



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 10, 2021

*Via Email (wstoetzer@ingenuityprep.org)*

Will Stoetzer  
Chief Executive Officer  
Ingenuity Prep Public Charter School  
4600 Livingston Road, SE  
Washington, DC 20032

RE: OCR Complaint No. 11-20-1307  
Resolution Letter

Dear Mr. Stoetzer:

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 July 7, 2020 against Ingenuity Prep Public Charter School (the School). The Complainants alleged that the School discriminated against students on the basis of disability. Specifically, the complaint alleged that the School denied a free appropriate public education (FAPE) to students with disabilities when it failed to implement students' Individualized Education Programs (IEPs) due to a lack of special education staff, specifically it:

1. Failed to provide specialized instruction services in the inclusion setting to students in the XXXXX inclusion classroom (XXXXX) beginning around XXXXX, when XXXXX;
2. Failed to provide specialized instruction services to students in a XXXXX self-contained classroom beginning XXXXX, when XXXXX; and
3. Failed to provide specialized instruction services to XXXXX students in the inclusion classroom and XXXXX students requiring pull-out services beginning XXXXX, when XXXXX.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, 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), 42 U.S.C. §§ 12131 et seq., 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 School receives federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

During the investigation to date, OCR reviewed information provided by the Complainants and the School. Before OCR completed its investigation, the School 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 recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns 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. Implementation of an IEP developed in accordance with the Individuals with Disabilities Education Act is one means of meeting this standard. If a school district fails to comply with a student's IEP, OCR determines whether that failure resulted in a denial of FAPE to the student. In doing so, OCR considers whether the failure had a meaningful adverse impact that deprived the student of educational opportunity.

In response to the complaint, the School acknowledged that some students with disabilities missed specialized instruction services required by their IEPs as a result of staff turnover. With respect to Allegation 1, the School indicated that XXXXX. The School indicated that some students in the class were added to other teachers' caseloads to receive inclusion services during the gap, but other students in the class did not receive services. With respect to Allegation 2, the School indicated that XXXXX, and there was a gap in services for the students in the class until XXXXX. With respect to Allegation 3, the School indicated that XXXXX, and there was a gap in services until XXXXX. The information provided by the School was generally consistent with the information provided by the Complainants regarding the dates that services were missed in each of the impacted classes.

According to the School, the staffing turnover described above impacted special education services for a total of 48 students with disabilities. The School's counsel told OCR that the School had already made compensatory education determinations for several students XXXXX, but had not addressed compensatory education for the other impacted students.

The School noted that the D.C. Public Charter School Board (PCSB) recently completed a special education audit that addressed the School's special education compliance more broadly. The Complainants also provided information regarding this audit. PCSB concluded the audit in January 2020, but continued to monitor the School's implementation of its recommendations. In a letter to the Complainants dated September 16, 2020, the PCSB Chair stated that PCSB would continue to monitor the School during the 2020-2021 school year, including "monitor[ing] staff departures and new hires as it relates to student safety and special education compliance and service provision." On January 27, 2021, the School's counsel informed OCR that the School completed the corrective actions recommended by PCSB and the audit was now closed.

On March 9, 2021, the School 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 School to offer appropriate compensatory services to impacted students.<sup>1</sup> Please review the enclosed Agreement for further details. OCR will monitor the School's implementation of the Agreement until the School has fulfilled the terms of the Agreement.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the School'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. A 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 School 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 School's cooperation in the resolution of this complaint. If you have any questions, please contact Sarah Morgan, the OCR attorney assigned to this complaint, at 202-453-5922 or Sarah.Morgan@ed.gov.

Sincerely,

Kristi R. Harris  
Team Leader, Team IV  
District of Columbia Office  
Office for Civil Rights

Enclosure

cc: Lauren Baum

---

<sup>1</sup> This would include students who are no longer enrolled in the School. The School's counsel indicated that XXXXX of the 48 impacted students were no longer enrolled.