

August 30, 2018

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Shelby County Schools
160 South Hollywood Street
Memphis, TN 38112

Re: Complaint #04-18-1447

Dear XXXXXX:

On April 18, 2018, the U.S. Department of Education, Office for Civil Rights (OCR), received the above-referenced complaint filed by XXXXXX (Complainant) against Shelby County Schools (District), alleging that the District discriminated against XXXXXX, XXXXXX (Student), on the basis of disability. Specifically, the Complainant alleged that the District failed to provide the Student with a free appropriate public education (FAPE) when it failed to implement a provision of her Individualized Education Plan (IEP) requiring exams to be read aloud to her during a military aptitude test on March 20, 2018. The Complainant further alleged that the District retaliated against the Student by requiring her to take this test without the read aloud accommodation because she filed a complaint of disability discrimination against the Student with OCR in December 2015.

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>.

Prior to the completion of OCR's investigation, the District requested to voluntarily resolve the following issues in this complaint:

- Whether the District failed to provide the Student with a free appropriate public education (FAPE) when it failed to implement provisions of her IEP during a military aptitude test on March 20, 2018, 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; and

- Whether the District retaliated against the Student by requiring her to take a military aptitude test on March 20, 2018, after the Complainant filed a complaint of disability discrimination against the Student with OCR in December 2015, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.61 and the Title II implementing regulation at 28 C.F.R. § 35.134.

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 actions to remedy any compliance concerns.

On August 22, 2018, OCR received the enclosed signed Agreement that, when fully implemented, will resolve the two issues identified above. 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 Laura Mitchell at (404) 974-9456.

Sincerely,



Andrea de Vries
Compliance Team Leader