



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200
SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

April 16, 2014

Dr. James Franco
Superintendent
Tracy Unified School District
1875 W. Lowell Avenue
Tracy, California 95376

(In reply, please refer to case no. 09-14-1018.)

Dear Superintendent Franco:

The U.S. Department of Education, Office for Civil Rights (OCR), has resolved the above-referenced complaint filed against Tracy Unified School District (District). The complaint alleged that the District discriminated against the Student based on disability.¹ Specifically, the complaint alleged that the District denied the Student a free, appropriate public education (FAPE) by (1) failing to implement the Student's Section 504 plan in XXXXXXXX and XXXXXXXX XXXXXXXXXX in May 2013; and, (2) did not place the Student appropriately based on his individual disability related needs and considering a full range of placement options.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of federal financial assistance. OCR also has jurisdiction as a designated agency under Title II of the Americans with Disabilities Act of 1990, as amended (Title II), and its implementing regulation over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The District receives Department funds, is a public education system, and is subject to the requirements of Section 504 and Title II.

OCR reviewed documents and information provided by the complainant and the District. OCR interviewed the complainant. However, prior to the completion of the investigation of this case, OCR and the District resolved the complaint through an Agreement (Agreement) Reached During an Investigation pursuant to Article III, Section 302 of OCR's Complaint Processing Manual. OCR informed the recipient that resolving the complaint prior to the completion of the investigation was voluntary. After discussions with OCR regarding the terms of the Agreement, the District, without admitting any violations of Federal law, signed the Agreement on April 15, 2014.

Pursuant to the Agreement (enclosed), the District will: (1) issue written guidance and conduct in-service training regarding its policies and procedures for providing a FAPE

¹ OCR notified the District of the identity of the Student when the investigation began. OCR is withholding his identity from this letter to protect his privacy.

under Section 504 and Title II; and, (2) provide the Student with the option to re-take the courses, with his Section 504 plan in place, and have his transcript reflect the new grade he receives in each class. Based upon the receipt of the signed Agreement, OCR is closing the investigative portion of this case. OCR is notifying the complainant by concurrent letter. OCR will monitor the District's implementation of the Agreement.

OCR routinely advises recipients of Federal funds and public education entities that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR, and those participating in the complaint resolution process, including compliance reviews. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

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

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.

OCR would like to thank District's counsel, Jeff Maisen for his assistance in resolving this complaint. If you have any questions about the complaint, please contact Brian Lambert, OCR attorney, at (415) 486-5524 or Brian.Lambert@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader

Enclosure

cc: Jeff Maisen, McArthur & Levin, LLP