



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

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REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

November 9, 2018

Mr. Matt Massey
Superintendent
Madison County School District
1725 Jordan Road
Huntsville, Alabama 35811

Re: Complaint #04-14-1318

Dear Superintendent Massey:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received on December 11, 2013, against the Madison County School District (District) alleging discrimination on the basis of disability. Specifically, the Complainant alleged that the District subjected his son (Student) and other students in the Student's special education classroom at Buckhorn Middle School to a hostile environment on the basis of disability when their special education teacher and special education aides subjected them to physical, mental and emotional abuse during fall 2013.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 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.

OCR initiated an investigation of the following legal issue:

Whether District subjected the Student and other students at Buckhorn Middle School to a hostile environment on the basis of disability when their special education teacher and special education aides subjected them to physical, mental and emotional abuse during fall 2013, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b)(1); and the Title II implementing regulation at 28 C.F. R. § 35.130.

Prior to the conclusion of the investigation, the District requested to resolve this complaint under Section 302 of OCR's *Case Processing Manual (CPM)*. Pursuant to the CPM, a complaint may be resolved at any time when, prior to the conclusion of OCR's investigation, the recipient expresses an interest in resolving the complaint and OCR determines that it is appropriate to resolve the complaint with an agreement.

On November 9, 2018, the District signed the attached Resolution Agreement (Agreement), which once fully implemented, will resolve the complaint allegations in accordance with the requirements of Section 504 and Title II. The Agreement requires the District to take actions that include: (1) revising the policy addressing harassment on the basis of disability; (2) revising its “Procedures on Seclusion and Physical Restraint for All Students” or other policy addressing use of time-out rooms, sensory rooms or other rooms in which student is placed alone without the freedom to leave, as necessary to require parental notice of the existence and possible use of such rooms; (3) conducting training of all administrative and teaching staff on the revised harassment policy and policy addressing use of time-out rooms, sensory rooms, etc.; (4) conduct an inspection at the School and a review of the School’s practices to ensure that the School is not using a bathroom as a calming, sensory or time-out room for students with disabilities and that any rooms at the School in which students with disabilities are left alone for calming, time-out or other purposes allow for visual monitoring of students while they are in the room and are free of any items that might cause injury to a student; and (5) contacting the Student’s parent/guardian in writing to invite them to a meeting or telephone conversation to discuss counseling, academic or other services that the Student may require to remedy any hostile environment that may have been created for the Student in the class during the 2013-2014 school year.

OCR will monitor the District’s implementation of the Agreement to ensure that it is fully implemented and that the District is in compliance with the statutes and regulations at issue in this complaint.

This concludes OCR’s investigation of the complaint and 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 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.

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, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact Philip Weltner, Senior Attorney, at (404) 974-9402, or me, at (404) 974-9356.

Sincerely,

Wendy Gatlin
Compliance Team Leader

Enclosure