



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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DENVER, CO 80204-3582

REGION VIII
ARIZONA
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UTAH
WYOMING

September 11, 2014

Gail Pletnick, Ed.D.
Superintendent
15802 North Parkview Place
Surprise, Arizona 85374

Re: Dysart Unified School District
Case Number: 08-14-1090

Dear Dr. Pletnick:

On February 14, 2014, we received a complaint alleging Dysart Unified School District (District) discriminated against the Complainant's daughter (Student) on the basis of disability. Specifically, the Complainant alleged that the District failed to provide the Student a Free Appropriate Public Education (FAPE) by requiring medical documentation to support the Student's Section 504 Plan before re-evaluating her and by subjecting her to a significant change in placement when school staff cancelled her Section 504 plan without a re-evaluation. Additionally, the Complainant alleged that the District failed to adequately investigate her complaint of discrimination. Finally, the Complainant alleged that the District subjected the Student to XXXXX in retaliation for the Complainant's advocacy for the Student.

We began investigating the complaint pursuant to 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 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, which prohibit discrimination on the basis of disability in programs or activities of a public entity. Individuals filing a complaint, participating in an investigation, or asserting a right under Section 504, and Title II are protected from retaliation or intimidation by 34 C.F.R. § 104.61, which incorporates 34 C.F.R. § 100.7(e), and 28 C.F.R. § 35.134. The District receives Federal financial assistance from the Department and is a public entity, and is therefore subject to these laws and regulations.

During the course of processing this complaint, the District indicated its desire to voluntarily enter into an agreement to resolve the allegations and compliance concerns raised pursuant to Section 302 of the *Case Processing Manual*. We reviewed this request and determined that it justified entering into an agreement without completing a full investigation.

On September 10, 2014, we received the signed Resolution Agreement, which is enclosed. When the Agreement is fully implemented, the allegations and compliance concerns 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 demonstrating the terms of the Agreement have been fulfilled. We will provide written notice of any deficiencies regarding the implementation of the terms of the Agreement and will promptly require actions to address such deficiencies. If the District fails to implement the Agreement, we will take appropriate action, as described in the Agreement. We will provide the Complainant a copy of each piece of formal correspondence we issue to the District during the monitoring.

We thank the District for voluntarily entering into an Agreement to resolve the issues raised in this complaint. This concludes OCR's investigation of the complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The case is now in the monitoring phase. The monitoring phase of the case will be completed when OCR determines that the District has fulfilled all of the terms of the Agreement. When the monitoring phase of the case is complete, OCR will close Case Number 08-14-1090 and will send a letter to the District stating that the case is closed.

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 individual may file another complaint alleging such treatment.

Please also note the Complainant has 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.

Thank you for the courtesy and cooperation you and your legal counsel extended to us during the investigation of this case. If you have any questions, please contact XXXX, Senior Equal Opportunity Specialist, at (303) 844-XXXX. I can be reached at (303) 844-4506.

Sincerely,

/s/

Thomas E. Ciapusci
Supervisory Team Leader

Enclosure – Resolution Agreement

cc (without enclosure): John Huppenthal, Superintendent of Public Instruction

(with enclosure): XXXX, XXXX