



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION IX
CALIFORNIA

October 30, 2014

Steve Kennedy
Superintendent
Menifee Union Elementary School District
30205 Menifee Road
Menifee, California 92584

(In reply, please refer to case no. 09-14-1318.)

Dear Superintendent Kennedy:

The U.S. Department of Education, Office for Civil Rights (OCR), has resolved the above-referenced complaint against the Menifee Union Elementary School District (District). OCR began an investigation on two issues:

- (1) Whether the Student¹ was subjected to harassment by other students on the basis of disability, and the District failed to respond appropriately and effectively to notice of the harassment; and
- (2) Whether the District failed to provide the complainant with adequate procedural safeguards after an IEP meeting at which the IEP team reached a placement decision with which the complainant did not agree.

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 began the investigative process by gathering information from the complainant and the District. Prior to the completion of OCR's investigation, the District expressed an interest in resolving the complaint through a resolution agreement (agreement) pursuant to Section 302 of OCR's Case Processing Manual. OCR determined that it

¹ At the beginning of the investigation, OCR notified the District of the identity of the Student and the complainant. OCR is not including their names in this letter to protect their privacy.

was appropriate to resolve the complaint under this section, and kept the complainant informed during the resolution process.

On October 16, 2014, without admitting to any violation of the law, the District signed the enclosed agreement to resolve this case. Pursuant to the agreement, the District will (1) hold an IEP meeting for the Student to discuss the development of a support plan to ensure that he has safe and equitable access to all school activities; (2) provide investigative training and guidance on disability harassment to staff, as well as an age-appropriate informational program to students; and (3) revise its policies to ensure that parents are consistently provided with procedural safeguards. OCR has determined that the implementation of this agreement will resolve the allegations made in this complaint.

Based upon the signed agreement, OCR is closing the investigative phase of this complaint as of the date of this letter. OCR will monitor the implementation of the agreement, and is informing the complainant by concurrent letter. The complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

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.

Under the Freedom of Information Act, it may be necessary to release this document and related records on request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personal information which, 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.

OCR would like to thank you and your staff, particularly Caroline Luke, for your cooperation in resolving this matter. If you have any questions about this case, please contact Carolyn Wade, Civil Rights Investigator, at (415) 486-5563, or Shilpa Ram, Civil Rights Attorney, at (415) 486-5565.

Sincerely,

/s/

Zachary Pelchat
Team Leader

Enclosure

cc: Caroline Luke,
Director of Pupil Personnel Services