



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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August 26, 2020

**Via Email - [dbell@terrell.k12.ga.us](mailto:dbell@terrell.k12.ga.us)**

Douglas Bell  
Superintendent  
Terrell County Charter School System  
761 1<sup>st</sup> Avenue SE  
Dawson, Georgia 39842

RE: OCR Complaint No. 04-20-1271  
Resolution Letter

Dear Superintendent Bell:

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 (the Department) received on February 5, 2020 against Terrell County Charter School System (the District). The Complainant alleged that the District discriminated against Student, when:

1. The District failed to implement the following provisions of the Student's 504 Plan and Diabetes Management Plan from July 2019 through March 10, 2020: (1) administer insulin to the Student after meals and (2) monitor and record the Student's glucose levels.
2. The District denied the Student the opportunity to attend: (1) Saturday School<sup>1</sup> in preparation for state testing and (2) field trips during the 2019-2020 school year unless the Complainant or another family member were present to administer the Student's insulin.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. Because the District receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

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<sup>1</sup> The District offered Saturday School to students attending the School to prepare for the Georgia Milestones assessment. The Saturday School was scheduled to offer classes from January 11, 2020 through April 4, 2020.

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Based on the above, OCR investigated the following issues:

1. Whether the District failed to implement the provisions of the Student's Section 504 Plan and Diabetes Management Plan from July 2019 through March 10, 2020 thereby denying her a Free Appropriate Public Education (FAPE) in compliance with Section 504 at 34 C.F.R §104.33 (a) and (b) and Title II implementing regulation at 28 C.F.R. §35.130.
2. Whether the District subjected the Student to different treatment on the basis of disability when denying her the opportunity to participate in Saturday School and field trips, in compliance with the Section 504 at 34 C.F.R §104.4 and Title II implementing regulation at 28 C.F.R. §35.130.

During the investigation, OCR reviewed information provided by the Complainant and the District, including the Student's 504 Plans, Student's Diabetes Medical Management Plans, District policy and Student Handbook for field trips, correspondence between the teacher and the parent, clinic forms, Student's insulin log, Student's report card, Saturday School letter to parents and participation roster, school notes of meetings with parent, teacher statement regarding substitute teacher directions for the clinic, and correspondence between attorneys. Before OCR completed its investigation, the District expressed a willingness to resolve the allegations pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the District expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. Below is a summary of the evidence obtained to date and the resolution.

### **Summary of evidence to date and Resolution**

At the time of the complaint, the Student was a second grader at Cooper Carver Elementary School (School). The Student has a 504 Plan with the primary exceptionality of diabetes. The Complainant alleged that the School was not administering the Student's insulin on average of at least four times a week after her meals and not monitoring and recording the Student's glucose levels. According to the Complainant, the school nurse was tube feeding another student and that she was not available to check the Student's insulin after lunch. The School provided the Student's insulin logs from July 29, 2019 through February 26, 2020. The logs noted times when the Student was a no-show at the clinic after lunch, several dates where no information was recorded due to the nurse's absence, and information regarding the transfer of the administering of the Student's insulin and monitoring of glucose levels from the school nurse to the school-based clinic.

On January 25, 2020, the Student's first day attending Saturday School, the Complainant informed the administrator of the program that someone would need to administer the Student's insulin after meals. The Complainant was told that she would need to administer the Student's insulin as there were no trained staff members who could administer the insulin during the program. The Complainant decided to take the Student home and not allow her to return to Saturday School.

On March 11, 2020, the Complainant was told by the principal that in order for the Student to participate in a field trip during the 2019-2020 school year she would need to attend to administer

the insulin as there was no trained staff who could administer the insulin during the field trip. The principal allegedly informed the Complainant that based on legal advice, no school official could administer insulin during a field trip due to liability and it was not the school's responsibility "to accommodate a field trip." Based on a review of the Student's Section 504 Plan, the 504 Plan included a provision under "special considerations" that the School recommended a parent attend field trips with the Student. Based on data received from the District there was only one planned field trip for second grade (March 23, 2020), but due to COVID-19 the last day of on-campus school was March 12, 2020 as such the second grade did not attend any field trips.

As indicated above, prior to OCR's completion of the investigation, the District expressed an interest in resolving the complaint pursuant to Section 302 of the CPM. OCR determined that it would be appropriate to resolve this complaint under Section 302 because OCR's investigation had identified issues that could be addressed through a Resolution Agreement.

### **Conclusion**

On August 25, 2020, the District signed the enclosed Resolution Agreement which, when fully implemented, will resolve the allegations of the complaint. The Agreement requires the District to convene a meeting to determine whether the Student's current 504 Plan is designed to provide the Student a free appropriate public education (FAPE) and revise the plan(s) as necessary to ensure that the Student is able to participate in non-academic and extra-curricular activities which should include field trips. The Agreement also includes a provision regarding training to the staff at Cooper Carver Elementary School about Section 504 implementing regulations at 34 C.F.R. §§ 104.34(b) and Title II with respect to providing a free and appropriate public education in non-academic settings, including field trips. School staff who teach, supervise, or provide services to the District students with diabetes will also be provided training regarding FAPE, including diabetic and emergency care for students with diabetes, and ensure weekly communication with the Complainant. OCR will monitor the District's implementation of the Agreement until the District has fulfilled the terms of the Agreement. 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 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 Mrs. Nicole Holcomb the OCR investigator assigned to this complaint, at [nicole.holcomb@ed.gov](mailto:nicole.holcomb@ed.gov).

Sincerely,

Arthur Manigault  
Compliance Team Leader

Enclosure