



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

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

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November 2, 2018

R. Stephen Green, Ed.D.  
Superintendent  
DeKalb County School District  
1701 Mountain Industrial Boulevard  
Stone Mountain, Georgia 30083

RE: OCR Complaint No. 04-15-1197  
Resolution Letter

Dear Dr. Green:

This letter is to advise you of the outcome of the above referenced complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (Department) received on February 9, 2015, against the DeKalb County School District (District). The complaint, filed by XXX XXXXX (Complainant) alleged that the District discriminated against her daughter (Student) based on disability and retaliated when it did not implement the Student's Section 504 plan, failed to provide the Student with homebound instruction, and when faculty and staff members made inappropriate comments regarding the Student's disability.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 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 and a public entity, the District is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

OCR opened an investigation into the following legal issues:

1. Whether the District denied the Student a Free Appropriate Public Education, when the District failed to implement the Student's Section 504 plan, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.33(a) and (b) and the Title II implementing regulation at 28 C.F.R. § 35.130;
2. Whether the District did not provide the Student homebound instruction, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b)(1)(i), and the regulation implementing Title II at 28 C.F.R. § 35.130;

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

3. Whether the Student was subjected to a hostile environment on the basis of disability, when faculty and staff members made inappropriate comments regarding her disability, and the District failed to respond and take action reasonably calculated to stop the harassment, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4 and the Title II implementing regulation at 28 C.F.R. § 35.130; and
4. Whether the District retaliated against the Student after the Complainant filed a complaint with the District by making harassing comments regarding her disability to other students, and the District failed to respond and take action reasonably calculated to stop the harassment in violation of in noncompliance with the Section 504 regulation at 34 C.F.R. § 104.61 and the Title II regulation at 28 C.F.R. § 35.134.

Before OCR completed its investigation, the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement. Pursuant to Section 302 of OCR's *Case Processing Manual*, the District signed the enclosed Resolution Agreement on October 29, 2018, which, when fully implemented, will resolve the legal allegations raised in this complaint. The provisions of the Agreement are aligned with the legal allegations and issues raised by the Complainant, and are consistent with applicable law and regulation. OCR will monitor the District's implementation of the Agreement to confirm the District is in compliance with the statutes and regulations at issue in the case. Failure to implement the Agreement could result in OCR reopening the complaint.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation 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 OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact Michael Bennett, the OCR attorney assigned to this complaint, at 404-974-9274 or michael.bennett@ed.gov.

Sincerely,

XXXXXXXXXXXXXXXXXXXX

Andrea de Vries  
Compliance Team Leader

Enclosure

cc: XXXXXXXX. (*via email only*)