

XXXXX – PARAGRAPH REMOVED – XXXXX.

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Regarding the implementation of the XXXXX provision of the Student’s Section 504 plan, the Complainant told OCR that the XXXXX had never happened. She said after the incident with the XXXXX described above, the School principal asked the counselor to call the Student. She said when the counselor called, she did not even know who the Student was. The District did not provide any documentation regarding this allegation. The superintendent told OCR that the counselor did not have documentation of speaking with the Student but did talk with XXXXX when XXXXX XXXXX XXXXX XXXXX.

Applicable Regulatory Standards

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), states that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance. The regulation implementing Section 504, at 34 C.F.R. § 104.3(j)(1), defines a person with a disability, in relevant part, as any person who has a physical or mental impairment which substantially limits one or more major life activities.

A recipient that operates a public elementary or secondary education program or activity must provide a free appropriate public education (FAPE) to each qualified person with a disability in the recipient’s jurisdiction, regardless of the nature or severity of the person’s disability. 34 C.F.R. § 104.33.

The regulation implementing Title II, at 28 C.F.R. § 35.160, states that public entities must take appropriate steps to ensure that communications with a participant with a disability are as effective as communications with others.

Analysis and Conclusion

It is undisputed that, during the first quarter of the XXXXX school year in the Student’s XXXXX XXXXX class, the teacher did not implement the provision of the Student’s Section 504 plan requiring XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX. The principal made this determination after meeting with the Student, XXXXX parents, and the teacher. As a result, the grades for XXXXX XXXXX XXXXX XXXXX were excluded from the Student’s overall grade, XXXXX was switched to a different XXXXX XXXXX class, and the principal addressed the issue with the teacher. However, the Student was not able to retake XXXXX XXXXX as XXXXX parents requested because,

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 looks forward to receiving the District's first monitoring report by **June 3, 2022**. For questions about implementation of the Agreement, please contact Ms. Allison Beach. She will be overseeing the monitoring and can be reached by telephone at (202) 987-1846 or by e-mail at Allison.Beach@ed.gov. If you have questions about this letter, please contact me by telephone at (216) 522-7640, or by e-mail at Sacara.Miller@ed.gov.

Sincerely,

/s/

Sacara E. Miller
Supervisory Attorney/Team Leader

Enclosure