



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 23, 2019

Matthew Cheeseman
Superintendent
Beaufort County Schools
321 Smaw Road
Washington, NC 27889

RE: OCR Complaint No. 11-19-1143
Resolution Letter

Dear Superintendent Cheeseman:

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 December 18, 2018, against Beaufort County Schools (the District). The complaint alleges that the District discriminated against a student (the Student) at XXXX (the School) on the basis of disability. Specifically, the complaint alleges that the District failed to provide the Student with a free appropriate public education when between February 23, 2018 and June 8, 2018, the District failed to provide the Student with three days/week of homebound instruction, as her Individualized Education Plan (IEP) required.

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 investigation to date, OCR reviewed information provided by the Complainant and the District. Before OCR completed its investigation, the District expressed a willingness to resolve the allegation 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 District 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.

OCR determined that on March 30, 2018, the Student's IEP team agreed that the Student would receive three 30-minute sessions of homebound instruction for math, reading, and social/emotional skills each week. The Complainant alleged that the Student did not receive all of the instructional hours to which she was entitled. In its narrative response, the District denied the allegation, but acknowledged that there is insufficient documentation to demonstrate that the majority of the homebound service hours were either provided or were missed by the service provider due to factors outside of the District's control. OCR reviewed the service logs, and confirmed that on most school days between XXXX¹ and the end of the 2017-2018 school year, the logs do not indicate that services were provided, nor do they provide a reason why these hours were not provided.

On May 16, 2019, the District signed the enclosed Resolution Agreement which, when fully implemented, will address the allegation investigated. The provisions of the Agreement are aligned with the allegation and the information obtained during OCR's investigation, and are consistent with applicable law and regulation. The Agreement requires the District to conduct a review of the hours of homebound instruction that remain outstanding; create a plan to provide the Student with compensatory education to account for the hours missed; review the Student's grades to determine whether his report card needs to be changed; and send a memorandum to the service provider that it utilizes to provide homebound services reminding it that it must appropriately document all service hours provided. Please review the enclosed Agreement for further details. OCR will monitor the District's implementation of the Agreement until the District has fulfilled the terms 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 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.

¹ OCR notes that between XXXX and XXXX, the District was on Spring Break and no classes were in session.

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact Samantha Shofar, the OCR attorney assigned to this complaint, at 202-453-5929 or samantha.shofar@ed.gov.

Sincerely,

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

Enclosure

cc: XXXX, Esquire