



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

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

June 4, 2014

Dr. Eric J. Becoats
Superintendent
Durham Public Schools
511 Cleveland Street
P.O. Box 30002
Durham, NC 27702

RE: OCR Complaint No. 11-13-1273
Resolution Letter

Dear Dr. Becoats:

This letter is to notify you of the disposition of the above-referenced complaint that was filed on July 2, 2013, with the District of Columbia office of the U.S. Department of Education, Office for Civil Rights (OCR) against Durham Public Schools (the District). The Complainant alleges that the District discriminated against his son (the Student), based on his disability, when it:

1. Failed to promptly develop and implement a behavioral intervention plan (BIP) for the Student during the 2012-2013 school year;
2. Secluded and restrained the Student on an ongoing basis during the 2012-2013 school year; and
3. Required the Student to leave school early on multiple occasions, thereby shortening his school day, without re-evaluating him.

OCR enforces certain Federal civil rights statutes and regulations, 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 based on disability in programs and activities that receive Federal financial assistance from the Department. OCR also has jurisdiction as a designated agency under Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public education programs, regardless of whether they receive Federal financial assistance. Because the District is a public school system and receives federal

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financial assistance from the Department, we have jurisdiction over it pursuant to Section 504 and Title II.

The District expressed a willingness to resolve the issues in the complaint prior to the completion of OCR's investigation and, pursuant to Section 302 of OCR's *Case Processing Manual*, OCR discussed resolution options with the District. On May 16, 2014, the District signed a voluntary resolution agreement (copy enclosed), which, when fully implemented, will resolve the complaint. OCR will monitor implementation of this agreement, which includes provisions that are consistent with the applicable regulations, and are aligned with the allegations raised in the complaint and information obtained during the course of OCR's investigation. OCR has also notified the Complainant of the voluntary resolution agreement.

This concludes OCR's investigation of this complaint. OCR is closing this complaint investigation effective the date of 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.

We have notified the Complainant that the District may not harass, coerce, intimidate, or discriminate against an individual because the individual filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and other related correspondence and records upon request. In the event we receive such a request, we will seek to protect, to the extent provided by law, information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

OCR appreciates the cooperation of the District in the resolution of this complaint, and in particular, the District's attorney, Ms. Eva DuBuisson. If you have any questions or concerns regarding this letter, please contact the OCR staff assigned to investigate this complaint, Duane Scott, at (202) 453-6596 or at duane.scott@ed.gov or Karen WalkingEagle, at (202) 453-6614 or at karen.walkingeagle@ed.gov.

Sincerely,
/s/

Alessandro Terenzoni
Team Leader, Team II
District of Columbia Office
Office for Civil Rights

Enclosure

cc: Eva DuBuisson