



**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

May 11, 2018

Mr. Ben Baker  
Superintendent  
Dale County Schools  
202 S. HWY 123, Suite E  
Ozark, Alabama 36360

Re: OCR Docket #04-17-1555

Dear Mr. Baker:

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 Dale County School District.

Specifically, the Complainant alleged that the District:

1. Failed to conduct a proper evaluation of her daughter (Student) in February 2017, when the Student's 504 team failed to use proper assessment tools in determining what aids and services the Student required, relied only on the Student's grades in making decisions about the aids and services to be provided to the Student, and failed to include aids and services in the Student's 504 plan that the 504 team agreed to provide the Student.
2. Retaliated against the Complainant and Student in March 2017, because of the Complainant's prior advocacy on behalf of the Student, when the Student's English teacher (Teacher) mocked the Student and the Complainant in class in front of the Student's peers by commenting on her disbelief that the Student "would have her mom come to the School to complain".

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

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

1. Whether the District failed to provide the Student a free appropriate public education (FAPE) when it failed to conduct a proper evaluation in February 2017, and failed to include all of the aids and services agreed to during the Student's February 2017 Section 504 meeting into the Student's Section 504 plan, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.35, and Title II and its implementing regulation at 35 C.F.R. §35.130.
2. Whether the District retaliated against the Complainant and Student in March 2017, when the Student's English teacher (Teacher) mocked the Student and the Complainant in class in front of the Student's peers by commenting on her disbelief that the Student "would have her mom come to the School to complain", in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.61, and Title II and its implementing regulation at 35 C.F.R. §35.134.

During its investigation, OCR reviewed information provided by the Complainant and the District.

Prior to OCR making a final determination, the District expressed an interest in resolving the allegation. On May 9, 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.<sup>1</sup>

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.

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<sup>1</sup> No individual remedies were provided because the Complainant does not reside in the District and informed OCR that the Student would not return.

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If you have any questions, please contact Eulen Jang at (404) 974-9467 or me at (404) 974-9354.

Sincerely,

Scott R. Sausser, Esq.  
Compliance Team Leader

Enclosure  
cc: xxxxxxxx