



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

REGION IV
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July 1, 2014

Scott Cowart
Superintendent
Carroll County School District
164 Independence Drive
Carrollton, Georgia 30116-9000

Re: Complaint #04-14-1374

Dear Mr. Cowart:

The U.S. Department of Education, Office for Civil Rights (OCR), has resolved the above-referenced complaint which was filed on January 15, 2014, by the Complainant against Carroll County School District (District) alleging discrimination on the basis of disability against her XXXX (Student), a kindergarten student at Mt. Zion Elementary School (School), who has a tree-nut allergy and asthma. Specifically, the Complainant alleged that she provided notice of the Student's food allergy and asthma to the District in August 2012, when the Student was enrolled in pre-K at the School, and nothing was done to take into account the Student's needs in determining the aid, benefits or services to be provided. The Complainant further alleged that although the District put in place a Section 504 Plan (Plan) for the Student's Kindergarten year in August 2013, the District failed to provide the Complainant with notice of her procedural safeguards and created a plan which treats the Student differently based on her disability and limits her interaction with other students.

OCR is responsible for enforcing 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, 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. As a recipient of Federal financial assistance from the Department, the District is subject to the provisions of Section 504. As a public entity, the District is also subject to the provisions of Title II. Accordingly, OCR has jurisdiction of this complaint. Additional information about the laws OCR enforces is available on our website at www.ed.gov/ocr.

OCR opened the following legal issues for investigation:

- 1) Whether the District failed to take into account the needs of the Student in determining aid, benefits or services to be provided, in noncompliance with Section 504 and its

implementing regulation at 34 C.F.R. § 104.39 and Title II and its implementing regulation at 28 C.F.R. § 35.30.

- 2) Whether the District failed to provide the Complainant with notice of procedural safeguards in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.36 and Title II and its implementing regulation at 28 C.F.R. § 35.30.
- 3) Whether the District failed to provide the Student with a free appropriate public education (FAPE), in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.33 and Title II and its implementing regulation at 28 C.F.R. § 35.30.
- 4) Whether the District failed to place the Student in the least restrictive environment by requiring that, she consume meals and snacks away from her peers, and avoid attending certain School events because the School did not ensure a peanut-free environment, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.34 and Title II and its implementing regulation at 28 C.F.R. § 35.30.
- 5) Whether the District discriminated against the Student by subjecting her to a hostile environment based on disability, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4 and Title II and its implementing regulation at 28 C.F.R. § 35.30.

During OCR's investigation of this complaint, the District offered to voluntarily resolve this matter. Pursuant to Section 302 of 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. 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 the 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.

The regulations OCR enforces protect individuals who file a complaint with OCR or participate in an OCR complaint investigation. Recipients may not retaliate or take any adverse actions against individuals based upon their having filed a complaint or provided assistance to OCR. Individuals who believe they have been subjected to retaliation or other adverse action because of their participation in any OCR compliance activity may file a complaint with OCR.

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.

This concludes OCR's consideration of this complaint. If you have any questions about this letter, please contact Colleen Grogan at (404) 974-9395 or me at (404) 974-9356.

Sincerely,

Wendy Gatlin
Compliance Team Leader
/s/

Enclosure