



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VIII  
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WYOMING

September 2, 2014

Ron Marquez  
Superintendent  
Belén Consolidated School District  
520 North Main Street  
Belén, New Mexico 87002

Re: Belén Consolidated School District  
OCR Case Number: 08-14-1105

Dear Superintendent Marquez:

On XXX, we received a complaint alleging that Belén Consolidated School District (the District) discriminated against the Complainant's XXX (the Student) on the basis of disability (XXX). Specifically, the Complainant alleged that XXX (the School) denied the Student a free appropriate public education by failing to follow proper procedures when creating the Student's Individualized Education Program (IEP) and by failing to implement the provisions of the Student's IEP regarding XXX and XXX. The Complainant also alleged that the School treated the Student differently because XXX has disabilities by not allowing XXX to attend XXX and by segregating XXX at XXX and at XXX.

We began investigating the complaint pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the U.S. Department of Education (the Department), 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 by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the District is 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 2, 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 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 08-14-1105 and will send a letter to the District, copied to the Complainant, stating that the case is closed.

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 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 staff extended to us during the investigation of this case. If you have any questions, please contact XXX, at XXX or by email at XXX. You may also contact me at (303) 844-4506.

Sincerely,

/s/

Thomas E. Ciapusci  
Supervisory Team Leader

Enclosure – Resolution Agreement

cc (without enclosure): Honorable Hanna Skandera  
Secretary of Education

(with enclosure): Diane M. Vallejo  
Director of Special Education