



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.

August 14, 2014

Dr. Wayne Brazell
Superintendent
South Carolina Public Charter School District
3710 Landmark Drive, Suite 201
Columbia, South Carolina 29204

Re: OCR Complaint Numbers
11-14-1149/1167/1168/1177
Resolution Letter

Dear Dr. Brazell:

This is to notify you of the outcome of the above-referenced complaints received by the District of Columbia Enforcement Office of the Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on March 9 (11-14-1149), March 23 (11-14-1167 and 1168), and April 4, 2014 (11-14-1177). The complaints, filed by the parents (the Complainants) of a student (the Student) attending York Preparatory Academy (the School) alleged the South Carolina Charter School District (the District) discriminated against the Student based on disability (ADHD and anxiety disorder) and retaliated against the Student and the Complainants.

In complaint 11-14-1149, the Complainants alleged that the School retaliated against the Student on March 7, 2014 when:

1. Teacher A noted incorrect spelling on one of the Student's assignments when she had not previously done so;
2. Teacher B yelled at the Student while giving him a spelling test because he did not use the specific lined paper provided for in his Section 504 Plan, and then made him recopy his answers onto the specified paper;
3. Teacher B yelled at the Student and, in the presence of the Student, laughingly told Teacher C she had done so and that it had been necessary;
4. On a field trip where there was not sufficient room for the Student on the bus, Teachers A, B and C laughed at the Student when he kept falling off the seat; and
5. Teacher B took two points off of one of the Student's assignments because he did not use the specific lined paper provided for in his Section 504 Plan, although she had not provided him the lined paper and had not instructed him to use it.

Additionally, in complaints 11-14-1167 and 11-14-1168, the Complainants alleged the District retaliated against the Student and the Complainants when:

6. Teacher A sent an email to the Complainants stating the Student must keep his lined paper in his binder for use at school (March 7, 2014); and
7. The School Section 504 Coordinator sent the Complainants an email stating he would end an upcoming Section 504 meeting if the Complainants made unfounded accusations against the staff (March 21, 2014).

In Complaint No. 11-14-1177 the Complainants alleged the District discriminated against the Student when the District failed to address concerns the Complainants raised about the School in several internal Section 504 grievances filed with the District.

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 District 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 that school districts provide students with disabilities with regular or special education and related aids and services that are designed to meet the individual educational needs of a student with a disability as adequately as they meet the needs of persons without a disability. Section 504 requires school districts to ensure the provision of a free appropriate public education (FAPE) by requiring that they evaluate any student who, because of disability, needs or is believed to need special education or related aids and services before taking any action toward initial placement of that student and before any subsequent significant change in placement. The Section 504 regulations require recipients with fifteen or more employees to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504. The Section 504 and Title II regulations also prohibit retaliation.

Prior to submitting data for these complaints, the District expressed an interest in resolving the complaint prior to the completion of OCR's investigation. Pursuant to Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the District. On June 26, 2014, the District signed a voluntary resolution agreement (copy enclosed), which, when fully implemented, will resolve all of the allegations raised in the complaints. The provisions of the agreement are aligned with the allegations raised in the complaints 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.

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 District 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 District's cooperation in the resolution of this complaint, in particular, Robert Compton, Executive Director of Federal Programs and School Safety. If you have any questions regarding this letter or the complaint, please contact the attorney assigned to these complaints: Judith Risch at (202) 453-5929 or via e-mail at Judith.Risch@OCR.gov.

Sincerely,

/s/

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

Enclosure

cc: Robert Compton