



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION XV

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CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

February 17, 2022

Via E-mail Only to [lsteinhauer@collinsblaha.com](mailto:lsteinhauer@collinsblaha.com)

Ms. Lorie Steinhauer  
Attorney  
Collins & Blaha, P.C.  
31440 Northwestern Highway, Suite 170  
Farmington Hills, MI 48334

Re: OCR Docket No. 15-17-1560

Dear Ms. Steinhauer:

This letter is to notify you of the disposition of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Birmingham Public Schools (the District) on XXXX. The complainant alleged that the District discriminated against a student (the Student), on the basis of disability (XXXX). Specifically, the complaint alleged that:

1. From XXXX, the District did not implement the Student's Individualized Education Program (IEP) and Behavior Intervention Plan (BIP);
2. In XXXX, the District inappropriately provided a forum for other students' parents to complain and discuss grievances concerning behaviors related to the Student's disability; and
3. On XXXX, the District inappropriately changed the Student's placement to appease a group of parents who were complaining about the Student's presence in the classroom.

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 by recipients of federal financial assistance. 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 on the basis of disability by public entities. As a recipient of federal financial assistance from the Department and as a public entity the District is subject to these laws. Accordingly, OCR had jurisdiction to investigate this complaint.

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

[www.ed.gov](http://www.ed.gov)

Based on the complaint allegations, OCR opened an investigation of the following legal issues:

- whether the District denied a qualified student with a disability a free appropriate public education (FAPE) in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.33.
- whether the District, on the basis of disability, excluded a qualified person with a disability from participation in, denied him the benefits of, or otherwise subjected him to discrimination under any of its programs or activities in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.4(a) and (b).
- whether the District, in interpreting evaluation data and in making a placement decision, failed to draw upon information from a variety of sources; ensure that information obtained from all such sources was documented and carefully considered; and/or ensure that the placement decision was made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.35(c).

During the course of the investigation, OCR considered documentation provided by the Complainant and the District and interviewed the Complainant and XXXX.

### **Summary of Facts**

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

### **Allegation #1**

The Complainant alleged that, from May - June of the 2016-2017 school year, the District did not provide the Student's parents with XXXX, as required by the Student's IEP and BIP.

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

### **Allegations #2 and #3**

With respect to allegation #2, the Complainant alleged that the District treated the Student differently based on his disability when it held meetings in XXXX, with parents of the Student's

classmates who were permitted to complain about the Student and question why he was allowed to continue in the general education setting. XXXX-SENTENCE REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

Regarding allegation #3, the Complainant alleged that the District changed the Student’s placement for the XXXX school year to appease the group of parents who had been complaining to the District. XXXX-SENTENCE REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

XXXX-PARAGRAPH REMOVED-XXXX

Under Section 302 of OCR’s *Case Processing Manual*, allegations under investigation may be resolved at any time when, prior to the issuance of a final investigative determination, 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. In this case, the District expressed an interest in resolving the allegations prior to the conclusion of OCR’s investigation and any issuance of findings and OCR determined resolution was appropriate. On February 7, 2022, the District signed the enclosed Resolution Agreement, which, when fully implemented, will address all of the allegations in the complaint. OCR will monitor the implementation of the Resolution Agreement.

This concludes OCR’s investigation of the complaint and 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.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

The Complainant may file a private suit in federal court, whether or not OCR finds a violation.

OCR is in receipt of the District's first monitoring report that it submitted on February 16, 2022, regarding Item 1.A. of the Agreement. OCR will respond to this information under separate cover. For questions about implementation of the Agreement, please contact XXXX. He will be overseeing the monitoring and can be reached by telephone at XXXX or by e-mail at XXXX. If you have questions about this letter, please contact me by telephone at (216) 522-7574 or by e-mail at [Denise.C.Vaughn@ed.gov](mailto:Denise.C.Vaughn@ed.gov).

Sincerely,

/s/

Denise Vaughn  
Team Leader/Supervisory Attorney