



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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August 18, 2016

Dr. Alexa Cunningham
Superintendent
Salt Lake City School District
440 East 100 South
Salt Lake City, Utah 84111

Re: Salt Lake City School District
OCR Case Number: 08-16-1193

Dear Superintendent Cunningham:

This is to advise you of the resolution of the above-referenced complaint that was filed with our office on February 22, 2016. The Complainant alleged that the District discriminated on the basis of national origin and disability. Specifically, the Complainant alleged that the District discriminated against English Language Learner (EL) students at Glendale Middle School (School) by implementing policies and procedures that do not consider language in the special education evaluation and placement processes, thereby resulting in an over-representation of the students in special education.

We began investigating this 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, 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. Our investigation also was pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin, in programs and activities that receive Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to these laws and regulations.

We learned that generally EL students in special education at the School attended feeder elementary schools and received special education placement while at elementary school, though reevaluations were conducted at the School. We reviewed the District's Special Education policies and EL policies. The District recognized that it needs to update its policies and procedures regarding the evaluation and placement of EL students to ensure that EL students are not overrepresented in special education, and are not placed in special education solely based on language. Further, the Complainant alleged that District staff members have used the following phrase: "Special education trumps EL services". Staff acknowledged this, and some EL students with disabilities were not provided EL and SPED services. Based on review of some student files, it appeared that special education-related matters were not consistently interpreted or translated for EL parents. During the course of the investigation, we learned that the District's EL policies and procedures include a process for early exiting EL services despite students not being proficient in the four English skill areas. Further, despite being told that there were no exited EL students to monitor at the School, we received a list of several exited EL students who

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should have been monitored following exit from the EL program yet they had not been during school year 2015-16.

During the course of processing this complaint, the District indicated its desire to voluntarily enter into an agreement to resolve the allegation 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 of the complaint allegation, which would be necessary for OCR to make a compliance determination.

We have received the signed Resolution Agreement, which is enclosed. When the Agreement is fully implemented, the allegation will be resolved consistent with the requirements of Section 504, Title II, Title VI, and their implementing regulations. OCR will monitor implementation of the Agreement through periodic reports demonstrating the terms of the Agreement are being 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 will provide the Complainant with a copy of formal correspondence we issue to the District during the course of the monitoring.

We thank the District for voluntarily entering into an Agreement to resolve the allegation raised in this complaint. 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 issue other than that addressed in this letter.

This ends the investigation of this case and it is now in the monitoring phase. The monitoring phase will be completed once OCR determines that the District has fulfilled all the terms of the Agreement. When the monitoring phase of this case is complete, OCR will close case number 08-16-1193 and will send a letter to the District, copied to the Complainant, stating that this case is closed.

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. 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.

We thank you and the District for your cooperation, appreciate General Counsel Kristina Kindl for her assistance, and thank Glendale Middle School administrators and staff for the courtesy and cooperation extended to us during the processing of this case. If you have any questions regarding this matter, please feel free to contact Athena Quezada, Equal Opportunity Specialist, at 303-844-3355, or me at 303-844-6083.

Sincerely,

/S/

Angela Martinez-Gonzalez
Supervisory General Attorney

Enclosure

cc: Kristina Kindl, General Counsel

Dr. Sydnee Dickson, Utah Superintendent of Public Instruction