



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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May 18, 2015

Dr. James P. Lee, Superintendent
Paradise Valley Unified School District
15002 N. 32nd St.
Phoenix, AZ 85032

Re: Paradise Valley Unified School District
OCR Case Number 08-15-1087

Dear Dr. Lee:

On January 12, 2015, we received a complaint alleging that the Paradise Valley Unified School District discriminated on the basis of disability. Specifically, the Complainant alleged, in relevant part,¹ that in Fall 2014, administrators at the Desert Springs Elementary Preparatory School unilaterally changed how students with IEPs² would receive reading, writing, and math instruction, without meaningful opportunities for that decision to be properly considered by the students' IEP teams; and that Desert Springs students who had IEPs were denied an equal opportunity to be taught science, social studies, and history, and have Accelerated Reading ("AR") time because special education services were to be provided exclusively during those instruction periods (collectively, these are referred to herein as the "systemic allegations"). We are notifying you of the resolution of this case.

We initiated our investigation pursuant to 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 and activities that receive Federal financial assistance from 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. The District is subject to these laws and regulations.

We began our investigation of the systemic allegations; during the course of that investigation, we became aware of related potential District-wide compliance concerns and began investigating those as well. Prior to the conclusion of the investigation the District expressed an interest in voluntarily resolving the systemic allegations and related District-wide concerns to ensure its compliance with Section 504, Title II, and their implementing regulations. Pursuant to Section 302 of our *Case Processing Manual*, a complaint can be resolved when, before the conclusion of

¹ The Complainant also raised some allegations that were specific to her daughter. Those individual allegations were resolved through OCR's Early Complaint Resolution process and are not addressed in this Resolution Agreement.

² The systemic allegations involve students who are receiving special education services in the school's resource room by being pulled out from a general education setting. They do not involve those who are in self-contained classrooms, nor do they involve those who are receiving just speech/language services.

an investigation, a recipient agrees to resolve the allegations and OCR has determined that the case is appropriate for resolution during the investigation. OCR has determined that this case is appropriate for a Section 302 Agreement and the District has voluntarily entered into the enclosed Agreement. The provisions of the Agreement are aligned with the systemic allegations raised in the complaint, address the additional District-wide concerns, and are consistent with 34 C.F.R. § 104.35.

We will monitor the District's implementation of the Agreement until all provisions have been satisfied. A copy of the Agreement is enclosed. We will also keep you and the Complainant informed of monitoring activities related to the case, including any identified deficiencies regarding the implementation of the Agreement. We will also require action by the District to promptly address any identified deficiencies.

This concludes OCR's investigation 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. Accordingly, we are closing the investigation of this complaint effective the date of this letter. The monitoring of this Agreement will only be concluded when OCR determines that the District has fulfilled all of the requirements of the Agreement. When our monitoring of the Agreement is complete, we will advise the District and the Complainant by letter, and the case will be closed.

This letter sets forth OCR's determination in 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. In addition, 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.

Thank you for the courtesy and cooperation extended to us throughout the investigation, and we especially appreciate the assistance of Ms. Jennifer MacLennan. If you have any questions regarding this matter, please contact me at 303.844.4480 or by email at mary.lou.mobley@ed.gov.

Sincerely,

//s//

Mary Lou Mobley
National Disability Expert

Enclosure: Resolution Agreement

cc: Ms. Jennifer MacLennan (by email)
Counsel for the District

Honorable Diane Douglas
Arizona State Superintendent of Public Instruction