



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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June 30, 2015

Dr. James P. Lee, Superintendent
Paradise Valley Unified School District
15002 N. 32nd St.
Phoenix, AZ 85032

Re: Paradise Valley Unified School District
OCR Case Number 08-15-1090

Dear Dr. Lee:

On January 12, 2015, we received a complaint alleging that the Paradise Valley Unified School District (District) discriminated on the basis of disability against the complainant's son (the Student), who attended Desert Springs Elementary School. Specifically, we investigated the following allegations:

- Whether, during the 2014-15 school year, the Student was timely evaluated for all known or suspected disabilities;
- Whether, during the 2014-15 school year, the District carefully considered and documented parental input during the Student's IEP meetings;
- Whether, during the 2014-15 school year, the Student's IEP team included persons knowledgeable about the Student, the meaning of the evaluation data, and her placement options; and
- Whether, during the 2014-15 school year, the Student's IEPs were timely communicated to his instructors and fully implemented.

We initiated our investigation pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulations Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The District is subject to these laws and regulations.

First, Second, and Third Allegations

With respect to the first three allegations, which hinged on whether the District timely evaluated the Student and did so in a way that satisfied the legal requirements, we learned during the course of our investigation that the Student had been re-evaluated in May 2015 and found to be no longer eligible for special education and related services. During the re-evaluation process, the District agreed to an independent evaluation, which the Complainant is pursuing. Given these developments, it is appropriate to close our investigation into these three allegations, under Section 110(o) of our Case

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

Processing Manual as moot. Section 110(o) provides that we may close the investigation into allegations when they are no longer appropriate for resolution. Here, even if we were to have found compliance concerns with respect to these allegations, the types of remedies we would have sought have already been provided. Specifically, the typical remedy for each of them would be to require the District to conduct a new evaluation, which has already taken place. Since the Student has been exited from the special education program, any discussion of compensatory services is moot, as if his exit was done appropriately, he no longer needs such services. While we understand the Complainant's position to be that the Student was not exited appropriately, absent extraordinary circumstances we do not review the substantive decisions of IEP teams; such review is better left to due process.

Fourth Allegation

With regard to the fourth allegation (that the Student's IEPs were not timely communicated to his instructors and fully implemented), prior to the conclusion of the investigation the District expressed an interest in voluntarily resolving this allegation to ensure its compliance with Section 504, Title II, and their implementing regulations. Pursuant to Section 302 of our *Case Processing Manual*, an allegation may be resolved when, before the conclusion of an investigation, a recipient agrees to resolve the allegation and OCR has determined that the allegation is appropriate for resolution during the investigation. OCR has determined that this allegation is appropriate for a Section 302 Agreement and the District has voluntarily entered into the enclosed Agreement. The provisions of the Agreement are aligned with the fourth allegation and are consistent with 34 C.F.R. § 104.33.

We will monitor the District's implementation of the Agreement until all provisions have been satisfied. A copy of the Agreement is enclosed. We will also keep you and the Complainant informed of monitoring activities related to the case, including any identified deficiencies regarding the implementation of the Agreement. We will also require action by the District to promptly address any identified deficiencies.

This concludes OCR's investigation of this 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. Accordingly, we are closing the investigation of this complaint effective the date of this letter. The monitoring of this Agreement will only be concluded when OCR determines that the District has fulfilled all of the requirements of the Agreement. When our monitoring of the Agreement is complete, we will advise the District and the Complainant by letter, and the case will be closed.

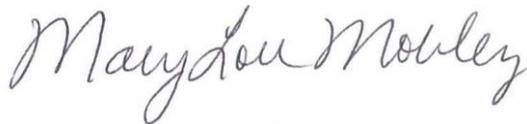
This letter sets forth OCR's determination in individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

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 Complainant may file another complaint alleging such treatment. In addition, the Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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, we 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.

Thank you for the courtesy and cooperation extended to us throughout the investigation, and we especially appreciate the assistance of Ms. Jennifer MacLennan. If you have any questions regarding this matter, please contact me at 303.844.4480 or by email at mary.lou.mobley@ed.gov.

Sincerely,

A handwritten signature in cursive script that reads "Mary Lou Mobley". The signature is written in black ink on a white background.

Mary Lou Mobley
National Disability Expert

Enclosure: Resolution Agreement

cc: Ms. Jennifer MacLennan (by email)
Counsel for the District

Honorable Diane Douglas
Arizona State Superintendent of Public Instruction