



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

March 29, 2019

Dr. S. Scott Baker, Ed.D.  
Superintendent  
Spotsylvania County Public Schools  
8020 River Stone Drive  
Fredericksburg, VA 22407

RE: OCR Complaint No. 11-19-1007  
Resolution Letter

Dear Dr. Baker:

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 October 2, 2018 against Spotsylvania County Public Schools (the Division). The Complainant filed the complaint on behalf of a student (the Student) at XXX (the School). The Complainant alleges that the Division discriminated against the Student on the basis of disability. Specifically, the complaint alleges that on or about XXX, a Division administrator refused to grant the Complainant's request to convene a Section 504 meeting to XXX.

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 to date, OCR interviewed the Complainant and reviewed documents provided by the Complainant and the Division. Before OCR completed its investigation, the Division expressed a willingness to resolve the allegations pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the Division expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. The following is a summary of the evidence obtained by OCR during the investigation to date.

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.

In interpreting evaluation data and making placement decisions, the Section 504 regulation, at 34 C.F.R. § 104.35(c), requires that a school district draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; establish procedures to ensure that information obtained from all such sources is documented and carefully considered; ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and ensure that each student with a disability is educated with peers without disabilities to the maximum extent appropriate to the needs of the student with a disability.

During the XXX school year, the Student was enrolled in the XXX at the School. The Student had diagnoses XXX for which he was receiving related aids and services pursuant to a Section 504 Plan. On XXX, the Complainant emailed Division personnel expressing frustration that XXX. In the email, the Complainant requested "a meeting to make an accommodation in [the Student's] 504 Plan XXX." The same day, the Division scheduled a Section 504 Team meeting.

On XXX, the Complainant emailed the XXX to thank her for "scheduling the Section 504 Meeting to discuss XXX." On XXX, the XXX responded, noting that she wanted to address any "misunderstandings." She wrote:

The 504 team will discuss [the Student's] needs at the 504 meeting on XXX. The 504 team can make recommendations for XXX.

The email additionally noted that the Division XXX. XXX the Complainant emailed the XXX and several other Division staff members to cancel the upcoming 504 meeting, stating, XXX The Section 504 Team did not convene for the remainder of the school year. While OCR is aware from the parties that XXX, it is unclear whether the Student's 504 Team ultimately convened in response to the Complainant's request.

On March 29, 2019, the Division signed the enclosed Resolution Agreement which, when fully implemented, will address the allegations investigated. The provisions of the Agreement are aligned with the allegations and the information obtained during OCR's investigation, and are consistent with applicable law and regulation. The Agreement requires the Division to convene a group of persons knowledgeable about the Student to discuss and consider whether changes are required to the Student's Individualized Education Program in light of the Complainant's concerns XXX It also requires the Division to send a memorandum to certain Division administrators clarifying the need to provide individualized accommodations consistent with 34 C.F.R. §§ 104.34, 104.35, and 104.36. Please review the enclosed Agreement for further details.

OCR will monitor the Division's implementation of the Agreement until the Division has fulfilled the terms 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 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 Kathryn Love, the OCR attorney assigned to this complaint, at 202-453-6948 or [kathryne.love@ed.gov](mailto:kathryne.love@ed.gov).

Sincerely,

David Hensel  
Team Leader, Team III  
District of Columbia Office  
Office for Civil Rights

Enclosure

cc: Jason H. Ballum, Esq.