



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

May 12, 2015

Ms. Elaine White
Superintendent
Bertie County Schools
PO Box 10
222 County Farm Road
Windsor, North Carolina 27983

RE: OCR Complaint No. 11-15-1127
Resolution Letter

Dear Ms. White:

This letter is to notify you of the disposition of the above-referenced complaint that was filed on January 21, 2015, with the District of Columbia Office for Civil Rights (OCR) of the U.S. Department of Education (the Department). The Complainant filed the complaint on behalf of her daughter (the Student) against Bertie County Schools (the District). Specifically, the complaint alleged that the District denied the Student a free appropriate public education by failing to implement the Student's Individualized Education Program (IEP) between November 2014 and January 2015 by not providing Occupational Therapy (OT), speech services, mobility services, and vision services.

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

During the course of OCR's investigation, the District expressed an interest in resolving the complaint under a resolution agreement. The District confirmed with OCR that the Student had not received all of her related service hours in speech, OT, vision and mobility services as required by her IEP. However, the District informed OCR that the disruption of services was a

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by fostering educational excellence and ensuring equal access.*

result of a disagreement between the Complainant and the service providers. To complete the investigation, OCR would conduct interviews to determine the cause of the interruption of services, the amount of services that the Student did not receive, and whether the Student was harmed as a result of failing to receive these services. Pursuant to Section 302 of OCR's *Case Processing Manual*, OCR discussed resolution options with the District. The District signed the 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 District'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 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

OCR appreciates the cooperation of the District in the resolution of this complaint. If you have any questions or concerns regarding this letter, please contact the OCR attorney assigned to investigate your complaint, Todd Rubin at (202) 453-5923 or via email at Todd.Rubin@ed.gov.

Sincerely,

/S/

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

Enclosure