



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

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ATLANTA, GA 30303-8927

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June 27, 2014

Mr. XXX
Superintendent
Henry County School District
33 N. Zack Hinton Parkway
McDonough, GA 30253

Complaint #04-14-1356

Dear Mr. XXX:

On December 31, 2013, the U. S. Department of Education (Department), Office for Civil Rights (OCR), received the above-referenced complaint filed by XXX (Complainant) against the Henry County School District (District) on behalf of XXX and XXX (Student 1 and Student 2). The Complainant alleged that the District discriminated against the Students on the bases of disability (Autism Disorder and Anxiety Disorder) and race (Hispanic). Specifically, the Complainant alleged the following:

1. In October of 2013, Student 1 was harassed on the bases of disability and race when a teacher pulled her by the ear and the Assistant Principal threatened to expel the Students after their mother reported the incident;
2. In November of 2013, the District failed to evaluate the Students for eligibility for special education services under Section 504;
3. Prior to the November 2013 Section 504 meeting, the District failed to provide the Students' mother with Section 504 eligibility forms in Spanish, so she could not understand them;
4. Prior to the November 2013 Section 504 meeting, the District improperly denied the Students' mother's request for a copy of their student records;
5. Prior to the November 2013 Section 504 meeting, and during the 2012-2013 school year, the District failed to provide the Students' mother with a copy of her full parental rights in Spanish;
6. The District unilaterally rescheduled a meeting to review the Students' psychological evaluations scheduled for December 18, 2013 to January 9, 2014 without consulting the Students' mother, and failed to send her the meeting notice in Spanish;

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7. On February 6, 2014, the District failed to evaluate the Students for eligibility for special education services during an IEP meeting and improperly determined that the Students were ineligible for special education services;
8. On February 6, 2014, the District failed to provide the Students' mother with a full copy of her parental rights at the IEP meeting; and
9. In 2011, the District failed to evaluate the Students for eligibility for special education services at an Individualized Education Program (IEP) meeting, as both Students have vision issues.

As a recipient of Federal financial assistance from the Department, the District is subject to the provisions of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. Section 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability; and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Sections 2000d *et seq.*, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of race. As a public entity, the District is subject to Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability. Accordingly, OCR has jurisdiction over this complaint.

OCR investigated the following legal issues:

1. Whether the District subjected the Students to a hostile environment on the basis of disability and/or race when a teacher allegedly pulled on Student 1's ear and the Assistant Principal threatened to expel the Students after the Students' mother reported the incident, and the District failed to take action reasonably calculated to stop the harassment after they received notice of it, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b), the Title II implementing regulation at 28 C.F.R. § 35.130(a), and the Title VI implementing regulation at 34 C.F.R. § 100.3(a) and (b);
2. Whether the District failed to evaluate the Students to determine eligibility for special education or related services in November 2013, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.35(a)-(c), and the Title II implementing regulation at 28 C.F.R. § 35.130(a);
3. Whether the District failed to provide the Students' mother with Section 504 eligibility forms in a language she could understand (Spanish) prior to the November 2013 Section 504 meeting, in noncompliance with the Title VI implementing regulation at 34 C.F.R. § 100.3(a) and (b);
4. Whether the District improperly denied a request by the Students' mother for a copy of their student records prior to the November 2013 Section 504 meeting, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.36 and the Title II implementing regulation at 28 C.F.R. § 35.130(a);

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5. Whether the District failed to provide the Students' mother with a copy of her full parental rights in a language she could understand (Spanish) prior to the November 2013 Section 504 meeting, and during the 2012-2013 school year, in noncompliance with the Title VI regulation at 34 C.F.R. § 100.3(a) and (b), the Section 504 implementing regulation at 34 C.F.R. § 104.36 and the Title II implementing regulation at 28 C.F.R. § 35.130(a);
6. Whether the District unilaterally rescheduled a meeting to review the Students' psychological evaluations without consulting the Students' mother, and failed to send her the meeting notice in a language she could understand (Spanish), in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.36, the Title II implementing regulation at 28 C.F.R. § 35.130(a), and the Title VI implementing regulation at 34 C.F.R. 100.3(a) and (b);
7. Whether the District failed to evaluate the Students for eligibility for special education or related services during an IEP meeting on February 6, 2014, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.35(a)-(c), and the Title II implementing regulation at 28 C.F.R. § 35.130(a);
8. Whether the District failed to provide the Students' mother with a full copy of her parental rights at an IEP meeting on February 6, 2014, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.36 and the Title II implementing regulation at 28 C.F.R. § 35.130(a); and
9. Whether the District failed to evaluate the Students to determine eligibility for special education or related services in 2011, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.35(a)-(c), and the Title II implementing regulation at 28 C.F.R. § 35.130(a).

During the complaint investigation process, OCR interviewed the Complainant, the Students' mother, the Students' classroom teacher (Classroom Teacher), the School Principal, the District's Executive Director of Student Support Services (Executive Director), and the District's Section 504 Coordinator. OCR also reviewed school policies, witness statements, school records, other documents, audiotapes, and a videotape provided by the District. Based on the available information provided, OCR found insufficient evidence to support a finding of noncompliance with the applicable regulations, with respect to all alleged issues. We set forth below the factual and legal bases for our determination regarding those issues.

OCR also reviewed the District's grievance procedures. Based on a review of these procedures, OCR finds that the District is in noncompliance with Section 504, Title II, and Title VI with respect to this unalleged issue. To resolve this compliance issue, the District voluntarily entered into the enclosed Resolution Agreement (Agreement). OCR will monitor the implementation of the Agreement to ensure that it is fully implemented.

Legal Standards

The Section 504 implementing regulation at 34 C.F.R. § 104.4(a) provides that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. The Section 504 implementing regulation at 34 C.F.R. § 104.4 (b)(1)(i-iv) states that a recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability; deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service; afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; provide a qualified person with a disability an aid, benefit or service that is not as effective as that provided to others; or otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

The Title VI implementing regulation at 34 C.F.R. § 100.3(a) provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which Title VI applies. The regulation implementing Title VI at 34 C.F.R. § 100.3(b)(1)(i)-(vi) states that a recipient under any program to which Title VI applies may not, directly or through contractual or other arrangements, on ground of race, color, or national origin, deny an individual any service, financial aid, or other benefit provided under the program; provide any service, financial aid, or other benefit of an individual which is different, or is provided in a different manner, from that provided to others under the program; subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program; restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program; treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided by any service, financial aid, or other benefit provided under the program; or deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program.

In accordance with the Section 504 implementing regulation at 34 C.F.R. § 104.8(a), a recipient that employs 15 or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees that it does not discriminate on the basis of disability in violation of Section 504. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its program or activity. The notification shall also include an identification of the responsible employee designed pursuant to 34 C.F.R. § 104.7(a). The Title II regulation at 28 C.F.R. § 35.106 contains a similar requirement.

Pursuant to the Section 504 implementing regulation at 34 C.F.R. § 104.7(a), a recipient that employs 15 or more people shall designate at least one person to coordinate its efforts to comply with Section 504. The Title II implementing regulation at 28 C.F.R. § 35.107(a) requires a

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public entity that employs 50 or more persons to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II, including any investigation of any complaint communicated to it alleging its noncompliance with Title II or alleging any actions that would be prohibited by Title II. The public entity shall make available to all interested individuals the name, office address, and telephone number of the designated employee(s).

The Section 504 implementing regulation at 34 C.F.R. § 104.7(b) requires a recipient that employs 15 or more people to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504. The Title II implementing regulation at 28 C.F.R. § 35.107(b) contains a similar provision for public entities. In evaluating whether a recipient's grievance procedures satisfy the foregoing requirements, OCR reviews all aspects of a recipient's policies and practices, including the following elements that are necessary to achieve compliance with Section 504:

1. notice to students and employees of the grievance procedures, including where complaints may be filed;
2. application of the grievance procedures to complaints filed by students or on their behalf alleging harassment carried out by employees, other students, or third parties;
3. provision for adequate, reliable and impartial investigation of complaints, including the opportunity for both the complainant and the alleged perpetrator to present witnesses and evidence;
4. designated and reasonably prompt time frames for the major stages of the complaint process;
5. written notice to the complainant and the alleged perpetrator of the outcome of the complaint; and
6. assurance that the school will take steps to prevent recurrence of any disability-based harassment and remedy discriminatory effects on the complainant and others, if appropriate.

Disability harassment under Section 504 and Title II, and racial harassment under Title VI, is intimidation or abusive behavior toward a student based on disability or race that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the school's educational program. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating. When harassing conduct is sufficiently severe, persistent, or pervasive that it creates a hostile environment, it can violate a student's rights under the Section 504, Title II, and Title VI regulations.

To determine whether a recipient is responsible under Section 504 or Title II for disability harassment, or under Title VI for racial harassment, OCR examines: (1) whether a hostile environment exists because the harassing conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the

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services, programs or activities provided by a recipient; (2) if a hostile environment exists, whether a recipient has actual or constructive notice of the hostile environment; and (3) if a recipient has notice, whether the recipient took appropriate responsive action to end the harassment and prevent its recurrence.

The Section 504 implementing regulation at 34 C.F.R. § 104.35(a)-(c) requires a recipient that operates a public elementary or secondary education program or activity to conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement. A recipient shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education or related services which ensure that: (1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer; (2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and (3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure). In interpreting evaluation data and in making placement decisions, a recipient shall: (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered; (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and (4) ensure that the placement decision is made in conformity with the Section 504 implementing regulation at 34 C.F.R. § 104.34, pertaining to educational setting.

The Section 504 implementing regulation at 34 C.F.R. § 104.36 requires recipients to establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents of the student to examine relevant records, an impartial hearing with opportunity for participation, and a review procedure.

As the Title II implementing regulation contain similar requirements and provides no greater protection than the Section 504 implementing regulation with respect to the complaint allegations, OCR conducted its investigation in accordance with the applicable Section 504 standards.

OCR evaluates evidence obtained during an investigation under a preponderance of the evidence standard to determine whether the greater weight of the evidence is sufficient to support a conclusion that a recipient, such as the District, failed to comply with a law or regulation enforced by OCR or whether the evidence is insufficient to support such a conclusion.

Background

During the 2010-2011 school year, the Students, who are XXX, attended the first year of preschool in the Clayton County School District. Both students were diagnosed with Autistic Disorder and Anxiety Disorder. Both students had IEPs during preschool, and received speech and language services. During the 2011-2012 school year, the Students transferred to Flippen Elementary School (School) in the District for their second year of preschool. The District implemented their IEPs, and continued providing them with speech and language services. The category of eligibility through which they received special education services was Significant Developmental Delay (SDD).

On December 9, 2011, the District reevaluated the Students for special education services in preparation for kindergarten. The eligibility team determined they no longer met eligibility requirements for special education services. However, the District continued to provide the Students with speech and language services through May of 2012, in preparation for their transition into kindergarten.

The Students attended kindergarten at the School during the 2012-2013 school year. The Students did not receive any special education services during kindergarten. However, they received services for English Language Learners (ELL) because Spanish was spoken in their home.

The Students attended first grade at the School during the 2013-2014 school year. On October 15, 2013, Student 1 was allegedly harassed by a teacher (Teacher 1) at the School, as discussed below. According to the Students' mother, the Students experienced increased anxiety as a result of this incident, and the mother asked the District to reevaluate the Students for special education services. The District arranged for a bilingual psychologist to conduct psychoeducational evaluations of the Students. However, the eligibility meeting could not occur until the psychoeducational evaluations were completed. As an interim measure, the District held a Section 504 meeting on December 11, 2013, to determine whether the Students needed any accommodations. The District determined that the Students were ineligible for services under Section 504.

After the psychologist completed the psychoeducational evaluations, the District held an eligibility meeting under the Individuals with Disabilities Education Act (IDEA) for Student 1 on January 9, 2014, which was continued to and completed on February 7, 2014. The District also held an eligibility meeting for Student 2 on February 6, 2014. The District determined that the Students were ineligible for special education services under IDEA.

Factual Findings

Issue #1: Whether the District subjected the Students to a hostile environment on the basis of disability and/or race when a teacher allegedly pulled on Student 1's ear and the Assistant Principal threatened to expel the Students after the Students' mother reported the incident, and the District failed to take action reasonably calculated to stop the harassment after they received notice of it.

The Complainant alleged that, in October of 2013, Student 1 was harassed on the bases of disability and race when her teacher pulled her by the ear and the Assistant Principal threatened to expel the Students after their mother reported the incident.

Applicable District Procedures

OCR reviewed the District's grievance procedures and harassment procedures under applicable Section 504, Title II, and Title VI regulations.

Notice of Equal Opportunity

The District's Notice of Equal Opportunity states that it does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The Notice of Equal Opportunity is printed in the Student and Parent Handbook and is posted on the District's website.

Designation of Section 504/Title II and Title VI Coordinators

The District's Notice of Equal Opportunity includes contact information for the persons designated to handle inquiries and concerns regarding the District's non-discrimination policies, including the Title IV and Title IX Coordinator, the Section 504/ADA Coordinator, and the Sports Equity Coordinator. However, the Notice does not identify or provide contact information for its Title VI Coordinator. The coordinator information is printed in the Student and Parent Handbook, and is referenced on the District's website.

Grievance Procedures

The District has a procedure for the community to file general complaints against District staff members called the "KN procedure." Under the KN Procedure, a written complaint may be filed alleging that the action, or lack of action, taken by a person in the school system, or by the School District or the Board is in violation of Board Policy or school law. The KN Procedure provides notice of the procedure, and states that complaints may be submitted to the Office of Administrative Services or the principal of the school where the complaint originated. The KN Procedure does not specifically apply to complaints alleging discrimination or harassment. Also, the KN Procedure applies to complaints against persons in the school system, but does not mention complaints against other students or third parties. Although the KN Procedure provides that an investigation of the complaint will be conducted and a written decision will be issued

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within 30 days, it does not include language ensuring an opportunity for both the complainant and alleged perpetrator to present witnesses and evidence. The KN Procedure also fails to include an assurance that the District will take steps to prevent recurrence of any harassment and to remedy discriminatory effects on the complainant and others, if appropriate. The KN Procedure is printed in the Student and Parent Handbook and is posted on the District's website.

The District has another procedure for students and parents to file complaints alleging discrimination on the basis of race, color, national, origin, sex or disability against District employees, volunteers, and students. This procedure is called the "JAA Procedure." The JAA Procedure provides notice to students and parents of the grievance procedures, and states that a complaint may be filed with the Office of Administrative Services. Although the JAA Procedure applies to complaints of discrimination, it does not specifically include harassment complaints. The procedure does apply to discrimination by employees, other students, and volunteers, but does not mention other third parties. Additionally, the JAA Procedure states that an investigation will be conducted and a written decision will be issued to the complainant within 30 days. However, it does not include language ensuring the opportunity for both the complainant and the alleged perpetrator to present witnesses and evidence. Also, the JAA Procedure does not include an assurance that the District will take steps to prevent recurrence of harassment and to remedy discriminatory effects on the complainant and others, if appropriate.

Harassment Procedures

The District also has a Sexual Harassment policy called the "JCAC Procedure." The JCAC Procedure provides notice to all individuals of the grievance procedures, including notice that complaints may be filed with the Office of Administrative Services. The procedure applies to sexual harassment carried out by employees, other students, and third parties. However, it does not include language stating that this policy applies to disability or racial harassment complaints. The JCAC Procedure states that the Office of Administrative Services will designate a person to conduct an investigation and provide a written decision within 30 days, but does not include an opportunity for both the complainant and the alleged perpetrator to present witnesses and evidence. Finally, the JCAC Procedure does not include an assurance that the District will take steps to prevent the recurrence of any harassment and to remedy its discriminatory effects on the complainant and others, if appropriate. This procedure is posted in the Student and Parent Handbook and on the District's website. With the exception of applying these procedures to disability and racial harassment complaints, all remaining compliance issues with the District's Sexual Harassment policy or "JCAC Procedures" have been addressed in a separate Resolution Agreement in OCR Complaint #04-12-1116.

The District also has a Bullying Policy called the "JCDAG Procedure." The JCDAG Procedure provides that bullying is strictly prohibited. The procedure also states that each school may develop procedures encouraging employees and parents to report bullying to school principals. The procedure further states that the school procedures on bullying should include appropriate investigation of the complaint in a timely manner. However, the procedure does not require schools to include the opportunity for both the complainant and the alleged perpetrator to present witnesses and evidence. Also, it does not require schools to provide written notice to the complainant and alleged perpetrator of the outcome of the complaint. The procedure does not

require schools to include an assurance that the schools will take steps to prevent the recurrence of any disability-based harassment and remedy discriminatory effect on the complainant and others, if appropriate. Additionally, the JC DAG procedure fails to clarify that the policy applies to incidents of bullying on the bases of race and disability. This procedure is posted on the District's website, and requires schools to post bullying procedures in their student/parent handbooks.

Based on a review of these procedures, OCR finds that the District is in noncompliance with Section 504, Title II, and Title VI with respect to this unalleged issue. To resolve this compliance issue, the District voluntarily entered into the enclosed Resolution Agreement (Agreement). OCR will monitor the implementation of the Agreement to ensure that it is fully implemented.

Harassment Allegation/School Investigation

The Students' mother filed a written complaint with the District regarding this issue. OCR's procedures under Section 110(a)(2) of the Complaint Processing Manual provide that where a complaint containing the same issue has been filed with another Federal, state, or local civil rights enforcement agency or through a recipients' internal grievance procedures, including due process proceedings, OCR generally will not conduct its own investigation. Instead, OCR reviews the results of the other entity's determination and determines whether the other entity provided a comparable process and met appropriate legal standards. Thus, in regard to this allegation, OCR did not conduct its own investigation. Instead, it reviewed the results of the District's determination and determines whether the District provided a comparable process and met appropriate legal standards.

The Complainant filed the complaint two days after the incident occurred under the KN Procedure. This procedure states that where a KN Complaint deals with the action of a school-based employee, the principal shall conduct an investigation and provide a written decision to the grievant within 30 work days.

The evidence shows that the School Principal conducted the investigation of the incident. The Principal obtained written witness statements from the teacher who was accused of the harassment (Teacher 1), three teachers who witnessed the incident (Teachers 2, 3, and 4), a bilingual teacher who did not witness the incident but was present in the School (Bilingual Teacher), and the Assistant Principal. The Principal also conducted interviews of each of these individuals.

The Principal stated that during an interview, Teacher 1 denied pulling on Student 1's ear. Teacher 1 explained that Student 1 did not hear her number called while she was sitting in the car rider line, so she walked over to Student 1 and asked her to stand up. Student 1 then stood up and walked over to the pole by the car rider lane. Teacher 1 stated that she may have touched her gently on the elbow or backpack, but she never pulled her ear. The Principal stated that during their interviews, Teachers 2, 3, and 4 confirmed that Teacher 1 never pulled Student 1's ear.

The Principal also interviewed the Assistant Principal, who stated that after the incident allegedly occurred, the Students' mother walked into the School that day and told him that Teacher 1 had pulled Student 1's ear. She told him that she would like to file a complaint, so he gave her a complaint form. He also located Teacher 1 and questioned her about the incident. He then held a meeting with the Students' mother, the Students, and Teacher 1. Teacher 1 denied that she pulled on Student 1's ear, and explained that she may have touched her gently on the elbow to help her to her feet. The Students' mother stated that she still wished to file a complaint, so the Assistant Principal told her she could fill out the complaint form and return it to the school.

The Principal talked with the Students' mother shortly after the incident, and she stated that during the conversation with the Assistant Principal, he told the Students that if they were lying about the incident, they would be expelled. The Principal then questioned the Assistant Principal about this allegation. The Assistant Principal denied making this statement, but said he told them that according to a policy in the student handbook, if they were providing inaccurate information, there could be consequences. He made this statement because Teacher 1 was present at the meeting with the Students and their mother, and had just told them she did not pull Student 1's ear. Also, he heard Student 2 tell her mother that Teacher 1 had not actually yelled at the Students or acted inappropriately. He also wanted them to know that accusing a teacher of abusing a student was a serious matter.¹

The Principal then obtained a copy of the videotape of the incident from the county office that handles videotapes of the School. A county employee came to the School and recorded the portion of the video showing all of the students waiting in the car rider line. The Principal reviewed the video, and she stated that it clearly shows that Teacher 1 never pulled Student 1's ear. Instead, it shows Teacher 1 walking over to Student 1 and asking her to stand up. She further stated that Teacher 1 may have touched her elbow or the back of her backpack. Student 1 then walked over and stood at the pole, and did not look upset. Student 1 then held her own ear, then took her hand away. The Students then got into the car and drove away.

The Principal then scheduled a meeting with the Students' mother to review the video. The Students' mother, her husband, their son, their attorney, an interpreter, the Principal, the Assistant Principal, the Executive Director, the Classroom Teacher, and the District's attorney were present at this meeting. The Principal stated that they all reviewed the video, and there was no evidence of Teacher 1 pulling on Student 1's ear.

On October 30, 2013, the Principal issued a letter to the Students' parents summarizing the findings of the School's investigation. The letter cites facts obtained during the investigation, and states that the School has found no evidence that Teacher 1 pulled Student 1's ear.

OCR interviewed the Students' mother regarding this allegation. She confirmed that on October 15, 2013, Student 1 told her that Teacher 1 had pulled on her ear when she was waiting in the car rider line. She stated that while meeting with the Assistant Principal, he told her if Student 1 was

¹ OCR attempted to interview the Assistant Principal, but he was not available because he has retired. OCR also attempted to interview the Bilingual Teacher, who was present during this meeting. However, she was unavailable for an interview.

lying, she would be expelled. The Students' mother confirmed that she met with the Principal and watched the video of the incident. However, she alleged that the part of the video where Teacher 1 pulled on Student 1's ear had been erased.

OCR reviewed the video of the alleged incident. The video shows that Teacher 1 did not pull on Student 1's ear. The video shows Student 1 and Student 2 sitting and waiting in the car rider line. Teacher 1 called to the Students, and Student 2 stood up and walked over to the pole where the parents picked up the students in their cars. Student 1 remained seated, and Teacher 1 walked over to Student 1, put her hand behind her left elbow, and helped her stand up. Student 1 then walked over to the area where Student 2 was waiting. Student 1 put her hand on her right ear, and Student 2 put her arms around Student 1. The Students then appeared to be fine, and entered their mother's vehicle. There is no indication that any portion of this video was erased.

OCR also reviewed the video of the meeting with the Assistant Principal and the Students' mother. The video shows the Students and their mother walking into the school lobby after school. They walked into the office and talked with someone at the front desk. They also talked with another woman who was likely the Bilingual Teacher. The view of the front desk is obscured, but the Students' mother continued talking with someone at the front desk. A man who was probably the Assistant Principal then walked over to another desk, sat down, and began typing on the computer. The Students' mother then received a document, which was likely the complaint form. The Assistant Principal then talked with the Students' mother again. He was gesturing with his hands and appeared to be explaining how to file a complaint. The Students and their mother started to leave, then the Assistant Principal and another staff member who was likely Teacher 1 walked over and talked with them. Teacher 1 appeared to be explaining what happened. The Assistant Principal stood with his hands behind his back and seemed to be listening to Teacher 1. The Assistant Principal did not speak to the Students or their mother during the meeting with Teacher 1. However, the video stopped before the meeting ended, and does not show any additional interactions between the Assistant Principal and the Students or their mother. Also, neither of these videos has sound, so OCR was unable to discern any statements that were made.

On May 22, 2014, OCR contacted the Complainant to give her the opportunity to rebut the evidence presented by the District, and to permit her to present additional evidence. The Complainant did not provide any additional evidence relevant to this issue at that time.

Analysis and Conclusion

OCR reviewed the evidence to determine whether District employees engaged in conduct that created a hostile environment for students and whether the District failed to respond appropriately to incidents of disability and racial harassment. OCR finds that the Principal conducted a comparable investigation of the alleged harassment. Based on the preponderance of the evidence standard, OCR finds insufficient evidence to support a finding that the District is noncompliant with Section 504, Title II, or Title VI with regard to this allegation. However, OCR notes that when a parent or a student states that they wish to file a harassment complaint, it is not good practice for District employees to tell them that false accusations can result in consequences or expulsion as this could have a chilling effect on a parent or student's right to

file a complaint or grievance. Thus, OCR advises the District to inform school staff of appropriate ways to deal with parents and students when they are filing complaints.

Issue #2: Whether the District failed to evaluate the Students to determine eligibility for special education or related services in November 2013.

The Complainant alleged that at a Section 504 meeting in November of 2013, the District failed to evaluate the Students for eligibility for special education services.

OCR interviewed the Executive Director of Student Support Services (Executive Director) regarding this issue. The Executive Director stated that the Students' mother asked the District to reevaluate the Students for special education services because they experienced anxiety after the alleged harassment incident on October 15, 2013. The District agreed to reevaluate the Students. However, the District could not hold an eligibility meeting until a psychologist had conducted psychoeducational evaluations of the Students. As an interim measure, the District held a Section 504 meeting on December 11, 2013, not in November as the Complainant alleged, to determine whether the Students needed any accommodations under Section 504 pending the completion of the full psychological evaluation, which was conducted in December 2013.

The Executive Director stated that the team conducted a comprehensive review of the Students' special education records to determine if they needed services under Section 504. The meeting was held on December 11, 2013. They received input from the Students' Classroom Teacher and the Students' mother, who were both present at the meeting. They also reviewed several teacher assessments and other student records. The team determined that the Students were doing very well academically and were ineligible for services under Section 504.

OCR also interviewed the Section 504 Coordinator, the Classroom Teacher, and the School Principal regarding this issue. All three individuals confirmed that the team evaluated the Students for special education services at the Section 504 meeting. The evaluation included a review of teacher assessments and student records. They each stated that the Students were doing well academically, and did not need classroom supports.

The Classroom Teacher added that the team reviewed the Students' medical records at the Section 504 meeting. They also reviewed a diagnostic report from a physician that was provided by the Students' mother and information from a speech pathologist who worked with the Students outside of school. The team also reviewed the results of a reading assessment the Classroom Teacher had recently conducted. The assessment consisted of three parts: (1) a reading assessment using the Fountas and Pinnell test; (2) another assessment using the Ikan Gloss; and (3) a sight word test using a sight words list. Results of the assessment showed that both students scored above average in reading and math, and above average in sight word knowledge. Their behavior was also above average. After considering all of the information, the team determined that there was no substantial limitation on either of the Students' functioning in school, so they were not eligible for accommodations under Section 504.

OCR interviewed the Students' mother, who recalled attending the Section 504 meeting. The Students' mother acknowledged that the District reviewed documents with her during the Section 504 meeting, including teacher assessments on the Students' reading and writing levels. She confirmed that the team showed her a list of words the Students had been able to read. The Classroom Teacher also provided input on the Students' academic progress. The Students' mother stated that she was allowed to give input about how the Students were doing. She discussed problems they were having in doing their homework. However, when the team reviewed the Students' medical information, she felt as if they believed that what the Students' doctors said did not matter, and only what the Classroom Teacher observed in school was important.

OCR also reviewed the Students' records regarding the Section 504 meeting. The Section 504 documents state that the Students were diagnosed with Autistic Disorder and Anxiety Disorder, and that Section 504 Eligibility Determination Worksheets were completed for both students. The records also show that several information sources were considered during the meeting, including a physician's report, classroom achievement information, parent information, standardized test scores, and work samples. The records show that both students have almost mastered the sight word list. The records further show that Student 1's reading level was an "F" and Student 2's reading level was an "E" on the Fountas and Pinnell reading assessment. According to the Classroom Teacher, the "D" level is the standard reading level expected for students at the beginning of the first grade year. The Students were assessed at the "E" and "F" levels, which are both higher levels of reading. Additionally, Student 1's math levels were "advanced," and Student 2's math levels were "above expectation." Both students exhibited good behavior.

OCR contacted the Complainant on May 22, 2014, and gave her the opportunity to rebut the evidence presented by the District, and to permit her to present additional evidence. The Complainant did not provide any additional evidence relevant to the issue investigated at that time.

The evidence shows that the Students' mother and eligibility team members presented and reviewed information from a variety of sources and relevant documents at the Section 504 meeting on December 11, 2013. The evidence also shows that the District, pending the completion of the full psychological evaluation of the Students, evaluated the Students to determine if they needed services under Section 504. As a result of meeting, the team determined that the Students, based on all the records and input from a variety of sources were not eligible for regular or special education or related aids and services under Section 504. The Students eligibility for special education services would be considered again the following month after the full psychological evaluation was completed. Therefore, there is insufficient evidence to support a finding of noncompliance with Section 504 or Title II with regard to this allegation.

Issue #3: Whether the District failed to provide the Students' mother with Section 504 eligibility forms in a language she could understand (Spanish) prior to the December 11, 2013 Section 504 meeting.

The Complainant alleged that prior to the November 2013 Section 504 meeting, the District failed to provide the Students' mother with Section 504 eligibility forms in Spanish, and as a result she could not understand them.

OCR interviewed the Section 504 Coordinator, the School Principal, and the Classroom Teacher regarding this issue. All three of these individuals were present at the Section 504 meeting on December 11, 2013, and they each confirmed that the Students' mother was given Section 504 eligibility forms in Spanish at this meeting. There was no meeting held in November as the Complainant alleged. The Section 504 Coordinator added that an interpreter was present, and that she and the interpreter reviewed all of the forms with the Students' mother in Spanish. The District also provided copies of the Section 504 eligibility forms that were in Spanish and were filled out by the Students' mother.

OCR also interviewed the Students' mother regarding this allegation. The Students' mother acknowledged that the District provided her with Section 504 eligibility forms in Spanish at this meeting.

During a rebuttal call on May 22, 2014, the Complainant was provided the opportunity to rebut the evidence presented by the District, and to present additional evidence. The Complainant did not provide any additional evidence relevant to the issue investigated at that time.

OCR finds that District staff and the Students' mother agreed that the Students' mother was provided with Section 504 eligibility forms in Spanish at the Section 504 meeting on December 11, 2013. The regulations do not address when the forms must be provided. Accordingly, OCR finds there is insufficient evidence to support a finding of noncompliance with Section 504, Title II, or Title VI with regard to this allegation.

Issue #4: Whether the District improperly denied a request by the Students' mother for a copy of their student records prior to the November 2013 Section 504 meeting.

The Complainant alleged that prior to the November 2013 Section 504 meeting, the District improperly denied the Students' mother's request for a copy of their student records.

OCR interviewed the Executive Director and the School Principal regarding this issue. They each stated that the Students' mother requested a copy of the Students' school records on December 11, 2013, prior to the Section 504 meeting getting started, and that the District provided the records to her at this meeting. Some special education records were also provided to her by email on December 11, 2013. There was no meeting held in November as the Complainant alleged. The school records were again provided to the Students' mother by hand delivery at a meeting on January 9, 2014 to determine the Students' eligibility for services under IDEA. Both the school records and the special education records were sent out for translation into Spanish, and were translated over Christmas break. The translated documents were sent to the Students' mother by email in January of 2014, and were also mailed to her in February of 2014.

OCR also interviewed the Students' mother regarding this allegation. She stated that she first requested a copy of the Students' records at the Section 504 meeting on December 11, 2013, and that they were not given to her at this meeting. She denied that the records were provided to her by hand delivery at the January 9, 2014 meeting. She acknowledged that a few records were provided to her by email in December 2013 and in January of 2014, but stated that the documents were not mailed to her in February 2014. However, she received a complete set of the Students' records in English and in Spanish during a meeting with another administrator sometime after the December 2013 Section 504 meeting.

OCR reviewed records provided by the District regarding this issue. In an email from the Principal to the Complainant dated January 8, 2014, the Principal stated that she attached the translated school records for the Students and that she would bring a hard copy of the records to the meeting on January 9, 2014.

During a rebuttal call on May 22, 2014, the Complainant was provided the opportunity to rebut the evidence presented by the District, and to present additional evidence. The Complainant did not provide any additional evidence relevant to the issue investigated at that time.

The evidence shows that District staff members and the Students' mother agree that the Students' mother was provided with a complete set of the Students' records. An email from the School Principal supports that the District provided the records to the Students' mother. The Complainant confirmed that she received the Students records. There may have been some reasonable delay in providing all the records between December 11, 2012 and January 8, 2013, since they needed to be translated. Therefore, OCR considers this matter resolved, and finds there is insufficient evidence to support a finding of noncompliance with Section 504 or Title II with regard to this allegation.

Issue #5: Whether the District failed to provide the Students' mother with a copy of her full parental rights in a language she could understand (Spanish) prior to the November 2013 Section 504 meeting, and during the 2012-2013 school year.

The Complainant alleged that prior to the November 2013 Section 504 meeting, and during the 2012-2013 school year, the District failed to provide the Students' mother with a copy of her full parental rights in Spanish.

OCR interviewed the Section 504 Coordinator, the Principal, and the Classroom Teacher regarding this issue. All three of these individuals were present at the Section 504 meeting on December 11, 2013, and they each confirmed that the Students' mother was given a copy of her full parental rights in English and in Spanish at this meeting. District staff also stated that parental rights were provided to the Students' mother in English and in Spanish during the 2012-2013 school year. The District also provided OCR with copies of the parental rights that were provided to the Students' mother in both languages.

OCR also interviewed the Students' mother regarding this allegation. The Students' mother acknowledged that the District provided her a copy of her full parental rights in English and in Spanish at the Section 504 meeting.

During a rebuttal call on May 22, 2014, the Complainant was provided the opportunity to rebut the evidence presented by the District, and to present additional evidence. The Complainant did not provide any additional evidence relevant to the issue investigated at that time.

OCR finds that District staff and the Students' mother agreed that the Students' mother was provided with a copy of her full parental rights in English and Spanish at the Section 504 meeting on December 11, 2013. The District also provided OCR with copies of the parental rights that were provided to the Students' mother in English and Spanish. Accordingly, OCR finds there is insufficient evidence to support a finding of noncompliance with Section 504, Title II, or Title VI with regard to this allegation.

Issue #6: Whether the District unilaterally rescheduled a meeting to review the Students' psychological evaluations without consulting the Students' mother, and failed to send her the meeting notice in a language she could understand (Spanish).

The Complainant alleged that the District unilaterally rescheduled a meeting to review the Students' psychological evaluations scheduled for December 18, 2013, to January 9, 2014, without consulting the Students' mother, and failed to send her the meeting notice in Spanish.

OCR interviewed the Executive Director and the Principal regarding this issue. The Principal stated that the evaluation team initially considered holding an eligibility meeting for the Students on December 18, 2013. However, the District had retained a bilingual psychologist to conduct a psychoeducational evaluation of the Students, and the psychologist could not complete the evaluation by December 18, 2013, because the Students were absent. Therefore, the team sent an invitation to the Students' mother for the eligibility meeting to be held on January 9, 2014. The Students' mother accepted and signed the invitation, and attended the meeting on January 9, 2014. The Principal stated that the meeting notice was sent to the Students' mother in both English and in Spanish. The Executive Director confirmed the Principal's statements.

OCR also interviewed the Students' mother. She stated that the District did not consult with her about changing the date of the meeting. However, she acknowledged that she agreed to attend the meeting on the new date, and that she attended the meeting. She also confirmed that she received the meeting notice in English and in Spanish.

OCR reviewed documents from the District regarding these issues. An email from the psychologist to District staff dated December 12, 2013, states that the Students' eligibility meetings would need to be postponed because she needed additional time to complete the evaluations. An email from the Principal to the Students' mother dated December 16, 2013 states that a meeting invitation and parental rights in English and Spanish were attached, and that copies of these documents were also sent home with the Students. A follow-up email from the Principal to members of the team dated December 18, 2013, states that the Students' mother agreed to attend the meeting on January 9, 2014, and that the signed meeting notice was attached.

During a rebuttal call on May 22, 2014, the Complainant was provided the opportunity to rebut the evidence presented by the District, and to present additional evidence. The Complainant did not provide any additional evidence relevant to the issue investigated at that time.

OCR finds that the District had valid reasons for rescheduling the December 2013 meeting to January 2014 and that the District gave the mother prior notice of the need to reschedule the meeting. OCR also finds that District staff and the Students' mother agreed to the new January date, that the Students' mother consented to attend, and did in fact attend, the eligibility meeting on January 9, 2014. They also agreed that notice of the meeting was provided to the Students' mother in English and in Spanish. Accordingly, OCR finds there is insufficient evidence to support a finding of noncompliance with Section 504, Title II, or Title VI with regard to this allegation.

Issue #7: Whether the District failed to evaluate the Students for eligibility for special education or related services during an IEP meeting on February 6, 2014.

The Complainant alleged that on February 6, 2014, the District failed to evaluate the Students for eligibility for special education services during an IEP meeting and improperly determined that the Students were ineligible for special education services.

The Students' mother alleged that the Students were having anxiety issues after the alleged harassment incident on October 15, 2013 and requested that they be evaluated for special education services. The District arranged for a bilingual psychologist to conduct psychoeducational evaluations of the Students. After the psychoeducational evaluations were conducted in December 2013, the District held an eligibility meeting on January 9, 2014 to evaluate Student 1 for special education services. This meeting was continued to February 7, 2014, and the team reviewed Student 1's psychoeducational evaluation, teacher assessments, and other information. After reviewing the information, the team determined that Student 1 was ineligible for special education services.

The eligibility team convened on February 6, 2014, to determine if Student 2 was eligible for special education services. The team reviewed the psychoeducational evaluation for Student 2, and considered teacher assessments and other information. The team then determined that Student 2 was ineligible for special education services.

During an OCR interview, the Classroom Teacher stated that she had reassessed the Students prior to these meetings, and that the results of the assessments showed that they were both performing at a higher academic level than other children in the class. She brought these assessments and some of the Students' work samples to the meetings, and the eligibility team reviewed them. The team also reviewed the Students' psychoeducational evaluations and a report from an eye doctor. In the report, the eye doctor recommended that the Students receive preferential seating and wear glasses at all times. The team reviewed all of this information, and determined that the Students did not meet the criteria for special education services. They did not have any problems in class, and there was no need for accommodations under Section 504. However, because the Students' mother was concerned about their eyesight, they convened a Student Support Team (SST) meeting that day, and determined whether the Students needed any

additional supports. The Students were already receiving preferential seating in her classroom, and already wore glasses, but the team documented these supports on the SST Accommodation Form.

OCR interviewed the Students' mother regarding this allegation. The Students' mother confirmed that the District held an eligibility meeting for Student 1 on January 9, 2014, and that the team reviewed Student 1's psychoeducational evaluation. She also confirmed that this meeting was continued to February 7, 2014, and that an eligibility meeting for Student 2 was held on February 6, 2014. The Students' mother stated that during the January 9, 2014 meeting, she told the District that she wanted to include information from other medical specialists for consideration during the meeting. Specifically, she wanted to include information from a speech language therapist and a psychologist, but had not yet obtained the information from those providers.

On May 22, 2014, OCR contacted the Complainant to give her the opportunity to rebut the evidence presented by the District, and to permit her to present additional evidence. The Complainant confirmed that during the January 9, 2014 meeting, the Students' mother told the eligibility team that she wanted the Students to be seen by several medical providers, including the Students' private speech and language therapist, an eye doctor, and a pediatrician, and the information obtained from those providers to be considered by the eligibility team. The District agreed to adjourn the meeting until the Students could meet with those private providers and those medical records could be obtained. The Students' mother then scheduled additional appointments with the medical providers, but the appointments were canceled due to severe weather. The Complainant attempted to reschedule the eligibility meetings on February 6 and 7 to give the parents more time to obtain this additional information. However, the Complainant alleged that the District refused to delay the eligibility meetings further.

OCR reviewed the meeting minutes from the February 6 and 7 eligibility meetings. The meeting minutes confirm that the Complainant asked to reschedule the meetings until the results of outside medical evaluations could be obtained. The Executive Director responded that the team needed to proceed with the meetings according to a 60-day timeline under Child Find provisions. However, she stated that if the Students' mother provided additional medical documentation at a later date, the eligibility team could reconvene at that time to consider the new information. The Complainant provided the additional medical information to the District in May 2014. The eligibility team has agreed to reconvene to consider this information at the beginning of the coming school year.

OCR finds that the Students' mother informed the team that she was in the process of obtaining additional medical information, and that the eligibility team proceeded without this information. OCR also finds that the Complainant provided additional medical information to the Executive Director in May 2014, and that the team agreed to reconvene to consider the information at the beginning of the coming school year. Because the District agreed to reconvene to consider the additional medical information, OCR finds there is insufficient evidence to support a finding of noncompliance with Section 504 or Title II with regard to this allegation.

Issue #8: Whether the District failed to provide the Students' mother with a full copy of her parental rights at an IEP meeting on February 6, 2014.

The Complainant alleged that at an IEP meeting on February 6, 2014, the District failed to provide the Students' mother with a full copy of her parental rights.

OCR interviewed the Section 504 Coordinator, the Principal, and the Classroom Teacher regarding this issue. All three of these individuals were present at the eligibility meeting on February 6, 2014, and they each confirmed that the Students' mother was given a copy of her full parental rights at this meeting, both in English and in Spanish.

OCR also interviewed the Students' mother regarding this allegation. The Students' mother acknowledged that the District provided her with a copy of her full parental rights in English and in Spanish at this meeting.

OCR reviewed documents from the District regarding this issue. An email from the Principal to the Students' mother dated January 17, 2014, states that she has attached parental rights in English and Spanish for the upcoming meetings. The meeting minutes from February 6, 2014, state that the District provided the Students' mother with a copy of her full parental rights in English and in Spanish, and that the rights were thoroughly explained to her. An interpreter provided services in Spanish at this meeting.

During a rebuttal call on May 22, 2014, the Complainant was provided the opportunity to rebut the evidence presented by the District, and to present additional evidence. The Complainant did not provide any additional evidence relevant to the issue investigated at that time.

The evidence shows that the District provided the Students' mother with a copy of her full parental rights in English and in Spanish before and at the eligibility meeting on February 6, 2014. Accordingly, OCR finds there is insufficient evidence to support a finding of noncompliance with Section 504, Title II, or Title VI with regard to this allegation.

Issue #9: Whether the District failed to evaluate the Students to determine eligibility for special education or related services in 2011.

The Complainant alleged that in 2011, the District failed to evaluate the Students for eligibility for special education services at an IEP meeting, as both Students have vision issues that were not considered.

OCR interviewed the Executive Director regarding this issue. The Executive Director stated that the Students began preschool in the Clayton County School District during the 2010-2011 school year, where they had IEPs and received speech and language services. When they transferred to the School for the 2011-2012 school year, the District implemented their IEPs, and continued providing them with speech and language services. The category of eligibility through which they received special education services was Significant Developmental Delay (SDD).

The Executive Director stated that the Students were reevaluated for special education services on December 9, 2011, in preparation for kindergarten. The eligibility team conducted a comprehensive evaluation, where they reviewed the Students' medical records and a psychological evaluation dated October 18, 2011. The Executive Director stated that the team considered the Students' vision during the evaluation. The Students' vision exams were reviewed, and there was no indication that either of them had any vision problems. Both students wore glasses, and they both passed vision screenings on September 9, 2011. The team determined that the Students no longer met the eligibility requirements for SDD, and they were no longer eligible for special education services. However, the District continued to provide them with speech and language services through May of 2012 to prepare them for transitioning into kindergarten.

OCR interviewed the Students' mother regarding this issue. She acknowledged that a special education meeting was held in 2011. She stated that the team did not consider vision issues in evaluating the Students because they were wearing glasses at that time.

OCR also reviewed the Students' records regarding this issue. The IEP meeting records show that the team reviewed results of Battelle Developmental Inventory Tests in May of 2010 and May of 2011, which evaluated the Students' adaptive, personal/social, communication, motor, cognition, and speech/language skills. The team also reviewed psychoeducational reports dated October 18, 2011, for both students. The reports show that there is no indication that either student is experiencing visual difficulties, and that they passed state-required vision screenings on September 9, 2011. OCR reviewed these vision screenings, and they confirm that the Students both passed without any issues. OCR also reviewed reevaluation questionnaires dated September 12, 2011, which were completed by the Students' mother on September 12, 2011. On these questionnaires, the Students' mother indicated that the Students have had no health or medical problems within the past three years, and they received no medical treatment other than wearing eyeglasses and receiving speech therapy.

On May 22, 2014, OCR contacted the Complainant to give her the opportunity to rebut the evidence presented by the District, and to permit her to present additional evidence. The Complainant did not provide any additional evidence relevant to the issue investigated at that time.

The evidence shows that the District held an eligibility meeting for the Students on December 9, 2011. The evidence also shows that the District reviewed test results, psychoeducational reports, vision screenings, and parent questionnaires during this meeting. Accordingly, OCR finds there is insufficient evidence to support a finding of noncompliance with Section 504 or Title II with regard to this allegation.

Conclusion

Based on the foregoing, OCR finds that there is insufficient evidence to support a finding of noncompliance with Section 504, Title II, and/or Title VI with regard to all alleged issues. In regard to an unalleged procedural issue regarding Issue 1, the District has offered to resolve that issues by entering into the Agreement, which when fully implemented, will resolve that issue.

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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, Title II, and Title VI.

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.

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. The Complainant may have the right to file a private suit in federal court whether or not 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 provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

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 matter, please contact XXX, XXX, at (404) 974-9456, or XXX, XXX, at (404) 974-9399.

Sincerely,

Cynthia G. Pierre
Regional Director