



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVE., SW
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

February 2, 2015

Aaron Spence, Superintendent
Virginia Beach City Public Schools
School Administration Building
2512 George Mason Drive
Virginia Beach, Virginia 23456-0038

RE: OCR Complaint No. 11-14-1237
Resolution Letter

Dear Dr. Spence:

The purpose of this letter is to inform you of our disposition of the above-referenced complaint, which was filed with the District of Columbia Office of the Office for Civil Rights (OCR), U.S. Department of Education, on May 28, 2014, against Virginia Beach City Public Schools (the Division). The Complainant alleged that the Division discriminated against students in Division schools who have food allergies by failing to:

1. Adopt and implement adequate policies, procedures and/or protocols governing the aids and services to be provided to such students; and
2. Promptly develop and implement Section 504 and/or other plans that adequately address their food allergy-related needs.

As we have previously informed you, 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. These laws also prohibit recipients of Federal funding and public entities from retaliating against individuals who make efforts to assert or protect their rights or privileges under these laws. Because the Division receives Federal financial assistance from the Department and is a public entity, it is subject to the provisions of the above laws and we have jurisdiction over it. Because the Complainant alleged discrimination under the above laws, we have jurisdiction over the allegations.

Pursuant to Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the Division. During the course of OCR's investigation, the Division expressed an interest in resolving the complaint under a voluntary resolution agreement, which is attached. The Division signed the enclosed agreement which, when fully implemented, will resolve the complaint. The provisions of the agreement are aligned with the complaint and information obtained during the course of OCR's investigation, and are consistent with the applicable regulations. OCR will monitor the Division's 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.

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.

Please note that, 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, to the extent provided by law, information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions about this letter or the outcome of this complaint, please contact Peter Gelissen, the OCR attorney assigned to this case, at (202) 453-5912 or peter.gelissen@ed.gov.

Sincerely,

/S/

Peter Gelissen for
Dale Rhines
Program Manager
District of Columbia Office
Office for Civil Rights

Enclosure