



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

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ATLANTA, GA 30303-8927

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November 16, 2018

Dr. David Dude
Superintendent
Decatur City Schools
125 Electric Avenue
Decatur, GA 30030

RE: OCR Complaint No. 04-18-1200
Resolution Letter

Dear Dr. Dude:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (Department) received on January 23, 2018, against the Decatur City School District (District). Specifically, the Complainant alleged that the District failed to properly implement the following provisions in the Student's Individualized Education Program (IEP) during the 2017-18 school year: assistive technology and vocabulary lists for units and lessons.

OCR enforces 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 from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to Section 504 and Title II.

Based on the allegation, OCR investigated whether the District denied the Student a free appropriate public education (FAPE) by failing to implement the Student's IEP, as alleged, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.33, and Title II and its implementing regulation at 28 C.F.R. § 35.130.

Before OCR completed its investigation, the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint "may be resolved at any time when, before the conclusion of an OCR investigation, the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation."

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

OCR's investigation to date consists of an interview with the Complainant and a review of documents produced by the Complainant and the District. The documents reviewed to date include the Student's IEP records and records of communications between the Complainant and the District, and internally amongst District staff, relevant to the issue under investigation. These investigative steps have informed the development of the Resolution Agreement.

Accordingly, to remedy the allegations raised by OCR's complaint, the District agreed to implement the provisions of the enclosed Resolution Agreement, which when fully implemented, will resolve the issue in this complaint. Pursuant to the terms of the Resolution Agreement, the District will convene an IEP meeting to determine whether the Student requires compensatory and/or remedial services for any alleged failure by the District to implement the Student's IEP provisions of assistive technology and vocabulary lists for units and lessons during the 2017-18 school year; and, if so, within 1 week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond May 1, 2019.

The Resolution Agreement is aligned with the complaint allegations and the information obtained thus far and is consistent with applicable regulations under Section 504 and Title II. OCR will monitor the District's implementation of the 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.

This concludes OCR's investigation of the complaint. This letter 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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact Claudia Campo, the OCR attorney assigned to this complaint, at 404-974-9378, or me, at 404-974-9376.

Sincerely,

/s/

Arthur Manigault
Compliance Team Leader

Enclosure

cc: Keri Ware, Esq. (*via email only to kware@wmdlegal.com*).