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

September 13, 2021

By Email: ███████████

███████████

Re: OCR Complaint No. ███████████
       Notification Letter

Dear ███████████:

On August 20, 2021, the Office for Civil Rights (OCR) of the U.S. Department of Education received your complaint against Fairfax County Public Schools, which we will refer to as the School Division. You filed the complaint on behalf of two students at ███████ Elementary School (the School), whom we will refer to as Student 1 and Student 2. You allege that the School Division retaliated against Students 1 and 2 and discriminated against Students 1 and 2 on the basis of disability.[1] Specifically, the complaint alleges that:

1. The School Division retaliated against Student 1 because of your advocacy for specific education services in her Individualized Education Program (IEP) when, on February 26, 2021, the School Principal initiated a welfare check by the Fairfax County Police Department because she was not present for a virtual school meeting.

2. The School Division discriminated against Student 1 and Student 2 on the basis of disability and retaliated against them on the basis of your present complaint to OCR by denying them a free appropriate public education (FAPE) when it failed to enroll them in the virtual learning instruction option for the 2021/2022 school year, despite their medical condition.[2]

If you disagree with the way OCR stated your allegations, please contact the OCR staff persons identified below within 10 days of the date of this letter.

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[1] You also selected race or color and national origin as bases of discrimination in your complaint; however, you did not assert or otherwise provide any information to support claims of race, color, or national origin discrimination.
[2] In your OCR complaint, you raised the allegations, as stated, and other allegations of discrimination with respect to Students 1 and 2. During a call with OCR on September 9, 2021, you confirmed that the complaint allegations, as stated, were not previously filed with OCR while you filed the other allegations of discrimination in a separate OCR complaint, OCR Complaint # ███████. OCR evaluated the prior allegations, and they were either dismissed or are currently being investigated.

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. 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. The laws enforced by OCR prohibit retaliation against any individual who asserts rights or privileges under these laws or who files a complaint, testifies, assists, or participates in a proceeding under these laws.The School Division receives federal financial assistance from the Department of Education and is a public entity, so OCR has jurisdiction over it pursuant to Section 504 and Title II.

Because OCR determined that it has jurisdiction and that the complaint was timely filed, OCR is opening the complaint for investigation. Please note that opening the complaint for investigation in no way implies that OCR has made a determination on the merits of the complaint. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from you, the School Division, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and fully responds to the complaint in accordance with the provisions of the *Case Processing Manual*, available at http://www.ed.gov/ocr/docs/ocrcpm.pdf. Also, in accordance with the *Case Processing Manual*, OCR will provide a copy of the complaint to the School Division. OCR also would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

Our goal is to resolve your complaint promptly. Information on OCR's complaint processing procedures is available at http://www.ed.gov/ocr/complaints-how.html. This website includes information about the possibility of mediating your complaint through a process known as Facilitated Resolution Between the Parties (FRBP). Also, when appropriate, a complaint may be resolved before OCR completes its investigation. Additional information about this kind of resolution is included on the website under the subheading "Resolution Agreement Reached During an Investigation."

Please be advised that the School Division 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.

If you have any questions, please contact Melanie Barr-Brooks at 202-245-8135 or Melanie.Brooks@ed.gov or Sara Clash-Drexler at 202-245-8097 or Sara.Clash-Drexler@ed.gov, the OCR attorneys assigned to this complaint.

Sincerely,

DANIEL GREENSPAHN
Digitally signed by
DANIEL GREENSPAHN
Date: 2021.09.13
13:34:55 -04'00'

Dan Greenspahn
Team Leader, Team #1
District of Columbia Office
Office for Civil Rights