

Ref: OCR # 06141270

Dr. Jerry Guess, Superintendent
Pulaski County Special School District
925 East Dixon Road
Little Rock, Arkansas 72206

Dear Dr. Guess:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its consideration of the above-referenced complaint which was received in our office on March 12, 2014, and filed against the Pulaski County Special School District (PCSSD), Little Rock, Arkansas. The complainant alleged that the PCSSD discriminated against a student during the 2012-2013 school year on the basis of disability in violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 (2013); and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35 (2013), which prohibit discrimination based on disability. Specifically, the complainant alleged that during the 2013-2014 school year, the PCSSD discriminated against the student on the basis of her disability when the PCSSD treated the student differently regarding making up school work after a suspension and failing to implement the regular or special education and related aids and services as delineated in her Section 504 plan.

This agency is responsible for determining whether organizations that receive or benefit from Federal financial assistance from the Department, or an agency that has delegated investigative authority to the Department, are in compliance with Section 504, which prohibits discrimination on the basis of disability. OCR is also responsible for enforcing Title II. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against public entities. The PCSSD is a recipient of Federal financial assistance from the Department and a public entity. Therefore, OCR had jurisdictional authority to process this complaint for resolution under Section 504 and Title II.

Regarding the complaint allegations, OCR investigated the issue of whether the PCSSD treated the student differently based on her disability and whether the special education and related aids and services required for the student were being implemented as required by Section 504 and its implementing regulation at 34 CFR §104.35 and Title II and its implementing regulation at 28 CFR § 35.149.

The PCSSD and the complainant agreed to participate in OCR's Rapid Resolution Process (RRP) in this case. The RRP process is designed to expedite resolution of certain OCR complaints. As part of the RRP process, OCR reviewed information provided by the complainant and the PCSSD, which included its policies, procedures and other pertinent data, and conducted telephonic conferences with the PCSSD's administrative staff.

During the RRP, the PCSSD expressed a desire to voluntarily resolve this issue. Consistent with Section 302 of OCR's *Complaint Processing Manual*, PCSSD submitted the enclosed Resolution Agreement (Agreement) on May 22, 2014, which OCR has determined addresses the compliance issues raised and which when fully implemented, will resolve the allegations. Accordingly, as of the date of this letter, OCR will cease all investigative action regarding this issue; however, OCR will actively monitor the implementation of the Agreement by the PCSSD to determine whether the commitments made by the PCSSD have been implemented consistently with the terms of the Agreement. If the PCSSD fails to implement the Agreement, as specified, OCR will resume its investigation of the issue alleged.

Based on OCR's monitoring of the implementation of the Agreement related to this issue, we are closing the investigative phase of this complaint in accordance with our case processing procedures.

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.

Under OCR procedures we are obligated to advise the complainant and the institution against which a complaint is filed that intimidation or retaliation against a complainant is prohibited by the regulations enforced by this agency. Specifically, the regulations enforced by OCR, directly or by reference, state that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by the regulations enforced by OCR or because an individual has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing held in connection with a complaint.

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.

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If you have any questions regarding this letter, please contact Ms. Treslyn Patterson, Equal Opportunity Specialist, of our staff, at 214/ 661-9645

Sincerely,

John Stephens
Compliance Team Leader
Dallas Office

Enclosure