



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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August 28, 2015

Superintendent Riley Frei  
Colorado River Union High School District  
5744 S Highway 95, Suite 109  
Fort Mohave, AZ 86426

Re: Colorado River Union High School District  
OCR Case Number: 08-15-1134

Dear Superintendent Frei:

On March 27, 2015, we opened for investigation a complaint regarding whether the District, at River Valley High School: (1) treats the Complainant's son (the Student) differently by providing him with a shortened school day in order to provide him with transportation; (2) treats students with disabilities who receive services in a self-contained classroom differently than non-disabled peers by making them perform janitorial services such as cleaning up the cafeteria, hallways, and outside areas multiple times during a school day; and (3) treats students with disabilities who receive services in a self-contained classroom differently by excluding them from a career oriented field trip in March 2015 and reducing their educational time on the day of the field trip because no educational services were provided.

We initiated an investigation under the authority of Section 504 and its implementing regulation, at 34 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, respectively, public entities. As a recipient of Federal financial assistance and a public entity, the District is subject to these laws and regulations.

The Complainant alleged that the District discriminated against the Student when it shortened his school day in order to provide him with the transportation services his IEP required. In evaluating an allegation of different treatment, we determine what action the recipient took against the alleged injured party, whether it followed its policies and procedures for taking such action, and whether similarly situated students were treated differently. If the alleged injured party was treated differently, we determine whether the recipient has a legitimate, non-discriminatory reason for the different treatment and, if so, whether the stated reason is a pretext for discrimination. Further, the regulation implementing Section 504 at 34 C.F.R. § 104.33(a) and (b)(1) requires a recipient to provide each qualified person with a disability in its jurisdiction a free appropriate education, regardless of the nature or severity of the person's disability. A free appropriate education is defined as the provision of regular education or special education and related aids and services that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of person without disabilities are met. The Title II implementing regulation is interpreted consistently with the standards set forth in the regulation implementing Section 504.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

The Student's IEP requires door to door transportation. The Complainant lives in a gated community. The District initially informed the Complainant that it would not provide door to door transportation services because its policy states the school bus does not go into gated communities. Upon concerns raised by the Complainant, the District decided it would go into the gated community to provide door to door transportation; however, the Student would be picked up after transporting other children to school and the Student would leave school an hour early to be taken home.

The District admits to providing the Student with a shortened school day. Specifically, the District's data response states: "Transportation worked with [the Complainant] and was able to get a van that could make this connection [curb to curb service]. The only problem was that [a]nother student also needed that van/driver. There was a problem with time constraints, and the result was that [Student] would go home an hour early so that both boys would be able to access the van." After receiving notification of the complaint filed with OCR, in May 2015, the District met with the Complainant and revised the Student's transportation schedule so that the Student would not receive a shortened school day. However, compensatory services were not discussed.

The District subjected the Student to a shortened school day. The shortened school day was not a term of the Student's IEP and did not meet the individual needs of the Student. Rather, the Student's shortened school day was due to administrative scheduling of transportation services. The Student was treated differently than similarly situated students, whose instruction was not cut by an hour daily. We find that the District treated the Student differently when it shortened his school day because of a District transportation scheduling problem, which is not a legitimate, non-discriminatory reason and demonstrates non-compliance with Section 504 and Title II. We note that upon learning of the complaint filed with OCR, the District held an IEP meeting to discuss transportation and modified the transportation so that the Student did not arrive late and leave school early. Since compensatory services were not discussed, the enclosed resolution agreement requires consideration of whether compensatory services are needed for the shortened school day provided during SY 2014-15. Further, the District requested to resolve this allegation.

The Complainant alleged that her son and six other students<sup>1</sup> in the Life Skills self-contained classroom were required to perform janitorial duties such as wiping tables, taking out trash, and doing laundry, every day during first and fifth class periods. The District reported that every school day, the Life Skills students are required to clean up the cafeteria and periodically wash gym clothes for the School. The District requested to resolve this allegation prior to the completion of our investigation of this allegation.

The Complainant alleged that students in the Life Skills classroom were also not allowed to attend a career expo field trip with the rest of the School on March 4, 2015. The District provided information that most of the Life Skills classroom students did not attend and were absent on the day of the field trip. The District requested to resolve this allegation prior to the completion of our investigation of this allegation.

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<sup>1</sup> The District reports that the students' disabilities include moderate intellectual disability, autism, and mild intellectual disability.

On August 17, 2015, the District expressed a willingness to resolve the complaint. Pursuant to OCR's *Case Processing Manual*, resolution options were discussed with the District. The District has entered into the enclosed Agreement which, when fully implemented, will resolve the compliance concerns raised in this complaint. The provisions of the agreement are aligned with the issues raised in the complaint and are consistent with the applicable regulations. We will monitor the District's implementation of the Agreement until all provisions have been satisfied. We will also keep the Complainant apprised of monitoring activities related to this case.

This concludes our investigation of this complaint. We will continue to monitor the District's compliance with the Agreement until all the terms are satisfied. This letter addresses only the issues listed above and should not be interpreted as a determination of the District's compliance or noncompliance with Section 504 or Title II or any other federal law in any other respect. Accordingly, we are closing the investigation of this complaint effective the date of this letter.

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. Additionally, the Complainant has a 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. If OCR receives such a request, we will protect personal information to the extent provided by law.

Thank you for your cooperation and the District's attention to this matter. If you have any questions regarding this letter, please feel free to contact Joyce Y. Hayward, Equal Opportunity Specialist at 303.844.6097 or by email at [joyce.y.hayward@ed.gov](mailto:joyce.y.hayward@ed.gov). I can also be reached at 303.844.6083.

Sincerely,

/s/

Angela Martinez-Gonzalez  
Supervisory General Attorney

Enclosure – Resolution Agreement

cc: Geoffrey S. Tubbs, M.Ed.  
Assistant Director of Special Services

Superintendent Diane Douglas  
Arizona Department of Education