



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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September 28, 2018

Via Electronic & U.S. Mail

Greg Pendley (gdpendley@winstonk12.org)
Superintendent
Winston County Board of Education
25101 Highway 195
P.O. Box 9
Double Springs, AL 35553

Re: OCR Complaint #04-17-1459

Dear Mr. Pendley:

The U.S. Department of Education (Department) Office for Civil Rights (OCR) has completed its investigation of the above referenced complaint filed on May 23, 2017, against the Winston County School District (District), alleging discrimination on the basis of disability. Specifically, the Complainant alleged that the District discriminated against her son (Student), who attends Meek High School (School), as follows:

- The Principal stated the Student was not eligible for a 504 evaluation for a 504 Plan because he had an IEP in place.
- The Student was placed in imminent danger when he was sent to the nurse without any assistance or anyone accompanying him despite his very low blood sugar level.
- The Principal refused to allow the Student to attend a scheduled track meet with the rest of the team, and left the Student in the School parking lot alone despite her knowledge of him being a Type I diabetic.
- The District failed to address the different treatment of the Student after it was reported.

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, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

OCR investigated the following issues:

1. Whether the District subjected the Student to different treatment on the basis of his disability when he was denied the opportunity to attend a track meet with the other students on the team, and the District failed to appropriately respond after it was reported,

in non-compliance of the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b), and the Title II implementing regulation at 28 C.F.R. § 35.130.

2. Whether the District denied the Student a free appropriate public education (FAPE) when it failed to evaluate him to determine if he was eligible for Section 504 services, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. §§ 104.33(a)-(b) and 104.35(a)-(c), and the Title II implementing regulation at 28 C.F.R. § 35.130.

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 or public entity expresses an interest in resolving the complaint. The attached Resolution Agreement (Agreement) will require the District to take action to remedy any compliance concerns related regarding different treatment based on disability, as well as failing to evaluate students for 504 because they have an IEP in place.

On September 27, 2018, OCR received the enclosed signed Agreement that, when fully implemented, will resolve the allegation in 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. 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.

OCR is committed to prompt and effective service. If you have any questions, please contact Cassandra Williams at (404) 974-9393, or by email at cassandra.williams@ed.gov or the undersigned at (404) 974-9408.

Sincerely,

April England-Albright
Supervisory General Attorney

Enclosure