that, if released, could constitute an unwarranted invasion of privacy.

Thank you for your cooperation during OCR's complaint resolution process. If you have any questions, please contact XXXXXXXXXXX XXXXXX, at (XXX) XXX-XXXX, or XXXXX XXXXXXXX, XXXXXXXXXXX XXXX XXXXXXX, at (XXX) XXX-XXXX.

Sincerely,

Cynthia G. Pierre, Ph.D.
Office Director
Atlanta Regional Office

Enclosure

cc: XXXXX XXXXXXXXX, via electronic mail