



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
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October 10, 2018

J. Alvin Wilbanks, Superintendent
Gwinnett County Public Schools
437 Old Peachtree Road NW
Suwanee, Georgia 30024

Re: Complaint No. 04-17-1425

Dear Mr. Wilbanks:

On May 3, 2017, the U.S. Department of Education, Office for Civil Rights (OCR), received the above-referenced complaint, alleging discrimination on the basis of disability against one of the District's students (Student). Specifically, the complaint alleged that following the Student's transfer to the District in July 2016, the District did not obtain the Student's Section 504 plan from his previous school and failed to evaluate him for special education or related services. The Student did not receive special education or related services until May of the 2016-2017 school year.

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), 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. Additional information about the laws OCR enforces is available on our website at www.ed.gov/ocr.

On August 22, 2018, OCR notified the parties that it was opening an investigation into the following legal issue:

Whether the District failed to evaluate the Student for special education or related services after he transferred to the District in July of 2016, in noncompliance with the Section 504 regulation at 34 C.F.R. § 104.35 and the Title II implementing regulation at 28 C.F.R. § 35.130.

Prior to the completion of OCR's investigation, the District sought 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) requires the District to take actions to remedy the compliance concerns at issue in this complaint.

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

www.ed.gov


On October 9, 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 Cerrone Lockett, at (404) 974-9318.

Sincerely,

A handwritten signature in blue ink that reads "Andrea Marie de Vries". The signature is written in a cursive style.

Andrea M. de Vries
Compliance Team Leader

Enclosure