



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVE. S.W.,
WASHINGTON, DC 20202-1475

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

January 22, 2015

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

Re: OCR Complaint No. 11-15-1044
Resolution Letter

Dear Dr. Garza:

This letter is to notify you of the outcome of our investigation of the complaint that was filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on November 17, 2014. The Complainant filed on behalf of her son (the Student), a student at XXXX School (the School). The complaint alleged the following:

1. The Division denied the Student a free appropriate public education (FAPE) when it failed to identify and evaluate the Student from XXXX until XXXX;
2. The Division discriminates against the Student because of his disability by seating him at a lunch table by himself; and
3. The Division failed to promptly and equitably respond to a complaint alleging peer disability-based harassment that was reported on or about XXXX.

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.

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

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by fostering educational excellence and ensuring equal access.*

enclosed agreement which, when fully implemented, will resolve the complaint. The provisions of the agreement are aligned with the allegations raised in the complaint and 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 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. Additionally, 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 to your cooperation during the resolution of this complaint. If you have any questions, feel free to contact Kendra Riley at 202-453-5905 or via e-mail at kendra.riley@ed.gov or Duane Scott at (202) 453-6596 or via e-mail at duane.scott@ed.gov.

Sincerely,

/S/

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

cc: Dawn Schaefer, Coordinator of Due Process and Eligibility