



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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WYOMING

February 7, 2017

Crystal Danzy, Principal  
EAGLE College Preparatory Schools – South Mountain  
2450 W. South Mountain Avenue  
Phoenix, Arizona 85041

Re: **EAGLE College Preparatory Schools – South Mountain**  
OCR Case Number: 08-16-1697

Dear Ms. Danzy:

We write to inform you of the resolution of the above-referenced complaint, filed by the Complainant on September 27, 2016, against EAGLE College Preparatory School – South Mountain (“the School”), alleging discrimination on the basis of disability. Specifically, the Complainant alleged that the School discriminated against his daughter (“the Student”) on the basis of disability by denying her an opportunity to run for Student Council XXXX.

The Office for Civil Rights (OCR) of the U.S. Department of Education (“the Department”) is responsible for enforcing: Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) 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. As a recipient of Federal financial assistance from the Department and a public entity, the School is subject to these laws and regulations.

The Complainant stated that his daughter met the qualifications to run for Student Council XXXX but that she was not allowed to run for that position because of negative teacher recommendations. Under the Section 504 regulations, at 34 C.F.R. Section 104.4(a) and (b), no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. The Title II regulations, at 28 C.F.R. Section 35.130(a) and (b), create the same prohibition against disability-based discrimination by public entities. Under 34 C.F.R. Section 104.4(b)(1) and 28 C.F.R. Section 35.130(b)(1) a recipient public school may not, on the basis of disability, deny a qualified disabled individual the opportunity to participate in or benefit from an aid, benefit, or service.

To determine whether an individual has been discriminated against on the basis of disability under Section 504 and Title II, OCR looks at whether there is evidence that the individual was treated differently than non-disabled individuals under similar circumstances, and whether the

treatment has resulted in the denial or limitation of services, benefits, or opportunities. If there is such evidence, OCR examines whether the school provided a nondiscriminatory reason for its actions and whether there is evidence that the stated reason is a pretext for discrimination. For OCR to find a violation, the preponderance of the evidence must establish that the school's actions were based on the individual's disability.

OCR opened an investigation of the complaint and contacted the School to obtain initial information. Specifically, we requested the Student's Section 504 plan, Student Council application, and teacher recommendations; the School's rubrics and other evaluation materials used to review student applications for Student Council; the School's policies, regulations, and procedures (if any) related to Student Council; all communications regarding the Student running for student council; minutes from the school board meetings (if any) at which the Student running for student council was discussed; and a narrative of the School's position regarding the allegation.

On November 28, 2016, while the School was compiling its response to OCR's data request, the School contacted us and expressed interest in taking action to resolve the complaint. Pursuant to Section 302 of OCR's Case Processing Manual (CPM), allegations and issues under investigation may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation. Since the School expressed willingness to enter into an agreement that would wholly address the specific issue raised in the complaint – essentially approaching the resolution as though the allegation was true – we determined that it was appropriate to enter into an agreement without completing the investigation.

We then drafted a Resolution Agreement ("the Agreement") and sent it to the School. On January 16, 2017, we received a signed Agreement from the School. The Agreement was signed on December 30, 2016.<sup>1</sup> A copy of the signed Resolution Agreement is enclosed.

When the Agreement is fully implemented, the allegation will be resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. OCR will monitor implementation of the Agreement through periodic reports from the School demonstrating the terms of the Agreement have been fulfilled. We will promptly provide written notice of any deficiencies with respect to the implementation of the terms of the Agreement and will promptly require actions to address such deficiencies. If the School fails to implement the Agreement, we will take appropriate action, which may include enforcement actions.

This concludes OCR's investigation of the complaint and should not be interpreted to address the School's compliance with any law or regulatory provision, or to address any issues other than those addressed in this letter. We are closing this complaint effective the date of this letter.

Please note that a 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 School may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in

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<sup>1</sup> According to the attorney for the School, "The School understands the timelines began on 12/30/2016 when the document was signed."

the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

This letter sets forth OCR's determination in an individual 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.

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, personal information, which, if released, could constitute an unwarranted invasion of privacy.

If you have any questions or concerns, you may contact XXXX XXXX, the attorney assigned to this complaint, at (XXX) XXX-XXXX or XXXX.XXXX@XX.XXX. You may also contact me at (XXX) XXX-XXXX.

Sincerely,

Stephen Chen  
Program Manager

Attachment: Resolution Agreement

cc: Kimberly Davis, Attorney for the School (via email: XXXX@XXXX.com)