UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

August 19, 2026

By email only to: Superintendent@mps.k12.al.us

Dr. Zickeyous Byrd
Superintendent
Montgomery County Schools
Montgomery, Alabama

RE: Montgomery County Schools – OCR Complaint 04-17-1163

Dear Superintendent Byrd:

This letter is to advise you of the outcome of the U.S. Department of Education (Department), Office for Civil Rights (OCR) investigation of the above complaint, filed by [redacted content] (Complainant) on [redacted content], against Montgomery Public Schools (District). The Complainant alleged that the District discriminated against a student (the Student) on the basis of disability.

The Complainant alleged that (1) the District restrained the Student on two occasions, on or around [redacted content] and [redacted content]; (2) the District failed to implement the Student's Individualized Education Program (IEP) with respect to placement in the least restrictive environment; (3) the District assigned the Student to [redacted content] during class time; and (4) the District failed to provide educational services when the Student was [redacted content].

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by a recipient of Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 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 a public entity, the District must comply with Section 504, Title II and their implementing regulations.

OCR investigated the following issues:

1. Whether the District denied the Student a free appropriate public education by inappropriately restraining him, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.33 and Title II and its implementing regulation at 28 C.F.R. § 35.130.

2. Whether the District denied the Student a free appropriate public education by failing to educate him with students without disabilities to the maximum extent appropriate to the needs of the Student, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.34(a) and Title II and its implementing regulation at 28 C.F.R. § 35.130.

3. Whether the District denied the Student a free appropriate public education by failing to provide [redacted content] from [redacted content] to [redacted content], in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.33(b) and Title II and its implementing regulation at 28 C.F.R. §35.130

4. Whether the District failed to re-evaluate the Student after the [redacted content] on [redacted content], in noncompliance with § 504 and its implementing regulation at 34 C.F.R. §104.35 and Title II and its implementing regulation at 28 C.F.R. §35.130.

5. Whether the District retaliated against the Student for the Complainant's disability-related advocacy on behalf of the Student by [redacted content] in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. §104.61 and Title II and its implementing regulation at 28 C.F.R. §35.134.[1]

For the reasons discussed below, OCR is dismissing the complaint allegations and issues opened for investigation to the extent they seek individual relief for the Student. However, in investigating Issue 2, OCR identified a violation that may recur given its systemic implications and the District has signed a Resolution Agreement to address that violation.

Dismissal of Allegations Seeking Individual Relief for the Student

Section 108(o) of its Case Processing Manual (CPM) (Feb. 19, 2025) states that OCR may dismiss an allegation or, if appropriate, the complaint in its entirety when the death of the complainant makes it impossible to investigate the allegations fully, or forecloses the possibility of individual relief. CPM Section 108 also states that where OCR determines that the complaint or OCR's investigation indicates that the alleged violative conduct may recur, OCR will not dismiss the complaint and will continue the investigation.

During the processing of the complaint, OCR obtained information that the Complainant had passed away. OCR also became aware that the Student had [redacted content]. On [redacted content], OCR sent correspondence to the Complainant's last known email address and physical address, in an effort to confirm who was acting on behalf of the Student and whether relief was still being sought on the Student's behalf in light of the Complainant's death. OCR's correspondence to the last known physical address was returned as undelivered and the email address correspondence did not result in a response on behalf of the Student. As a result, OCR has determined that the circumstances foreclose the possibility of individual relief for the

[1] OCR's initial notification letter included an additional issue for investigation: "Whether the District denied the Student a free appropriate education by failing to implement the Student's IEP, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. Section 104.33 and Title II and its implementing regulation at 28 C.F.R. § 35.130." OCR revised the issues during the investigation.

Student. Therefore, OCR is dismissing the complaint allegations under Section 108(o) of the CPM to the extent they seek individual relief for the Student.

However, based upon evidence obtained during the investigation, OCR has identified a violation regarding Issue 2 that has systemic implications for other students and can be addressed through a resolution agreement.

Following are the relevant legal standards and OCR's summary of the investigation.

Summary of Investigation

During the investigation, OCR reviewed data from both the District and Complainant. OCR also interviewed the Principal, School Counselor, Student's Teacher, the Case Manager, [redacted content], [redacted content] intern, [redacted content] paraprofessional, [redacted content] paraprofessionals (Paraprofessional 1), the District's Human Resources investigator, Human Resources Director, Zone Coordinator, and the Complainant. OCR was unable to interview the [redacted content] paraprofessional (Paraprofessional 2) as she had left the District.

After reviewing the evidence, OCR has found sufficient evidence of a violation regarding issue number 2, i.e., that the District failed to educate the Student with students without disabilities to the maximum extent appropriate to the needs of the Student. Further, if not addressed, this violation has systemic implications as it could recur with other students.

Legal Standards

The Section 504 implementing regulation at 34 C.F.R. § 104.33(a) states that a recipient that operates 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 person's disability. The implementing regulation at 34 C.F.R. § 104.33(b)(1) states that an appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of persons with a disability as adequately as the needs of non-disabled persons are met and are based upon adherence to procedures that satisfy the requirements of 34 C.F.R. §§ 104.34, 104.35, and 104.36.

The Section 504 implementing regulation at 34 CFR § 104.34(a) states that a recipient shall educate or provide for the education of each qualified person with a disability in its jurisdiction with persons who are not disabled to the maximum extent appropriate to the needs of the person with the disability. A recipient shall place a person with a disability in the regular educational environment operated by the recipient unless it is demonstrated that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

As a general rule, because Title II provides no less protection than Section 504, violations of Section 504 also constitute violations of Title II, 28 C.F.R. § 35.130.

Findings of Fact

At the time of the incidents at issue, the Student was a [redacted content]student in the [redacted content] school year. The Student's [redacted content] IEP was developed by his prior school system on [redacted content]. The previous school system's IEP stated that the Student would receive [redacted content] minutes per week of special education services in a general education classroom with [redacted content], as necessary, during this time. The IEP stated that the Student's Least Restrictive Environment was [redacted content].

In [redacted content], the Student transferred to the District. On [redacted content], an IEP team meeting for the Student took place to review the Student's existing IEP and clarify his needs. During the meeting, there was discussion about the Student routinely being taken from his Teacher's classroom to the [redacted content], a special education classroom. In the [redacted content] IEP meeting notes, the Complainant stated that the Student coming to [redacted content] was not her idea. It was an [redacted content]. The IEP minutes note that the Complainant [redacted content]. The IEP team concluded that the District would implement the initial recommendations made by a [redacted content] in the Student's classroom; but the team did not record a change to his placement in the general education classroom or alter his minutes in the general education environment.

The evidence indicates that the Student would go to his assigned classroom at the beginning of the day but did not spend the entire day in the assigned classroom. The Student's Teacher would take the Student to the [redacted content]. The Student's Teacher also would call the [redacted content]. The Student's Teacher could not recall how long he stayed with her, and sometimes it was longer than others. Paraprofessional 1 confirmed that she saw the Student every day and that some days he stayed with them in [redacted content] and would not return to his classroom. The paraprofessional further added that the Student never stayed all day in his general education class; some days he was in his general classroom for half of the day and the Student's Teacher would send him to [redacted content].

Analysis

The evidence shows that although the Student frequently started the day in an assigned general education classroom, he routinely spent large portions of the school day in [redacted content]special education classroom, in contradiction to his IEP and least restrictive environment placement. As such, there is sufficient evidence to show that, regarding Issue 2, the District denied the Student a free appropriate public education by failing to educate the Student with students without disabilities to the maximum extent appropriate to the needs of the Student. OCR is also concerned that this practice could recur with other students.

On [redacted content], the District signed the attached resolution agreement (Agreement). When fully implemented, the Agreement will address placement in the least restrictive environment. The Agreement requires the District to provide training to administrators and other staff members at the School who are involved in creating and implementing IEPs and Section 504 plans, regarding the least restrictive environment requirements of Section 504 and Title II and training regarding the provision of a FAPE as it pertains to a student's least restrictive environment in IEPs and Section 504 Plans, in accordance with 34 C.F.R. §§ 104.33 (FAPE),

104.34 (Educational Setting), 104.35(c)(4) (Placement Decisions Made in Conformity with 104.34), and 104.36 (Procedural Safeguards). The training will cover the District's duty to educate students with disabilities with students without disabilities to the maximum extent appropriate to the needs of the students with disabilities. OCR will monitor the District's implementation of the Agreement.

Conclusion

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

If you have any questions, please contact Malicia Hitch at malicia.hitch@ed.gov or 470-231-1994, or me at 202-987-1396.

Sincerely,

/s/

Michael Bennett
Compliance Team Leader

Enclosed: Resolution Agreement
CC: [redacted content]