



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

June 27, 2014

Linda G. Reviea, Ed.D.  
Superintendent  
Staunton City Schools  
116 West Beverley Street  
Staunton, VA 24401

Re: OCR Complaint No. 11-14-1074  
Resolution Letter

Dear Dr. Reviea:

This letter is to notify you of the outcome of the complaint that was filed on December 30, 2014, with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), against Staunton City Schools (the Division), in particular XXXX (the School). OCR investigated the Complainant's claims that during the 2013-2014 school year the Division:

1. Failed to provide the Complainant's daughter (the Student) with a free and appropriate public education (FAPE) when it:
  - a. failed to properly evaluate the Student after it became aware of her disability (XXXX);
  - b. failed to develop an appropriate Section 504 plan and provide the student with a placement designed to meet her individual needs; and
  - c. failed to properly train Division staff on working with the Student in light of her diagnosis as XXXX.
2. Discriminated against the Student on the basis of a disability when it:
  - a. suggested that the Complainant homeschool the Student in order to avoid providing accommodations;
  - b. failed to excuse disability-related absences from compulsory school attendance laws and XXXX; and
  - c. failed to follow any grievance procedure, or meaningfully investigate, when the Complainant complained that the Student was being discriminated against on the basis of disability.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) 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) and its implementing

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regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. Because the Division receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

In reaching a determination, OCR reviewed documentation submitted by the Complainant and the Division and conducted interviews with the Complainant and Division personnel. OCR's initial investigation identified some possible concerns related to the Complainant's claims that the Division did not properly evaluate or provide disability-related aids and services to the Students. OCR also questioned the Division's consideration of the Student's disability-related absences under its attendance policy and its response to the Complainant's allegations of disability discrimination. However, prior to the completion of the investigation, the Division expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR's *Case Processing Manual*, the Division entered into the enclosed Voluntary Resolution Agreement, which resolves Allegation 1, Allegation 2(b), and Allegation 2(c). The provisions of the agreement are aligned with the relevant issues raised in these allegations and information obtained during the course of OCR's investigation and are consistent with the applicable regulations. OCR is closing its investigation of these complaint allegations, but will monitor implementation of the Voluntary Resolution Agreement.

However, after carefully considering all the information obtained during the investigation, OCR found insufficient evidence to support the Complainant's claim that the Division discriminated against the Student on the basis of a disability by suggesting that the Complainant homeschool the Student in order to avoid providing accommodations (Allegation 2(a)). A summary of the applicable legal standards and a more detailed discussion of our determination regarding Allegation 2(a) are set forth below.

### **Legal Standard**

The Section 504 regulation at 34 C.F.R. § 104.33 (a) and (b) requires that a public school district provide a free appropriate public education (FAPE) to each qualified student with a disability within its jurisdiction, regardless of the nature or severity of the student's disability. An 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 students with disabilities as adequately as the needs of students without disabilities are met and are based upon adherence to the procedural requirements of Section 504 pertaining to the educational setting, evaluation and placement, and the provision of procedural safeguards. OCR interprets the Title II regulation to require districts to provide a FAPE to the same extent required under the Section 504 regulation. The Section 504 regulation, at 34 C.F.R. § 104.35(c), also establishes procedural requirements for evaluation and placement decisions. Except in extraordinary circumstances, OCR does not review the result of individual evaluation, placement and other educational decisions, so long as the school district complies with the "process" requirements of Section 504.

### **Factual Findings & Analysis**

For the last two school years, following the Student's repeated absences from the School, the Complainant has requested authorization from the Division to permit the Student to XXXX.  
<XXXX THREE SENTENCES REDACTED XXXX>

<XXXX TWO SENTENCES REDACTED XXXX> The Division denies suggesting that the Complainant should homeschool the Student. <XXXX TWO SENTENCES REDACTED XXXX> Following a conversation with the Division's Coordinator of Homebound Instruction, the Complainant made a request for homebound instruction, and the Division subsequently began providing homebound instruction to the Student.

This evidence shows that a School team attempted to XXXX by creating the Student's Section 504 plan. Furthermore, the Division explicitly left open the option of future homebound instruction provided by the School, rather than a homeschool option to be provided by the Complainant. The Complainant did not object to the School team's intention to assess the Student's need for homebound instruction, if necessary, and the School ultimately provided the Student with homebound instruction, upon receipt of the Complainant's request. Consequently, OCR finds insufficient evidence to conclude that the Division suggested to the Complainant that she should homeschool the Student in order to avoid providing accommodations.

### **Conclusion**

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the Division's compliance with any other regulatory provision or to address any issues other than those addressed in 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.

Please be advised that the Division may not retaliate against an individual who asserts a right or privilege under a law enforced by OCR or who files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR. 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 personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the cooperation of Division staff, most notably that of Dr. Jelisa Wolfe, Director of Student Services. If you have any questions, you may contact the attorneys assigned to this complaint: Betsy Trice at 202-453-5931 or [Betsy.Trice@ed.gov](mailto:Betsy.Trice@ed.gov) or Kimberly Conway at 202-260-0991 or [Kimberly.Conway@ed.gov](mailto:Kimberly.Conway@ed.gov).

Sincerely,

/S/

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

Enclosure

cc: Dr. Jelisa Wolfe (via email)