



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVE. S.W.,
WASHINGTON, DC 20202-1100

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

August XX, 2014

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

Re: OCR Complaint No. 11-14-1130
Resolution Letter

Dear Dr. Garza:

This letter is to notify you of the outcome of a complaint that was filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on February 25, 2014 against Fairfax County Public Schools (the Division), in particular XXXX High School. The Complainant alleged that the Division denied special education students, including the Complainant's daughter (the Student), a free appropriate public education (FAPE) by failing to implement their Individualized Education Programs (IEPs) and/or Section 504 Plans in their English and Biology classes. Specifically, the complaint alleged that these students did not receive their "read-aloud" accommodations during testing until late December 2013, at which point the accommodation was provided in an inappropriate manner.

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 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.

Section 504 requires a public school district to provide a free appropriate public education (FAPE) to each qualified individual with a disability. To provide a FAPE, a school division must meet the individual educational needs of a student with a disability as adequately as it meets the needs of students without a disability. Implementation of an individualized education program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements. The failure to implement the provisions of

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by fostering educational excellence and ensuring equal access.*

a student with a disability's individualized plan may result in the denial of FAPE. OCR interprets the Title II regulations, at 28 C.F.R. §§35.103(a) and 35.130(b)(1)(ii) and (iii), to require districts to provide a FAPE to the same extent required under the Section 504 regulations.

During the course of OCR's investigation, the Division expressed a willingness to voluntarily resolve the complaint. Pursuant to Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the Division. On August 14, 2014, the Division signed the enclosed agreement to resolve the complaint. 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.

This concludes OCR's investigation of this 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 Complainants 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 harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment. 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 the Division and particularly the assistance of Jim Burgess, Senior Specialist, during the resolution of this complaint. If you have any questions, feel free to contact Sebastian Amar at (202) 453-6023 or Sebastian.Amar@ed.gov or Martha Russo at (214) 661-9622 or Martha.Russo@ed.gov.

Sincerely,

/s/

Kay Bhagat
Team Leader
District of Columbia Office
Office for Civil Rights

Enclosure