



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
GEORGIA
TENNESSEE

XXX
Director of Schools
XXX County Schools
XXXXXXXXXX

April 2, 2014

Re: Complaint # 04-13-1318

Dear XXX:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint filed on May 9, 2013, alleging discrimination on the basis of disability by XXX County School District (District). Specifically, the Complainant alleged that the District discriminated against her daughter (Student) who attended XXX XXX School (School), on the basis of disability as follows:

1. by denying the Student a free and appropriate public education (FAPE) when it would not allow her to return to the School with the dog after XXX to complete the school year;
2. by subjecting the Student to different treatment when it required the Complainant to present information about the Student's disability and her certified service dog in four school assemblies;
3. when the District subjected the Student to harassment or a hostile environment after Student 2 threatened to harm the Student's service dog; and
4. when the District subjected the Student to harassment or a hostile environment after Student 2 taunted the Student, who because of her disability, could not eat certain foods that other parents brought to the class for the students to share.

OCR investigated this complaint pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance; and, Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. Accordingly, OCR has jurisdiction over this complaint.

OCR investigated the following legal issues:

- (1) Whether the District discriminated against the Student by denying the Student a free appropriate public education (FAPE), in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.33(a) and (b), and the Title II implementing regulation at 28 C.F.R. § 35.130(a) and (b)(1)(i)-(ii), (vii);

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- (2) Whether the District discriminated against the Student by subjecting her to different treatment on the basis of her disability, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b)(1)(i)-(iv), and the Title II implementing regulation at 28 C.F.R. § 35.130(a) and (b)(1)(i)-(iv); and
- (3) Whether the District subjected the Student to harassment or a hostile environment on the basis of disability and the District failed to conduct a prompt and equitable resolution of the Complainant's allegations of harassment, in noncompliance with Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b)(1)(i)-(ii) and (vii) and 104.7(b), and the Title II implementing regulation at 28 C.F.R. §§ 35.130(a), (b)(1)(i)-(ii) and (vii) and 35.107.

During OCR's investigation of this complaint, the District offered to voluntarily resolve the matter. 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. Based on the foregoing, OCR accepted the District's request and the District entered into the enclosed Resolution Agreement (Agreement), which when fully implemented, will resolve the issues in this 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 Section 504 and Title II.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If we receive such a request, we will seek to protect, to the extent possible, any personally identifiable information, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Intimidation or retaliation against complainants by recipients or public entities is prohibited. No recipient or public entity may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or because one has made a complaint, or participated in any manner in an investigation in connection with a complaint.

This concludes OCR's consideration of the complaint, which we are closing effective the date of this letter. If you have any questions regarding this matter, please contact Katrina Oliver, Investigator, at (404) 974-9382 or Rosemary Smith, Team Leader, at (404) 974-9374.

Sincerely,

/s/

Cynthia G. Pierre, Ph.D.
Regional Director

Enclosure