



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

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

REGION IV
ALABAMA
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July 5, 2018

Dr. Donald E. Fennoy II
Superintendent
Palm Beach County Schools
3300 Forest Hill Boulevard
West Palm Beach, Florida 33406

Re: Complaint No. 04-17-1179

Dear Dr. Fennoy:

On December 15, 2016, the United States Department of Education, Office for Civil Rights (OCR), received the above-referenced complaint filed by the Complainant alleging that Palm Beach County School District (District) discriminated against her son (the Student) on the basis of disability. Specifically, the Complainant alleged that the Student's Individualized Education Plan (IEP) was not being followed during the 2016-2017 school year, including but not limited to the provisions of cueing the Student to stay on task and providing oral presentation of content. Complainant additionally alleged that two teachers (math teacher, Teacher 1, and English teacher, Teacher 2), and an Exceptional Student Education (ESE) Specialist at the School harassed the Student on the basis of his disability, by locking Student out of the classroom in the hallway, yelling at the Student, and calling him "lazy" and "unmotivated."

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 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; and Title II of the Americans with Disabilities Act of 1990, 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. 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>.

On March 1, 2017, OCR opened the following legal issues for investigation:

1. Whether the District denied the Student a free and appropriate public education (FAPE) by failing to implement provisions of Student's IEP, including but not limited to the provisions of cueing the Student to stay on task and providing Student oral presentation of content during the 2016-2017 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.

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by fostering educational excellence and ensuring equal access.*

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2. Whether the Student was subjected to a hostile environment as a result of disability-based harassment by Teacher 1, Teacher 2, and the ESE Specialist, and whether the District failed to respond appropriately to this 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.

However, prior to the completion of OCR's investigation, the District requested to voluntarily resolve this complaint. Pursuant to Section 302 of OCR's Case Processing Manual, a complaint may be resolved, before the conclusion of an investigation, when the recipient expresses an interest in resolving the complaint. The attached Resolution Agreement (Agreement) will require the District to take actions to remedy the compliance concerns at issue in this complaint.

On June 28, 2018 OCR received the enclosed signed Agreement that, when fully implemented, will resolve the 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. The Complainant may file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, 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.

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, to the extent provided by law, personally identifiable information that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions about this letter, please contact Katherine Dunn, at (404) 974-9363.

Sincerely,



Andrea M. de Vries
Compliance Team Leader

Enclosure