



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

November 20, 2018

Dr. Shawn Joseph,
Director of Schools
Metro Nashville Public Schools
2601 Bransford Avenue
Nashville, TN 37204

Re: OCR Complaint # 04-18-1569

Dear Dr. Joseph:

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 the Metro Nashville School District (District).

Specifically, the Complainant alleged that the District discriminated against her great nephew (the Student) when the District failed to implement the Student's Section 504 Plan from December 2017 to May 2018, when the District seated the Student in the back of the classroom, failed to provide homework accommodations, failed to provide extended time on tests, failed to provide him with copies of his teachers' notes, failed to allow him to use the restroom as needed, and failed to make any of his teachers aware of his Section 504 Plan, resulting in lower grades for the Student.

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 and a public entity, the District is subject to these laws.

Based on the above, OCR investigated whether the District failed to implement the Student's Section 504 Plan when it:

- 1) Failed to provide him preferential seating;
- 2) Failed to allow the Student to access the restroom as needed;
- 3) Failed to provide extended time on testing;

- 4) Failed to provide the teachers' notes to the Student;
- 5) Failed to provide homework accommodations; and
- 6) Failed to notify the Student's teachers that the Student had a Section 504 plan, in noncompliance with Section 504 and its implementing regulation at 34 U.S.C. §§104.33-35.

During the course of its investigation, OCR reviewed information provided by the Complainant and contacted the District about these allegations. Prior to OCR making a final determination, the District expressed an interest in resolving the allegations. On November 16, 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.

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.

If you have any questions, please contact Robyn Painter, General Attorney, at (404) 974-9345 or by email at robyn.painter@ed.gov, or me at (404) 974-9354.

Sincerely,

Scott R. Sausser, Esq.,
Compliance Team Leader

Enclosure