



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

Dr. Casey Wardynksi  
Superintendent  
Huntsville City Schools  
200 White Street  
Huntsville, Alabama 35811

RE: Complaint #04-13-1325

Dear Dr. Wardynksi:

On May 16, 2013, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint filed against the Huntsville City School District (District), which alleges discrimination on the basis of disability and race. We have determined that we have the authority to investigate this complaint consistent with our complaint procedures and applicable law.

Specifically, the Complainant alleged the following:

1. The District discriminated on the basis of disability against the Student, who has Autism and attends Martin Luther King Elementary (School), by subjecting him to a hostile environment when, at a February 2013 parent/teacher conference, (a) the Student's teacher compared the student to the person who committed the murders at a Newtown Connecticut Elementary school, and (b) an administrative aide yelled at the Student;
2. The District discriminated against the Student on the basis of disability when the School Principal and the Superintendent failed to respond to the Complainant's repeated complaints regarding alleged peer on peer disability harassment; and
3. The District discriminated against the Student on the basis of race when the Student's teacher, during a parent/teacher conference, compared the Student to a child from the ghetto, who wears his pants down.

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, 34 C.F.R. Part 104. Section 504 prohibits 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, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities, and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, national origin, or color by recipients of Federal financial assistance.

OCR investigated the following issues:

1. Whether the District discriminated against the Student on the basis of disability by subjecting him to a hostile environment when the Student's teacher compared the Student to the person who committed the

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murders at a Newtown Connecticut Elementary school, and an instructional aid yelled at the Student in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4(a)(b)(1), and the Title II implementing regulation at 28 C.F.R. § 35.130 (a)(b)(1),

2. Whether the District's staff failed to respond to the Complainant's repeated complaints regarding disability based peer on peer harassment in noncompliance with the Section 504 implementing regulation at 34 C.F.R. §§ 104.4(b)(i)-(iv) and (vii) and 104.7, and the Title II implementing regulation at 28 C.F.R. § 35.107.
3. Whether the District discriminated against the Student on the basis of race by subjecting him to a hostile environment when the Student's teacher compared the Student as a child from the ghetto, who wears their pants down, during a parent teacher conference in February, 2013 in noncompliance with the Title VI implementing regulation at 34 C.F.R. § 100.3(a) (b) (1) (i).

When OCR contacted the District to schedule staff interviews, the District requested to voluntary resolve the complaint.

Pursuant to Section 302 of the OCR's *Case Processing Manual* (CPM), 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 will require the District to take actions to remedy any compliance concerns regarding the Student's participation opportunities.

On December 26, 2013, OCR received the enclosed, signed Resolution Agreement (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 Section 504 and Title II.

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. Further, you are advised that you may file a private action pursuant to Section 203 of the Americans with Disabilities Act, the Complainant regardless of whether OCR finds a violation of Title II.

OCR is committed to prompt and effective service. If you have any questions about this complaint, please contact the assigned OCR investigator, XX XXXXXX XXXXXX, Senior Investigator, at (XXX) XXX-XXXX, or by e-mail at [XXXXXXXXXXXXXXXXXXXX](mailto:XXXXXXXXXXXXXXXXXXXX), or me at (XXX) XXX-XXXX.

Sincerely,

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

Enclosure