

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 of Education and as a public entity, the District is subject to these laws.

In reaching a determination, OCR reviewed documents provided by the District and interviewed the Parent and District staff. On XXXXX XXXXX XXXXX, the District requested to voluntarily enter into a Resolution Agreement to resolve the complaint allegations. After carefully considering all of the information obtained from the data response and interviews, OCR found that a voluntary Resolution Agreement was appropriate for allegation #1 and found insufficient evidence to support a violation regarding allegation #2.

Facts

The Student is enrolled in the XXXXX XXXXX at the District’s Middle School for the 2021-2022 school year. The Parent reported that the Student is an individual with a disability and receives services through a Section 504 Plan (504 Plan).

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Legal Standard

The Section 504 regulation, at 34 C.F.R. 104.33(a), provides that a recipient operating a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified person with a disability who is in the recipient’s jurisdiction, regardless of the nature or severity of the disability. Section 104.33(b)(1) defines an appropriate

construed as such. OCR’s formal policy statements are approved by a duly authorized OCR official and made available to the public.

The complainant has a right to appeal OCR’s determination within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR’s determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

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 13, 2022. For questions about implementation of the Agreement, please contact XXXXX XXXXX XXXXX. He will be overseeing the monitoring and can be reached by telephone at XXXXX or by e-mail at XXXXX. 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.

Sincerely,

/s/

Denise C. Vaughn
Supervisory Attorney/Team Leader

Enclosure