



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

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

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December 31, 2019

Jeff Eakins, Superintendent
Hillsborough County Public Schools
901 E. Kennedy Blvd.
P.O. Box 3408
Tampa, FL 33601

Re: Complaint #04-19-1577

Dear Mr. Eakins:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its case-resolution process for the above-referenced complaint filed on September 13, 2019, against the Hillsborough County Public Schools (District), pertaining to Gaither High School (School). The complaint alleges discrimination on the basis of disability. Specifically, the Complainant alleges that the School does not implement Section 504 plans or Individualized Education Programs (IEP), when students attend a mandatory band camp for freshmen students.

OCR has the responsibility for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability in all programs and activities that receive Federal financial assistance from the Department; and, Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability in public elementary and secondary education systems. The District is a public elementary and secondary education system, which receives Federal financial assistance from the Department and is therefore subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Based on the allegation, OCR opened this complaint under the Rapid Resolution Process (RRP) and investigated the legal issue of whether the District discriminates against freshmen students with IEPs and Section 504 plans, who are in the band program on the basis of disability by failing to implement their plans, in violation of the implementing regulations of Section 504 at 104.33(b)(2) and 104.37(a)(1) and (a)(2).

OCR's *Case Processing Manual* (CPM) includes a Rapid Resolution Process (RRP), which provides for an expedited resolution opportunity. OCR determined that it was appropriate to attempt to resolve this allegation using RRP. Prior to the conclusion of the RRP investigation, the District requested to voluntarily resolve this complaint. Pursuant to Section 302 of the CPM, a complaint may be resolved before the conclusion of an investigation when the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve the

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by fostering educational excellence and ensuring equal access.*

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allegation with a resolution agreement. OCR determined that a resolution agreement pursuant to Section 302 of the CPM is appropriate in this matter.

On December 18, 2019, OCR received the enclosed signed voluntary resolution agreement (Agreement) that, when fully implemented, will resolve the complaint allegation. 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.

This concludes OCR's investigation of the complaint. 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 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 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. 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.

If you have any questions regarding this matter, please contact Terri Whynter, Senior Equal Opportunity Specialist, at (404) 974-9375, or me, at (404) 974-9367.

Sincerely,

Ebony Calloway, Esq.
Compliance Team Leader

Enclosure

cc: Dr. Pansy Houghton, Executive Officer
Via Email Only