



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVE. S.W.,  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, D.C.

Date: December 13, 2013

Dr. Karen Garza, Superintendent  
Fairfax County Public Schools  
8115 Gatehouse Road  
Falls Church, Virginia 22042

Re: OCR Complaint No. 11-13-1260  
Resolution Letter

Dear Dr. Garza:

This letter is to notify you of the outcome of the above-referenced complaint that was filed with the District of Columbia Office of the Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on June 18, 2013, against Fairfax County Public Schools (the Division). The Complainant alleged that the Division discriminated against her son (the Student) on the basis of disability when it failed to evaluate him for special education services after beginning the Child Find process in April 2012, but not taking further steps until a hearing officer re-initiated the evaluation in February 2013.

OCR is responsible for enforcing several civil rights laws, including 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, which prohibit discrimination on the basis of disability in programs and activities receiving federal financial assistance from the Department. Additionally, OCR has enforcement authority under 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, which prohibit disability discrimination by public entities, including school divisions. The Division receives funding from the Department and is a public entity, and, therefore, is subject to the provisions of Section 504, Title II, and their implementing regulations.

Pursuant to Section 302 of OCR's *Case Processing Manual*, OCR discussed resolution options with the Division. The Division expressed an interest in resolving the complaint prior to the completion of OCR's investigation. On December 11, 2013, the Division signed a voluntary resolution agreement (copy enclosed), which, when fully implemented, will resolve the complaint. The provisions of the agreement are aligned with the allegation raised in the complaint and information obtained during the course of OCR's investigation, and are consistent with the applicable regulations. OCR has notified the Complainant of the voluntary resolution agreement and we will monitor implementation of the agreement.

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

We have advised the Complainant that the Division may not harass, coerce, intimidate, or discriminate against any individual for filing a complaint or participating in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment. Also, 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.

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. Complainants may have the right to file a private suit in federal court whether or not OCR finds a violation.

We appreciated the assistance of the Division, in particular, Dawn Schaefer and Jim Burgess, during the resolution of this complaint. If you have any questions, please contact either of the OCR attorneys assigned to this case: Jane Ehrenfeld at (202) 260-0790 or [jane.ehrenfeld@ed.gov](mailto:jane.ehrenfeld@ed.gov); or Kristi Bleyer at (202) 453-5901 or [kristi.bleyer@ed.gov](mailto:kristi.bleyer@ed.gov).

Sincerely,

/s/

Rachel Glickman  
Team Leader, Team IV  
District of Columbia Office  
Office for Civil Rights

Enclosure

cc: Dawn Schaefer, Coordinator, Due Process and Eligibility (via email)