

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

September 18, 2018

Dr. Eric Williams Superintendent Loudoun County Public Schools 21000 Education Court Ashburn, VA 20148

> RE: OCR Complaint No. 11-18-1244 Resolution Letter

Dear Dr. Williams:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) received on March 20, 2018, which was filed against the Loudoun County School District. The Complainant filed the complaint on behalf of a student (the Student) at XXXXX (the School).

The Complainant alleged that the Division discriminated against the Student on the basis of disability XXXXX. Specifically, the complaint alleges that the School failed to provide the Student with the following special education and/or related aids and services, as required by her Individualized Education Program (IEP), from the beginning of the 2017-2018 school year through the present:

- 1. Services provided by the Student's teacher for the XXXX; and
- 2. Accessible learning materials in all of the Student's classes, including but not limited to large print/font and high contrast materials (hard copy and electronic).

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.

During the investigation, OCR reviewed documents provided by the Complainant and the Division, and interviewed the Complainant. Before OCR completed its investigation, the Division expressed a willingness to resolve the complaint, by taking the steps set out in the enclosed Resolution Agreement, pursuant to Section 302 of OCR's *Case Processing Manual*.

Background

In January 2017, during the 2016-2017 school year, the Student was enrolled in Grade XXXX at the XXXX School, when she was diagnosed with a XXXX disorder and referred to the IEP Team to determine whether she was eligible to receive special education and/or related aids and services. On June XXXX, the Student was found eligible for special education and/or related aids and services; she was classified as a student with a XXXX. On that date, the Division's IEP Team also developed an IEP Student for her upcoming enrollment at the School for the 2017-2018 school year, which required that the Division provide the Student with special education and/or related aids and services that encompassed: services provided by the Student's teacher for the XXXX; and accessible learning materials in all of the Student's classes, including but not limited to large print/font and high contrast materials (hard copy and electronic), both of which were included in the Complainant's allegation.¹ The Student is currently enrolled in Grade XXXX at the School for the 2018-2019 school year.

Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education (FAPE) to students with disabilities. An appropriate education is regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and that are developed in compliance with Section 504's procedural requirements. Implementation of an IEP developed in accordance with the Individuals with Disabilities Education Act is one means of meeting this standard.

<u>Analysis</u>

As indicated above, prior to the completion of OCR's investigation, the Division requested to resolve the complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Pursuant to Section 302 of OCR's *Case Processing Manual*, the Division signed the enclosed Resolution Agreement (the Agreement) on September 17, 2018, which, when fully implemented, will resolve the allegations raised in this complaint. The provisions of the Agreement are aligned with the allegations and issues raised by the Complainant and the information obtained during OCR's investigation, and are consistent with applicable law and regulation. OCR will monitor the Division's implementation of the Agreement until the Division has fulfilled the terms of the Agreement.

Conclusion

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 must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. 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 Division's cooperation in the resolution of this complaint. If you have any questions, please contact Jeanette Tejada Bustos, the OCR attorney assigned to this complaint, at 202-453-6084 or jeanette.tejadabustos@ed.gov.

Sincerely,

Letisha Morgan Team Leader, Team II District of Columbia Office Office for Civil Rights

Enclosure

cc: XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX