



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

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

REGION IV
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October 27, 2017

Dr. Grant Rivera, Superintendent
Marietta City Schools
250 Howard St.
Marietta, Georgia 30060

Re: Complaint # 04-14-1507

Dear Dr. Rivera:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint against Marietta City Schools (District). Therein, the Complainant alleged that the District:

1. Excluded the Student and other students with disabilities from participating in all extracurricular activities with general education students without disabilities, e.g. field trips, clubs, sports, assemblies, etc.
2. Segregated the Student and other students with disabilities from any interaction with general education students without disabilities by placing their classrooms far away (lower floor level, rear of school) from general education student classrooms; and having separate lunches, seating at assemblies and seating at gymnasium events.
3. Segregated the Student and other students with disabilities from general education students without disabilities by having drop-off and pick up locations at the rear of Marietta Middle School (MMS) and Marietta High School (MHS).
4. Subjected the Student and other students with disabilities to a shortened school day at the MHS.

As a recipient of Federal financial assistance from the Department, the District is subject 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, which prohibit discrimination on the basis of disability. As a public entity, the District is subject to the provisions of 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. Accordingly, OCR has jurisdiction over this complaint. Additional information about the laws OCR enforces is available on our website at www.ed.gov/ocr.

OCR opened the following issues for investigation:

1. Whether the District excluded the Student and other students with disabilities from participating in all extracurricular activities with general education students without disabilities, in noncompliance with the Section 504 implementing regulations at 34 C.F.R. §104.37, and the Title II implementing regulation at 28 C.F.R §35.130.
2. Whether the District segregated the Student and other students with disabilities from any interaction with general education students without disabilities by placing their classrooms far away (lower floor level, rear of school) from general education student classrooms; and having separate lunches, seating at assemblies and seating at gymnasium events, in noncompliance with the Section 504 implementing regulations at 34 C.F.R. §104.34, and the Title II implementing regulation at 28 C.F.R § 35.130.
3. Whether the District segregated the Student and other students with disabilities from general education students without disabilities by having drop-off and pick-up locations at the rear of MMS and MHS, in noncompliance with the Section 504 implementing regulations at 34 C.F.R. §104.33, and the Title II implementing regulation at 28 C.F.R § 35.130.
4. Whether the Student and other students with disabilities receive a shortened school day at the MHS, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. §§ 104.4(a) and (b) (1) (ii), 104.33(a) and (b)(1), and, the Title II implementing regulation at 28 C.F.R. § 35.130.

Legal Standards

Issue 1:

The Section 504 implementing regulations, at 34 C.F.R. §104.37(a)(1), require that school districts provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford students with disabilities an equal opportunity to participate. In addition, the Title II regulations, at 28 C.F.R. §35.130(b)(7), require public entities to make reasonable modifications to policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Issue 2:

The Section 504 implementing regulations, at 34 C.F.R. §104.34(a), requires that a student with a disability must be educated with students without disabilities to the maximum extent appropriate to the needs of the student with a disability. School districts must place students with disabilities in the regular educational environment unless the District can demonstrate that education in the regular setting with the use of supplementary aids and services cannot be achieved satisfactorily. Under 34 C.F.R. §104.34(b), in providing or arranging for the provision

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of non-academic and extracurricular services and activities, a school district shall ensure that students with disabilities participate with students without disabilities to the maximum extent appropriate to the needs of the student with disabilities.

Issue 3:

The Section 504 implementing regulations, at 34 C.F.R. §§104.33(a)-(b), require a recipient to provide a free appropriate public education (FAPE) to each qualified individual with a disability within its jurisdiction. A FAPE is defined as the provision of regular or special education and related aids and services that are designed to meet the educational needs of individuals with disabilities as adequately as the needs of individuals without a disability are met and that satisfy the requirements of the regulation at 34 C.F.R. §§ 104.34, 104.35, and 104.36 (educational setting, evaluation and placement, and procedural safeguards).

Under 34 C.F.R. §104.34(b), in providing or arranging for the provision of non-academic and extracurricular services and activities, a school district shall ensure that students with disabilities participate with students without disabilities to the maximum extent appropriate to the needs of the student with disabilities.

As the Title II implementing regulation 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 FAPE standards.

Issue 4:

The Section 504 implementing regulations, at 34 C.F.R. § 104.4(a), provides that no qualified individual 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 that receives Federal financial assistance.

To determine whether a recipient has subjected a student to different treatment on the basis of disability, OCR looks for the following:

1. whether the Student is a student with a disability or is regarded as having a disability;
2. whether the student was treated differently from other similarly situated, students without disabilities;
3. if yes to [2], the District's reasons for the difference in treatment;
4. if the District articulates a legitimate nondiscriminatory reason, whether there is evidence that the District's reasons are a pretext for discrimination based on disability, including whether there is evidence of deviation from policies, deviation from practices, more favorable treatment of comparators, or other reasons for believing the articulated reason is not the real reason for the difference in treatment.

Factual Findings and Conclusions

Issue #1: Whether the District excluded the Student and other students with disabilities from participating in all extracurricular activities with students without disabilities.

The Complainant stated that the Middle School and High School staff did not allow the Student and other students with disabilities to participate in extracurricular activities with students without disabilities.

The Section 504 implementing regulations, at 34 C.F.R. §104.37(a)(1), require that school districts provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford students with disabilities an equal opportunity to participate. In addition, the Title II regulations, at 28 C.F.R. §35.130(b)(7), require public entities to make reasonable modifications to policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

OCR found that the District adopted policies regarding extracurricular/interscholastic participation. The Board Policy states that extracurricular/competitive interscholastic activities shall be offered in compliance with all laws and State Board of Education rules relating to non-discrimination. The “LRE Principles” provided by the District state that in providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, etc., each student with disabilities participates with students without disabilities to the maximum extent appropriate.

The High School eligibility requirements for participating on an athletic team are published in the Handbook, and include: a current eligibility release, insurance information and medical authorization form on file; a doctor’s examination (on or after the requisite date); must have passed 6 courses from the previous semester; and, must be “on track” toward graduation. The Middle School requires the same forms as the High School for eligibility for participation on an athletic team; in addition to these forms, students must have passed 70 percent of courses from the previous semester.

Regarding eligibility for clubs and organizations at the Middle and High School, clubs and organizations may set their own policies and procedures for participation. The District submitted feedback from club sponsors regarding their procedures for participation. The District submitted documentation indicating there are approximately 10 Middle School clubs and approximately 75 High School clubs; four (4) clubs total submitted any procedures used for participation. Examples of these procedures include that for the art club, students must have an interest in art; for the Beta Club, they must maintain a certain GPA, pay annual dues, and submit a 10-hour service log. None of the procedures submitted address students with disabilities.

During interviews, District staff stated that all students with or without disabilities have opportunities to participate in extracurricular activities. There are no specific written policies regarding inclusion of students with disabilities in extracurricular activities. However, District

staff stated that all students with or without disabilities have the opportunity to participate in extracurricular activities at the school.

Since 2011, the middle school has implemented a “zero period” policy that provides clubs and enrichment activities within the school day. The Middle School day ends at 2:30 p.m. The Middle School only has sports events after school.

The District produced a table which indicated that one or more students with disabilities participated on eight of the Middle School’s 11 sports teams. The District also produced a table of “flex classes” at the Middle School. The “flex classes” are comprised of dance, band, chorus, and art classes. Students with disabilities participated in each of the “flex classes.”

During an interview with OCR, the Middle School Principal stated that students with disabilities are not excluded from participating or trying out for sports teams. The Principal stated that there is a student in the moderate intellectually disability (MOID) program who has been on the cheerleading squad for the past three years, and there are MOID students who participate in drama, chorus, and band.

The Middle School’s self-contained classroom Teacher stated that students in the special education class participated in all of the assemblies, fundraising assemblies, award ceremonies, pep rallies, drama productions, ice cream parties, and any other activity given at the School. The Teacher confirmed that a MOID student in the class has been a cheerleader for the past three years. The Teacher stated that the self-contained students have participated in field trips, including a trip to the Georgia Aquarium. The Teacher stated that none of the self-contained students are excluded from sports teams if they are interested and stated that the students are allowed to try out for any sport.

Documentation showed that when the Student attended the Middle School, the self-contained students, including the Student, participated in art, drama, and chorus during instructional time. The self-contained students participated with general education students in activities such as the Atlanta Braves game, the cheerleading squad, field trips to the Woodruff Arts Center and the High Museum, dances, and other subject-specific extracurricular activities.

The High School Principal stated that all extracurricular High School activities are open to all students. The Principal stated that the staff attempted to work with the Complainant to develop a transition plan, and would encourage her to bring the Student to afternoon events and activities at the High School. The Student participated in Drama with general education students; however, the High School Principal stated that the Complainant did not want the Student to participate in the visual arts class or music appreciation class, or the social skills instruction such as operating the Coffee Cart with general education students. Regarding sports, the Principal stated that the Student was interested in tennis, but the Complainant did not want the Student to participate. On September 4, 2013, the District’s Director of Athletics emailed the Complainant the try-out date for the girls’ tennis team. The Principal stated that there are many students with IEPs on sport teams at the High School.

The High School self-contained classroom Teacher stated that none of the students in the class have been excluded from any extracurricular activities, clubs, or sports at the School. The Teacher stated that the School encourages participation by all students. The Teacher stated that the Student was encouraged to participate in a field trip in a Consumer Science class, but the Complainant would not let her go even after the High School offered to send a paraprofessional on the trip with the Student. The Teacher stated that her self-contained student program includes several interactions with general education students, such as the Coffee Cart, in which her students sell coffee in the concession area in the mornings. The Teacher stated that five seniors in the self-contained class participated in the prom with general education students.

OCR found that the High School offers a variety of field trips, sports, and extracurricular activities. During the 2013-2014 school year when the Student attended the High School, documentation showed that students with disabilities (including students with IEPs or Section 504 Plans) participated with general education students in sports such as football, track, basketball, and wrestling; extracurricular activities and clubs such as dance, choir, band, cookbook club, Spirit club; and field trips, including to the Federal Reserve Bank of Atlanta, Hospitality Career Expo, and the Georgia Department of Agriculture.

Based on the above, the District denied that students with disabilities were excluded from participation in various nonacademic and extracurricular services and activities with general education students or students without disabilities as alleged. The District's policies regarding extracurricular/interscholastic participation, field trips, "LRE Principles" athletics eligibility requirements, and individual clubs and organizations' policies and procedures do not violate OCR policy regarding participation of students with disabilities. OCR found that there are a variety of extracurricular activities offered to all students, with and without disabilities, at the Middle School and the High School. Documentation showed that there are students with disabilities who participate in many extracurricular activities at the Middle School and the High School, and OCR found no documentation that indicated that any students with disabilities interested in participating were denied the opportunity to participate or denied necessary modifications. Based on the foregoing, OCR found that there is insufficient evidence to support a finding of noncompliance with Section 504 and Title II with regard to Issue #1.

Issue #2: Whether the District segregated the Student and other students with disabilities from any interaction with students without disabilities by placing their classrooms far away (lower floor level, rear of school) from general education student classrooms; and having separate lunches, seating at assemblies and seating at gymnasium events.

The Complainant stated that at both the Middle School and the High School, the Student's classroom and the classrooms of other students with disabilities are placed far away from the classrooms of students without disabilities. The Complainant stated that the self-contained classrooms are located on the lower level and rear of the schools. The Complainant also stated that the Middle School and the High School segregate students with disabilities from students without disabilities by having separate lunches, and seating at assemblies and gymnasium events.

The Section 504 implementing regulation, at 34 C.F.R. §104.34(a), requires that a student with a disability be educated with students without disabilities to the maximum extent appropriate to the

needs of the student with a disability. School districts must place students with disabilities in the regular educational environment unless the District can demonstrate that education in the regular setting with the use of supplementary aids and services cannot be achieved satisfactorily. Under 34 C.F.R. §104.34(b), in providing or arranging for the provision of non-academic and extracurricular services and activities, a school district shall ensure that students with disabilities participate with students without disabilities to the maximum extent appropriate to the needs of the student with a disability.

The Middle School staff stated that the self-contained classes are located on the first floor (lower level) and the classes are directly across the hall from other general education classes. Additionally, there are small group classrooms that are integrated throughout the Middle School. There is not a special education wing or hallway in the Middle School and the special education classes are not labeled, in the hallway or otherwise, as such.

During an on-site visit to the Middle School, OCR found that there are two self-contained classrooms that are located on the lower level of the school, along with other general education classes (e.g., social studies, drama, STEM programs, and a pull-out Speech class). The two self-contained classrooms are closest to the entrance doors on the side of the building (the McCord Street side), where students with disabilities, including those with mobility impairments, can load and unload from the special education buses. The self-contained classrooms also have internal restrooms, laundry, and kitchen facilities for the students' instructional programs. All of the classrooms for students with and without disabilities are labeled with a room number and teacher name on the sign. There are no classroom signs that specifically identify those classrooms as self-contained or for students with disabilities. OCR did not find any classrooms at the Middle School where students with disabilities were segregated from general education students' classrooms. During the investigation, OCR also found that the Complainant filed an allegation that the Middle School's self-contained classrooms are segregated, in violation of the Individuals with Disabilities in Education Act (IDEA) regulations, with the Georgia Department of Education (GDOE). The investigation, which concluded in June 2013, found that the District was in compliance regarding this issue.

The High School staff stated that the School has students with disabilities that are monitored, team taught, in small group, and in self-contained classes, and all of the students are included with general education students throughout the building. High School staff stated that the Lower B Hall has approximately 20 classrooms, which include general education classes such as ROTC, drama, English, and math.

During an onsite visit to the High School, OCR found that the building has two floors, and the main office entrance is located on the second level. The two self-contained classrooms are located on the first floor, in Rooms B110 and B111 in the lower corridor, which is closest to an exit door on the side of the building near the cafeteria. OCR confirmed that located on the lower corridor with the self-contained classrooms, there are several general education classrooms, including ROTC, drama, and general education math. The self-contained classrooms do not have any signage that identified those classrooms for students with disabilities. All of the classrooms' signage has a room number and/or teacher name. Additionally, there are small

group classrooms for students with disabilities (Science, Math, and ELA) that are located in other areas of the building with general education classrooms.

District staff at the Middle School and at the High School stated, and OCR's review of the documentation confirmed that the Student and other students with disabilities are not segregated from general education students during lunch periods, assemblies, or gymnasium events at the Middle School. District staff stated that if the District segregated a student, it would be because of a special need based on that student's individual IEP and the accommodations required based on that student's individual disability-related needs.

At the Middle School, there are six lunch periods (Lunch A, B, and C – one each for seventh grade and for eighth grade). All students are assigned seating in the cafeteria by class and by teacher. The self-contained students attend the eighth grade Lunch A with other general education students. Middle School staff stated that self-contained students eat their lunch at the tables and go through the same cafeteria line to pick up their lunch with general education students. At the High School, there are three lunch periods (Lunch A, B, and C). Students in the self-contained class attend Lunch C with other general education students, which is the third lunch period. High School staff stated that students in the self-contained class are allowed to self-select as to whether they want to go to the cafeteria, the class kitchen, or the Daily Living Lab, which is next door to the cafeteria, to have lunch. High School staff noted that based on some of the disabilities of students in the self-contained classroom, some of the students are not comfortable attending lunch in the cafeteria because of the noise. However, the High School denied that they exclude any student from eating lunch in the cafeteria. District staff also noted that the Student attended Lunch C in the cafeteria with other general education students.

With respect to gymnasium events, the Middle School staff stated that the School has pep rallies in the gymnasium. The Middle School gymnasium has bleacher seating and there are no sections that identify students with disabilities; during pep rallies and other events, students sit with their teachers and by grade level. Self-contained and general education students sit together in the gymnasium where seventh grade students are on one side and eighth grade students are on the other side. Middle School staff stated that the Student attended the assemblies and gymnasium events at the School. OCR found that the High School gymnasium is two levels; the second level has an indoor track with a rail and the first level has a basketball court. Students are seated in the bleachers with their grade level, and students who have mobility impairments may sit at the top level to easily access the exit doors.

With respect to assemblies, OCR found that Middle School assemblies are held in the auditorium and High School assemblies are held in the gymnasium. There are no signs or markers that identify seating or sections for students with disabilities only. The District informed OCR that students who attend assemblies at the Middle School and High School are seated with their teachers and class. Middle School staff stated that the self-contained classroom students would sit in the front of the auditorium to accommodate students who use wheelchairs. High School staff stated that students with mobility impairments may sit at the top row of the gymnasium, or on the second level, which is accessible to an exit door. However, all students, with and without disabilities, are included in the assemblies and gymnasium events.

Based on the foregoing, OCR finds that there is insufficient evidence to support a finding of noncompliance with regard to Issue #2. The students with disabilities at the Middle School and the High School are not segregated from general education students as it relates to classrooms, assemblies, and gymnasium events. The self-contained classrooms are in the same hallway or corridor as other general education classrooms. Students with disabilities who receive their instruction in self-contained classes and other students with disabilities are included in school assemblies and gymnasium events, such as pep rallies, with students without disabilities.

Issue #3: Whether the District segregated the Student and other students with disabilities from students without disabilities by having drop-off and pick-up locations at the rear of MMS and MHS.

The Complainant stated that the drop-off and pick-up locations for students with disabilities are in the rear of the Middle School and the High School, which segregated students with disabilities from general education students.

The Section 504 implementing regulations, at 34 C.F.R. §104.33(a)-(b), require a recipient to provide a FAPE to each qualified individual with a disability within its jurisdiction. A FAPE is defined as the provision of regular or special education and related aids and services that are designed to meet the educational needs of individuals with disabilities as adequately as the needs of individuals without a disability are met and that satisfy the requirements of the regulation at 34 C.F.R. §§104.34, 104.35, and 104.36 (educational setting, evaluation and placement, and procedural safeguards).

Under 34 C.F.R. §104.34(b), in providing or arranging for the provision of non-academic and extracurricular services and activities, a school district shall ensure that students with disabilities participate with students without disabilities to the maximum extent appropriate to the needs of the student with a disability.

On a map provided by the District, the District identified the layout of the Middle School campus, including the bus parking locations. On the map and during the onsite at the Middle School, OCR determined that the buses load up in three distinct areas. The three areas include the front of the campus (Winn Street), the South side of the campus closest to the self-contained classes (McCord Street), and the North side near the gymnasium (Polk Street). All car riders are picked up and dropped off at the gymnasium parking area. There is no area in the rear for buses to provide transportation services to any students.

Middle School District staff stated that the School has 23 buses for pick-up and drop-off. The Middle School consists of two grade levels (seventh and eighth grade) that include over 1300 students. One group of buses line up in the front of the campus and take up the entire block (Winn Street). Another group of buses line up on one side of the campus (Polk Street). Students with disabilities who specifically require special transportation due to wheelchair access use the other side of the campus (McCord Street) because it is the closest accessible route to the self-contained classrooms. District staff stated that the McCord Street side is used so that they do not place special education students who need special assistance (e.g., a wheelchair lift) in the direct

flow of traffic with the other buses. There is no bus pick-up or drop-off in the rear of the campus.

At the High School, District staff stated that the bus ramp location used for bus pick-up and drop-off for both students with and without disabilities is located on the side of the building closest to the cafeteria. On a map provided by the District, the District identified that the general education bus parking and special education bus parking locations are on the same side of the High School building. OCR confirmed the location of the general education and special education bus parking during an on-site visit. There are four (4) special education buses that pull up curbside to pick up students. The general education buses line up in the parking lot, which is several feet away from the entrance of the building. Dropping off and picking up the special education students at the curb allows the students to access the walkway and to be closer to their classrooms. All car riders or walkers are picked up and dropped off at front of the building. According to the District, the Student did not ride the bus, but was a car rider and entered the front of the building.

Based on the foregoing, OCR finds insufficient evidence to support a finding of noncompliance with Section 504 and Title II regarding this issue. For the Middle School, the District provided a legitimate nondiscriminatory reason why the special education buses are located on the side of the building during pick-up and drop-off times. For the High School, the bus pick-up and drop-off areas for both students with disabilities and students without disabilities are located on the side of the school building near the cafeteria. Furthermore, the bus pick-up or drop-off services are not located in the rear of either the High School or the Middle School campuses, as alleged by the Complainant. Therefore, there is insufficient evidence that the District has discriminated against students based on disability as it relates to this issue.

Issue #4: Whether the Student and other students with disabilities receive a shortened school day at MHS.

The Complainant stated that students with disabilities have a shortened instructional day at the High School. The Complainant stated that the self-contained classes lose 15 minutes in the morning and are released 15 minutes early in the afternoon, which results in students with disabilities losing 30 minutes of instructional time per day.

The Section 504 implementing regulations, at 34 C.F.R. §104.4(a), provides that no qualified individual 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 that receives Federal financial assistance.

The District's policy on the length of the school instructional day for students in grades 6 through 12 provides that the instructional day shall be comprised of not less than a daily average of five and one-half hours (330 minutes) of instructional time based on the 180-day school year. According to the High School's website for the 2014-2015 school year, the High School was open from 7:00 a.m. until 2:30 p.m. Monday through Friday. The instructional day begins at 7:30 a.m. and ends at 2:30 p.m.

The High School's self-contained classroom Teacher confirmed that the instructional time for general education begins at 7:30 a.m. and ends at 2:30 p.m.; however, the Teacher further confirmed that the self-contained students' schedule, specifically, begins at 7:30 a.m. and ends at 2:15 p.m. The Teacher stated that the self-contained students get off of the special education bus at 7:00 a.m. and are escorted by a paraprofessional to the class. Once the students get off the bus, their day begins with conducting tasks such as using the restroom, organizing their backpacks, and socializing within the class. When the school bell rings at 7:30 a.m., indicating the start of the school day, the students eat breakfast and begin their first block (workplace readiness), which includes stocking and getting the Coffee Cart ready. The Teacher stated that at around 2:15 p.m., the students are finishing up and preparing to get on the bus before the general education students are released for their buses. According to the District, the self-contained students were dismissed earlier than 2:30 p.m. for safety concerns and to avoid the congestion and crowds of the other students who are released at 2:30 p.m. The Teacher stated that the Student was not self-contained in her class all day. The Teacher stated, and the District's data showed, that the Student was only taught in a self-contained environment for two classes (Reading and English). Neither of these class periods was at the beginning or end of the instructional school day.

OCR interviewed District staff to determine whether there was an educational justification for self-contained students with disabilities receiving a shortened day. There was no student with a disability determined by a student support team who required a modified school day. While the District stated the self-contained students are released early to avoid congestion, this shows more favorable treatment of comparators without disabilities, who are able to receive a full day of instruction rather than having a staggered release schedule that includes students without disabilities.

Based on the above, OCR has determined that these self-contained students who ride the special education school bus are being denied a full school day of instruction, with a shorter school day in length to the school day that is provided to other students, with and without disabilities, that are transported on general education school buses. There was no evidence to show that the self-contained students were required to receive a shortened school day based on their individual needs. OCR has determined that the District is in noncompliance with regulations implementing Section 504 and Title II, regarding this issue. The District has voluntarily agreed to the enclosed resolution agreement (Agreement), which when fully implemented, resolves Issue #4.

Conclusion

Accordingly, OCR finds, using the preponderance of the evidence standard, that there is insufficient evidence to support a finding the District is in noncompliance with Section 504 and Title II for Issues #1, #2, and #3 as alleged. However, OCR found a compliance concern regarding Issue #4 in which the District has agreed to enter into the enclosed Agreement.

OCR will monitor the District's implementation of the Agreement in this case 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. 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. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or because one has made a complaint, or participated in any manner in an investigation in connection with a complaint.

OCR appreciates the District's cooperation in this matter and looks forward to receiving the monitoring reports, as required by the enclosed Agreement. If you have any questions, please contact Katherine Dunn, General Attorney at 404-974-9363.

Sincerely,

Melanie Velez
Regional Director

Enclosure: As stated