



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VIII
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July 29, 2015

Dr. Denise Birdwell
Superintendent
Higley Unified School District
2935 South Recker Road
Gilbert, Arizona 85295

Re: **Higley Unified School District**
OCR Case Number: **08-14-1218**

Dear Dr. Birdwell:

We are writing to inform you of our determination in the above-cited complaint against Higley Unified School District (District). The issues that OCR accepted for investigation were:

- 1) Whether the District failed to implement the IEP's of some students with disabilities when the School's administration directed teachers to disregard those students' IEP accommodations during May 2014 final exams;
- 2) Whether the District failed to implement the IEP's of some students with disabilities when the School did not offer the resource classes during the 2013-2014 school year as required by those students' IEP's; and
- 3) Whether the District treats staff designated for special education duties differently than other staff by requiring them to work in the front office for large portions of the school day.

We are responsible for enforcing Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulation 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; 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, the District is subject to these laws and regulations.

During the course of OCR's processing of this complaint, the District expressed an interest in resolving the allegations. Pursuant to Section 302 of our Case Processing Manual, we determined that it was appropriate to enter into an agreement without completing a full investigation of these allegations.

On July 24, 2015, we received the District's signed Resolution Agreement (copy enclosed). When the Agreement is fully implemented, the allegations will be resolved consistent with the requirements of Section 504 and 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 promptly provide written notice of any deficiencies with 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 Agreement, we will take appropriate action, which may include enforcement actions.

OCR routinely advises recipients of Federal funds and public educational entities 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. The complainant may also have a right to file a private suit in Federal court whether or not OCR finds a violation.

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.

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 correspondence and records upon request. If we receive such a request, we protect personal information to the extent provided by law.

This letter concludes OCR's investigative phase of this 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. We wish to thank you and XXXX for your cooperation provided throughout the resolution of this complaint. If you have any questions regarding this or other civil rights matters, please feel free to contact XXXX, Equal Opportunity Specialist at 303-844-XXXX, or me at 303-844-2557.

Sincerely,

Stephen Chen
Supervisory Attorney

cc: Honorable John Huppenthal
Superintendent of Public Instruction