



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

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ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

December 5, 2014

Via U.S. Mail and Email

XXX

Superintendent

Fulton County Schools

786 Cleveland Avenue SW

Atlanta, GA 30315

Re: Complaint #04-14-1626

Dear Dr. XXX:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed by Anne Jarvis (Complainant) against Fulton County School District (District) on June 11, 2014, alleging that the District discriminated against her daughter, XXX (Student), on the bases of disability and retaliation. Specifically, the Complainant alleged that the District failed to provide the Student with a free appropriate public education (FAPE) when it failed to implement provisions of her Section 504 Plan during Geometry class at Riverwood International Charter School (School) during the 2013-2014 school year. The Complainant also alleged that the District retaliated against the Student by giving her a failing grade in Geometry class and making negative comments on her progress report after she told School administrators she was filing a complaint with OCR.

As a recipient of Federal funds 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.

OCR began an investigation of the following legal issues:

- Whether the District failed to provide the Student with a FAPE when it failed to implement provisions of the Student's Section 504 Plan during Geometry class at the School during the 2013-2014 school year, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.33 and the Title II implementing regulation at 28 C.F.R. § 35.130; and

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by fostering educational excellence and ensuring equal access.*

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- Whether the District retaliated against the Student by giving her a failing grade in Geometry class and making negative comments on her progress report after the Complainant told School administrators she was filing a complaint with OCR, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. §104.61 and the Title II implementing regulation at 28 C.F.R. § 35.134.

During OCR's investigation of this complaint, the District offered to resolve the Complainant's allegations. Pursuant to OCR's procedures, a complaint may be resolved when, before the conclusion of an investigation, the recipient requests to resolve the complaint. Based on the foregoing, OCR accepted the District's request to resolve this complaint and the University 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 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 and Title II.

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 duly authorized OCR officials 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 at (404) 974-XXX or XXX, Compliance Team Leader, at (404) 974-XXX.

Sincerely,

Cynthia G. Pierre, Ph.D.
Regional Director