



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
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September 10, 2018

Dr. Chad E. Gestson, Superintendent
Phoenix Union High School District
4502 North Central Avenue
Phoenix, Arizona 85012

Sent via email to gestson@phoenixunion.org and rivas-reyes@phoenixunion.org

Re: Phoenix Union High School District
Case Number: 08-16-1351

Dear Dr. Gestson:

We write to advise you of the resolution of a complaint that was filed with our office against Phoenix Union High School District (the District) alleging discrimination on the basis of disability.

Specifically, the complainant alleged that (1) the District discriminated against the student on the basis of disability by making provision of the services in the student's IEP contingent upon the student attending the student's home school instead of the parent's preferred choice of school; (2) the District has systemically discriminated against students with disabilities by failing to staff a magnet school with sufficient numbers of special education and related service providers to serve students with disabilities; and (3) the District has systemically discriminated against students with disabilities by either rejecting qualified students from a magnet school on the basis of disability or by steering those students to other schools on the basis of disability. We determined that we have the authority to investigate this complaint consistent with our complaint procedures and applicable law.

The Office for Civil Rights (OCR) of the U.S. Department of Education (Department) is 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 and a public entity, the District is subject to these laws and regulations.

During the investigation of this complaint, OCR reviewed the student's IEP and placement information; the District's policies, procedures, and forms for enrollment at its Small/Specialty Schools; admissions data and for students with disabilities at the school in question; staffing

information for the school. OCR also communicated with the complainant and the District representative.

During the course of our investigation, the District indicated its desire to voluntarily enter into an agreement to resolve the complaint allegations pursuant to Section 302 of our *Case Processing Manual*. On September 20, 2018, prior to OCR completing its investigation or making any findings of fact, the District signed an Agreement which, when fully implemented, will address the issues raised in the complaint.

In accordance with Section 302 of OCR's *Case Processing Manual* (CPM), the provisions of the Agreement signed by the District are aligned with the complaint allegations and the information obtained during OCR's processing of this case, and consistent with the applicable regulations. Therefore, OCR is closing this complaint investigation effective the date of this letter. OCR, however, will actively monitor the District's implementation of the Agreement until the District fulfills the terms of the agreement and is in compliance with the statutes and regulations at issue in this case. If the District fails to implement the Agreement as specified, OCR may initiate administrative or judicial proceedings as described in the Agreement or resume its investigation of the initial allegations. A copy of the Agreement is enclosed.

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

If you have any questions, you may contact XXX XXX, the attorney assigned to this case, at (303) 844-XXXX or XXX@ed.gov. You also may contact me at (303) 844-XXXX.

Sincerely,

/s/
Sandra J. Roesti
Supervisory Attorney

Enclosure: Signed Resolution Agreement

cc: Denise Lowell-Britt, Esq. (via email)

cc (without enclosure): Diane Douglas, State Superintendent of Public Instruction (via email)