



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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October 3, 2016

Mr. Karl Uterhardt
Superintendent
Cochise Elementary School District
5020 N. Bowie Street, P.O. Box 1088
Cochise, Arizona 856061

Re: Cochise Elementary School District
OCR complaint number 08-16-1271

Dear Superintendent Uterhardt:

We are writing to inform you of our determination in the above-cited complaint against that Cochise Elementary School District (the District) alleging discrimination against the Complainant's son (the Student) on the basis of disability. Specifically, the Complainant alleges that the District failed to provide the Student with a free appropriate public education (FAPE) when it failed to evaluate his son for a suspected disability.

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.

Initially in OCR's investigation, the District reported that it never received any request from the Complainant to evaluate the Student for a suspected disability, and it did not evaluate the Student for a disability. However, there was information that OCR reviewed that suggested a teacher had requested a special education screening of the Student during the 2014-15 school year and that it may have occurred, but evidence of the screening could not be found. Prior to OCR conducting further interviews in order to reach a determination in the case, the District expressed an interest in resolving the allegation. 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 October 3, 2016, we received the District's signed Resolution Agreement (copy enclosed). When the Agreement is fully implemented, the allegation 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.

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 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 David Sumners, Equal Opportunity Specialist at XXXX, or me at 303-844-5942.

Sincerely,

"/s/"

Sandra Roesti
Supervisory Attorney

cc: Honorable Diane Douglas
Superintendent of Public Instruction