



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

August 10, 2018

XXXXXXXXXX

Superintendent
Midfield City Schools
417 Parkwood Ct
Midfield, AL 35228

Re: OCR Complaint # 04-18-1456

Dear XXXXXXXX:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of a complaint received by this office on April 21, 2018, alleging discrimination on the basis of disability and retaliation by Midfield City Schools (District). Specifically, the Complainant alleged that the District discriminated and retaliated against her son (Student), who is a student at Midfield Elementary School (School), as follows:

1. The District failed to implement the Student's Individual Education Plan (IEP) for the 2017-2018 school year by not allowing him to be educated in the general education classroom for a certain period of time per day.
2. The School failed to inform the Complainant about the XXXXX ceremony in retaliation for her reporting the School's violation of the Code of Conduct. As a result, the Student did not participate in any of the graduation practices or march during the ceremony.

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, 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.

Based on the above, OCR investigated the following legal issues:

1. Whether the District denied the Student a free appropriate public education (FAPE) when it failed to implement the Student's IEP for the 2017-2018 school year by not sending him to the general education classroom as required in his IEP, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.33(a) and (b)(1), and the Title II implementing regulation at 28 C.F.R. § 35.130(a).

2. Whether the District retaliated against the Student because of the Complainant's advocacy by not allowing him to participate in the graduation ceremony, 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.

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 actions to remedy any compliance concerns regarding the removal of the Student from the magnet school where he was enrolled, compensatory education services, and an evaluation of the Student for special education and/or related aids and services.

On August 9, 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 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.

OCR is committed to prompt and effective service. If you have any questions, please contact Senior Attorney XXXXX, or by email at [XXXX](#), or the undersigned at XXXXX.

Sincerely,

XXXXXXXXXX
Supervisory General Attorney

Enclosure