



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

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

REGION IV  
ALABAMA  
FLORIDA  
GEORGIA  
TENNESSEE

July 13, 2018

Mr. Don Embry  
Superintendent of Schools  
Bedford County Schools  
500 Madison Street  
Shelbyville, TN 37160

Re: Complaint #04-16-1584

Dear Mr. Embry:

On August 5, 2016, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint filed against the Bedford County Schools, Tennessee (District) alleging discrimination on the basis of disability. More specifically, in the complaint, the Complainant alleged that the District discriminated against a former student (Student) at Cascade Middle School (School) on the basis of his disabilities (attention-deficit/hyperactivity disorder (ADHD) and dyslexia) by intentionally leaving him off notices about basketball tryouts and not selecting him for the team. The Complainant further alleged that the District failed to respond to an internal complaint of disability discrimination filed by the Student's parent.

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), as amended, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, and its implementing regulation at 28 C.F.R. Part 35, which prohibits 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. Accordingly, OCR has jurisdiction to investigate this complaint.

OCR initiated an investigation into the following legal issues:

1. Whether the District discriminated against the Student on the basis of his disabilities when it intentionally left him off notices about basketball tryouts and when it did not select the Student for the varsity basketball team in noncompliance with 34 C.F.R. § 104.4.
2. Whether the District failed to take appropriate responsive action to redress the allegations of disability discrimination in noncompliance with Section 504, at 34 C.F.R. § 104.7(b), and 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.*

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Re: 04-16-1584

July 13, 2018

Page 2

Prior to the conclusion of OCR's investigation, the District offered, and OCR determined it was appropriate to resolve, the complaint with a Resolution Agreement (Agreement) pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). On May 9, 2018, the District signed an Agreement agreeing to the following: 1) revise the definition of "Harassment" as set forth in Board Policy 6.304, so that it complies with OCR standards; 2) revise, subject to OCR's review and approval, the District's grievance procedures contained in Board Policy 6.304 and 6.305, as necessary to ensure that they comply with OCR's standards; 3) adopt, publish and disseminate the revised policy, procedures and notice of nondiscrimination in its electronic and printed materials; and 4) reprint the revised Board Policy 6.304 and 6.305, if the District used inserts for printed materials, and publish and disseminate the reprinted materials.

The provisions of the Agreement are aligned with the complaint allegations and the information obtained during the investigation and is consistent with applicable regulations. When fully implemented, the Agreement will address all of the complaint allegations. OCR will monitor the implementation of the Agreement.

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.

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, any personally identifiable information, the release of which 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.

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 letter, please contact Michelle Reid, General Attorney, at 404-974-XXX or [michelle.reid@ed.gov](mailto:michelle.reid@ed.gov) or Arthur Manigault, Compliance Team Leader at 404-974-XXXX or [art.manigault@ed.gov](mailto:art.manigault@ed.gov).

Sincerely,

Melanie Velez  
Regional Director

Enclosure

cc: Kaya Grace Porter, Esq. (w/ enclosure) – via email