



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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September 10, 2015

Dr. Michael Cowan
Superintendent
Mesa Public Schools
63 East Main Street
Mesa, Arizona 85201

Re: Mesa Public Schools
OCR Case Number 08-15-1174

Dear Dr. Cowan:

On April 6, 2015, we accepted for investigation a complainant's allegations that Mesa Public Schools: (1) failed to provide a free and appropriate public education when it did not consider the changes related to the Student's disability-related medical conditions and ensure the Student receives accommodations required by her 504 Plan, or timely evaluate the need for special education services or accommodations based on the Student's changing medical conditions; and (2) failed to adequately respond to a disability harassment complaint involving the Student's orchestra teacher.

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. As a recipient of Federal financial assistance and a public entity, the District is subject to these laws and regulations.

The Complainant raised concerns regarding the Student's receipt of an appropriate public education when her disability-related medical conditions worsened and she began to miss school. When the Student's condition worsened last year and she could not attend classes regularly, the Complainant stated that the Student did not have sufficient accommodations to address her disability. The Complainant also raised concerns that the District did not respond to her disability harassment complaint. Upon receiving this complaint, the District began to work with the Complainant to address her concerns.

During the investigation, the District expressed a willingness to resolve the complaint. Pursuant to Section 302 of 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 concerns raised by the 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. OCR has notified the Complainant that the District has entered into this Agreement, and we provided the Complainant a copy of the Agreement. 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 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 Heidi Kutcher, Attorney Advisor assigned to this case at (303) 844-4572 or by email at heidi.kutcher@ed.gov. I can also be reached at (303) 844-6083.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

Enclosures – Copy of Resolution Agreement

cc: Thomas Pickrell, Attorney for District (via email)
Arizona Department of Education (without attachment)