



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VIII  
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September 10, 2015

Ms. Deborah Montgomery  
Executive Director  
Pikes Peak BOCES  
2883 South Circle Drive  
Colorado Springs, CO 80906

Re: Pikes Peak BOCES  
OCR Case Number: 08-15-1143

Dear Ms. Montgomery:

On March 12, 2015, we opened for investigation a complaint to investigate whether the BOCES' use of restraint and seclusion denied the Student an opportunity to receive a free appropriate public education (FAPE).

We initiated an investigation under the authority of Section 504 and its implementing regulation at 34 C.F.R. Part 104, 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 in programs or activities that receive Federal financial assistance from the Department and, respectively, public entities. As a recipient of Federal financial assistance and a public entity, the BOCES is subject to these laws and regulations.

During the investigation of OCR Case number 08-15-1065, Woodland Park School District, we learned that the Student attended a school operated by the BOCES and that the Complainant's concerns regarding use of restraint and seclusion techniques occurred while at the BOCES' school. Upon opening this complaint, the BOCES provided some documentation regarding its policies and procedures and its use of restraint and seclusion with the Student. At that time, and prior to a site visit, the BOCES expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR's *Case Processing Manual*, resolution options were discussed with the BOCES. The BOCES has entered into the enclosed Agreement which, when fully implemented, will resolve the concerns raised by the complaint. The provisions of the agreement are aligned with the issues raised in the complaint and are consistent with the applicable regulations.

We will monitor the BOCES' implementation of the Agreement until all provisions have been satisfied. OCR has notified the Complainant and Woodland Park RE-2 that the BOCES has entered into this Agreement, and we provided the Complainant and the District a copy of the Agreement. We will also keep the Complainant apprised of monitoring activities related to this case.

This concludes our investigation of this complaint. We will monitor the BOCES' compliance with the Agreement until all the terms are satisfied. This letter addresses only the issues listed

above and should not be interpreted as a determination of the BOCES' compliance or noncompliance with Section 504 and Title II or any other federal law in any other respect.

OCR routinely advises recipients of Federal funds and public educational entities that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR and those participating in a complaint investigation. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR. Additionally, the Complainant has a 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. If OCR receives such a request, we will protect personal information to the extent provided by law.

Thank you for your cooperation and the BOCES' attention to this matter. If you have any questions regarding this letter, please feel free to contact Heidi Kutcher, Attorney Advisor assigned to this case at (303) 844-4572 or by email at [heidi.kutcher@ed.gov](mailto:heidi.kutcher@ed.gov). I can also be reached at (303) 844-6083.

Sincerely,

/s/

Angela Martinez-Gonzalez  
Supervisory General Attorney

Enclosure – Copy of Resolution Agreement

cc: Kathleen Sullivan, Attorney for BOCES  
Dr. Jed Bowman, Superintendent for Woodland Park School District  
Dr. Elliott Asp, Colorado Commissioner of Education