



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, D.C.

October 23, 2013

Via Facsimile and U.S. Postal Service

Dr. Barry Shepherd  
Superintendent  
Cabarrus County Schools  
P.O. Box 388  
Concord, North Carolina 28026

Re: OCR Complaint #11-13-1118  
Resolution Letter

Dear Dr. Shepherd:

This letter is to inform you of the disposition of the complaint that was filed with the District of Columbia Office, Office for Civil Rights (OCR), within the U.S. Department of Education (Department), on February 19, 2013, against Cabarrus County Schools (the District). The Complainant filed on behalf of XXXX (the Student), who attended XXXX (the School) XXXX. The Complainant alleged that the Student was discriminated against on the basis of his XXXX. Specifically, the Complainant raised the following allegations:

1. The District failed to provide the Student with a Free Appropriate Public Education (FAPE) when it failed to adequately implement the Student's Behavior Intervention Plan (BIP).
2. <XXXX Paragraph Redacted XXXX>

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, and their implementing regulations at 34 Code of Federal Regulations, Part 104; and 28 C.F.R. Part 35, respectively, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the U.S. Department of Education and by public entities.

The Section 504 regulation, at § 104.33(a), requires a recipient that operates a public elementary or secondary education program or activity to provide a free appropriate public education to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. Section 104.33(b)(1) states that the provision of an

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

appropriate education is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of nondisabled persons are met. Section 104.33(b)(2) provides that this requirement can be met by implementation of an IEP developed in accordance with the Individuals with Disabilities Education Improvement Act (IDEA).

During OCR's investigation, the District expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR's *Case Processing Manual*, OCR discussed resolution options with the District. On October 22, 2013, the District signed the enclosed agreement which, when fully implemented, will resolve the concerns identified.

The provisions of the agreement are aligned with the issue raised by the Complainant, information obtained during the course of OCR's investigation, and are consistent with the applicable regulations. OCR will monitor implementation of the agreement.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against an individual who has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

This letter is a resolution letter issued by OCR to address an individual OCR case. Resolution letters contain fact-specific investigative findings and dispositions of individual cases. Resolution letters are not formal statements of OCR policy and they 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 you may file a private suit in federal court whether or not OCR finds a violation.

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, personal information that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions, please contact Ms. Jane Ehrenfeld at (202) 260-0790 or via e-mail at [Jane.Ehrenfeld@ed.gov](mailto:Jane.Ehrenfeld@ed.gov) or Ms. Deborah Kelly at (202) 453-5919 or via e-mail at [Deborah.Kelly@ed.gov](mailto:Deborah.Kelly@ed.gov).

Sincerely,  
/S/

Rachel Glickman  
Team Leader  
District of Columbia Office

Enclosure