



**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

May 8, 2018

Dr. David F. Lewis
Superintendent
Muscogee County School District
2960 Macon Road
Columbus, GA 31906

Re: OCR Complaint No. 04-16-1549

Dear Dr. Lewis:

This letter is to advise you of the disposition of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Muscogee County School District (District).

Specifically, the Complaint alleged:

1. The District engaged in discrimination on the basis of race and disability against her grandson (Student) when it denied him a free and appropriate education (FAPE) by failing to evaluate the Student for an IEP until the end of the 2015-2016 school year, despite Complainant's request early in the school year; and
2. The District discriminated against the Student on the basis of race and sex when it disciplined the Student more harshly than students of other races and girls at Clubview Elementary School (School) were disciplined.

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. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities.
- Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipients of Federal financial assistance.
- Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100. Title VI prohibits discrimination on the

basis of race, color or national origin by recipients of Federal financial assistance (FFA).

As a recipient of Federal financial assistance and a public entity, the District is subject to these laws.

Based on the above, OCR opened the following legal issues:

1. Whether the District discriminated against the Student on the basis of disability by denying the Student a FAPE by failing to timely evaluate the Student, 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.
2. Whether the District discriminated against the Student on the basis of race by treating him differently than students of other races when it failed to evaluate the Student for an IEP until the end of the 2015-2016 school year, despite Complainant's request at the beginning of the 2015-2016 school year, in noncompliance with the Title VI implementing regulation at 34 C.F.R. §100.3.
3. Whether the District discriminated against the Student on the basis of race by disciplining him more harshly than students of other races were disciplined for similar offenses, in noncompliance with the Title VI implementing regulation at 34 C.F.R. §100.3.
4. Whether the District discriminated against the Student on the basis of gender by disciplining him more harshly than female students were disciplined for similar offenses, in noncompliance with the Title IX implementing regulation at 34 C.F.R. §106.31.

During the course of its investigation, OCR reviewed information provided by the Complainant and the District, including the District's Section 504 procedures and policies, its notice of nondiscrimination, the Student's records and academic file, and correspondence with the Complainant. OCR also spoke with the Complainant and received updates from her on the Student's academic progress throughout the course of the investigation.

Prior to OCR making a final determination, the District expressed an interest in resolving the allegations. On May 7, 2018, the District signed the enclosed Resolution Agreement, which, when fully implemented, will address the allegations in the complaint. OCR will monitor the implementation of the Resolution Agreement.

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 individual may file another complaint alleging such treatment.

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, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy. The Complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

If you have any questions, please contact Robyn Painter, General Attorney, at (404) 974-9345 or by email at robyn.painter@ed.gov, or me at (404) 974-9354.

Sincerely,

Scott R. Sausser, Esq.,
Compliance Team Leader

Enclosure

cc: 