



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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September 18, 2018

Dr. Jan Vesely, Superintendent
Kyrene School District
8700 South Kyrene Road
Tempe, AZ 85284

By Email Only to jvesely@kyrene.org

Re: Kyrene School District
OCR Case Number: 08-14-1075

Dear Superintendent Vesely:

This letter advises you of the resolution of this complaint alleging that the Kyrene School District (District) discriminated on the basis of disability. Specifically, the Complainant alleged the District discriminated against her daughter on the basis of disability by not allowing her to participate in open enrollment in the same manner and under the same time frames as students without disabilities. The Complainant also alleged that the District discriminates against persons with disabilities by impermissibly restricting the use of service animals.

Because we have the authority and the complaint was filed timely, we initiated an investigation of the complaint under the authority of Section 504 and its implementing regulation, at 34 Code of Federal Regulations (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 by public entities respectively. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to these laws.

During the course of our investigation, before we had made any findings, the District indicated its desire to voluntarily enter into an agreement to resolve the allegations and ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR's Case Processing Manual, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations.

On September 13, 2018, we received the District's signed Resolution Agreement (enclosed). OCR is closing the investigative phase of this case effective the date of this letter. The case is now in the monitoring phase. OCR will closely monitor the recipient's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the recipient's policies and practices are administered in a nondiscriminatory manner. When

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the Agreement is fully implemented, the allegations will have been resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions, as described in the Agreement.

OCR routinely advises recipients of Federal funds 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.

Please also note that 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, 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, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions or concerns, please feel free to contact XXXX, Equal Opportunity Specialist and primary contact for this case, at XXXX or by email at XXXX, or me at XXXX.

Sincerely,

/S/

Thomas M. Rock
Supervising General Attorney

Enclosures – Copy of Resolution Agreement

cc (w/o enclosures): Honorable Diane Douglas
State Superintendent of Public Instruction

Ms. Cathleen Dooley, Esq. (via email)
Udall Shumway