



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

December 2, 2013

William T. Abare, Jr., Ed.D.
President
Flagler College
74 King Street
St. Augustine, Florida 32084

Re: Complaint #04-13-2046

Dear Dr. Abare:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint that the Complainant filed against Flagler College (College) alleging discrimination on the basis of disability (XXXXXXXXXXXXXXXXX). Specifically, the Complainant alleged that XX was subjected to harassment and a hostile environment when: 1) in XXXXXXXXXXXX, the Complainant's XXXXXXXXXXXX showed XX an email to XXXXXXXXXXXXXXXXXXXX in which XXXXXXX commented that the Complainant is learning disabled or handicapped; 2) in or around XXXXXXXXXXXX, the Complainant overheard XXXXXXXXXXXXXXXXXXXX at the College comment during XXXX that the Complainant and XXXX have AIDS; 3) in XXXXXXXXXXXX, the Complainant overheard XXXXXXXXXXXXXXXXXXXXXXXXXXXX discussing that XX had overheard parents at the XXXXXXXXXXXX make comments about the Complainant and XXXX having AIDS and XXXXX failed to act or respond; 4) in XXXXXXXXXXXX, during XXXXXXXXXXXXXXXXXXXX, the Complainant overheard other students comment amongst themselves that the Complainant and XXXXX have AIDS; and 5) in or around XXXXXXXXXXXX, XXXXXXXXXXXXXXXXXXXX asked the Complainant if XX was "going to do anything" to XX.

OCR is responsible for enforcing 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. As a recipient of Federal financial assistance from the Department, the College is subject to the provisions of Section 504. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Based on the above, OCR investigated the following legal issue:

Whether the Complainant was subjected to harassment and a hostile environment on the basis of an actual or perceived disability in XXXX through XXXXXXXXXXXX in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.4.

During the course of OCR's investigation of this complaint, the College offered to resolve this complaint through a voluntary resolution agreement. Pursuant to OCR's *Complaint Processing Manual* (CPM), at Section 302, a complaint may be resolved when, before the conclusion of an investigation, the recipient requests to resolve the complaint. Based on the foregoing, OCR accepted the College's request to resolve this complaint and the College entered into the enclosed Resolution Agreement (Agreement), which when fully implemented, will resolve the issue in this complaint.

OCR will monitor the College's implementation of the Agreement to ensure that it is fully implemented. If the College fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504. Further, the Complainant may file a private lawsuit in federal court regardless of whether OCR finds a violation.

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, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Please be advised that the College may not harass, coerce, intimidate, 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.

This concludes OCR's consideration of this complaint, which we are closing effective the date of this letter. If you have any questions regarding this complaint, please contact Mr. Michael Bennett, Investigating Attorney, at (404) 974-9274 or Wendy Gatlin, Compliance Team Leader at (404) 974-9356.

Sincerely,

Cynthia G. Pierre, Ph.D.
Regional Director

Enclosure

cc: XXXXXXXXXXXXXXX