



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD, SUITE 310
DENVER, CO 80204-3582

REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

May 8, 2014

Dr. Bryan Bowles
Superintendent
Davis School District
45 East State Street
P.O. Box 588
Farmington, Utah 84025

Re: Davis School District
Case Number 08-14-1066

Dear Superintendent Bowles:

On January 10, 2014, we received a complaint alleging that Davis School District discriminated against the Student based on disability by failing to provide him with a free appropriate public education (FAPE). Specifically, the complainant alleged that the District failed to properly evaluate the Student under Section 504, and it failed to implement the provisions of the Student's Section 504 plan.

We are responsible for enforcing 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 or activities that receive Federal financial assistance from the U.S. Department of Education; and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35, (ADA) which prohibit discrimination on the basis of disability by public entities. The District, a public entity, receives Federal financial assistance from the Department and is subject to these laws and regulations.

During the processing of the complaint, the District indicated its desire to voluntarily enter into an agreement to resolve the allegations that the District failed to properly evaluate the Student under Section 504, and that it failed to implement the provisions of the Student's Section 504 plan. We acknowledge and approve the actions taken by the District to remedy the individual harm to the Student prior to entering into the attached Resolution Agreement. These actions resolved the allegations specific to the Student. The complainant and the Student were compensated with grade changes and reimbursement for out of pocket expenses for tutoring and counseling during the time when FAPE was not provided. Also, the District 504 team has conducted meetings that resulted in updated assistive technology and instructions for the Student,

parent and teachers on the use of such technology. The Student's teachers have received specific training on the Student's disability and the building 504 coordinator began biweekly adult organizational assistance to the Student. Also, the District imposed discipline on the teacher most responsible for the denial of FAPE to the Student. The complainant confirmed these actions and expressed her belief that "things are finally starting to fall into place...."

Pursuant to Section 302 of our *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. The District expressed a willingness to provide annual training to ensure all staff comply with Section 504 and Title II in order to resolve the remaining legal issue we were investigating. We reviewed this request and determined that it justified entering into an agreement without completing a full investigation.

On May 6, 2014, we received the District's signed Resolution Agreement (enclosed). When the Agreement is fully implemented, the allegations will have been resolved consistent with the requirements of Section 504 and its implementing regulation. We will monitor implementation of the Agreement through periodic reports demonstrating the terms of the Agreement have been fulfilled. We will promptly provide written notice of any deficiencies with the respect to the implementation of the terms of the Agreement and will promptly require actions to address such deficiencies. If the District fails to implement the terms of the Agreement, we will take appropriate action, which may include enforcement actions.

As noted previously, OCR regulations prohibit intimidation, harassment, or retaliation. Additionally, 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, we may release this document, related records, and correspondence upon request. If OCR receives a request, we will protect personal information to the extent provided by law.

This concludes OCR's investigative phase of this complaint. We thank you and your staff for the cooperation extended us during this process. If you have any questions, please contact Michael Sentel, at (303) 844-3333.

Sincerely,

/s/

Erica R. Austin
Chief Regional Attorney

Enclosure: Resolution Agreement