



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, DC

May 7, 2014

Ms. Venetta McNeil-Barnes
Human Justice Coalition
Post Office Box 651
Wilson, North Carolina 27894

Re: OCR Complaint No. 11-14-1041
Resolution Letter

Dear Ms. Barnes:

The purpose of this letter is to inform you of the outcome of the above-referenced complaint filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on November 21, 2013 against Wilson County Schools (the District), specifically XXXX (the School). The Complainant alleged that the District/School discriminated against a student (the Student) enrolled in the School based on disability (XXXX) by failing to provide the Student with a free appropriate public education. Specifically, the Complainant claimed that the School failed to evaluate the Student when he enrolled at the School at the beginning of the 2013-2014 school year to determine if the Student is eligible for special education and or related services or, alternatively, implement an individualized education program developed by the Student's previous school district. Furthermore, the Complainant alleged that the School suspended the Student multiple times without first evaluating the Student or holding a manifestation determination meeting.

OCR initiated an investigation of this complaint pursuant to its authority to enforce 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 that receive federal financial assistance from the Department. OCR also enforces 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 discrimination against qualified individuals with disabilities by public entities, including public educational systems, regardless of whether they receive federal financial assistance from the Department. Because the Division is a recipient of federal financial assistance from the Department and is a public entity, it is subject to the provisions of Section 504 and Title II.

The applicable standards for determining compliance with Section 504 are set forth in the regulation at 34 C.F.R. §§ 104.33, 104.35 and 104.36. Section 104.33 provides, in pertinent part, that a recipient is responsible for providing a free appropriate public education to qualified students with disabilities. The provision of an appropriate education is the provision of regular or special education and related

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

aids and services that are designed to meet the individual needs of persons with disabilities as adequately as the needs of persons without disabilities are met. Section 104.35 requires a school district to conduct an evaluation of a student who, because of a disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent change in placement. Section 104.36 requires a school district to establish and implement, with respect to identification, evaluation, and educational placement decisions, a system of procedural safeguards that include an impartial hearing with opportunity for participation by the child's parents or guardian, representation by counsel, and a review procedure.

During the course of OCR's investigation, the District expressed a willingness to resolve this complaint. Pursuant to Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the District. On May 6, 2014, the District signed the enclosed agreement to resolve the above allegations. The provisions of the agreement are aligned with the issues raised in the complaint, with 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 aware that no person is permitted to intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces. If any individual is harassed or intimidated because of filing a complaint with or participating in any aspect of OCR case resolution, the individual may file a complaint alleging such treatment. Additionally, under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If we receive such a request, we will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal 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. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

If you have any questions or concerns, please contact Ms. Judy Briggs at (202) 453-5902 or via email at judy.briggs@ed.gov or Ms. Sara Clash-Drexler at (202) 453-5906 or via e-mail at sara.clash-drexler@ed.gov.

Sincerely,

/S/

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

Enclosure

cc: Carlanda Davis, Parent