



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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August 25, 2017

Jason E. Glass, Ed.D.
Superintendent
Jefferson County School District R-1
1829 Denver West Drive #27
Golden, Colorado 80401

Re: Jefferson County School District R-1
OCR Case Number 08-17-1231

Dear Superintendent Glass:

On February 28, 2017, we received a complaint alleging that Jefferson County School District discriminated on the basis of disability. Specifically, the complainant alleged that the District discriminates against students with disabilities attending Welchster Elementary School by failing to implement the students' Individual Education Programs (IEPs).

We are responsible for enforcing Section 504 of the Rehabilitation Act of 1973, and its implementing regulation at 34 Code of Federal Regulations Part 104, which prohibit discrimination on the basis of disability in programs or 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 in programs or activities of a public entity. The District as a recipient and public entity is subject to these laws and regulations.

Legal Standard

Section 504's regulations require that the District provide an appropriate education for each qualified student with a disability within its jurisdiction. An appropriate education is the provision of regular 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 non-disabled persons are met and are based upon adherence to procedures that satisfy the requirements of §§ 104.34, 104.35, and 104.36. See 34 C.F.R. § 104.33(b)(1). Implementation of an IEP developed pursuant to the Individuals with Disabilities Education Act is one means of meeting these requirements, 34 C.F.R. § 104.35. Additionally, OCR interprets the Title II regulations, at 28 C.F.R. §§ 35.103(a) and 35.130(b)(1)(ii) and (iii), to require districts to provide a free appropriate public education at least to the same extent required under the Section 504 regulations.

Resolution:

Pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*, allegations and issues under investigation may be resolved at any time when, prior to the conclusion of the investigation, the

recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation. Upon receipt of OCR's notification letter, in which we advised the District that we would investigate the complainant's allegation that the District failed to provide students with disabilities the services required by their IEPs, the District advised OCR that it was interested in resolving the complaint allegation, and would provide preliminary information to OCR in response to our data request to assist OCR in evaluating the appropriateness of the District's request. The District timely responded to our data request, and with its submission, renewed its request to resolve the complaint.

To date, OCR has investigated this complaint by interviewing the complainant, and reviewing preliminary information provided by the complainant and the information the District provided in response to our data request. The data provided by the District included, in part, the District's special education policies and procedures, including those specific to providing students special education services pursuant to an IEP. Our review of these policies and procedures indicates that, as written, the policies and procedures meet the procedural requirements of Section 504. To complete our investigation of the complainant's allegation and prior to making a compliance determination, OCR requires further information, from both the District and the complainant, in the form of additional witness interviews, and additional documents, including student records. We have, therefore, determined that the matter is appropriate for resolution pursuant to Section 302 of the *CPM*.

Conclusion:

We have received the District's signed Agreement, a copy of which is enclosed. When the Agreement is fully implemented, the allegations and issues identified in the processing of this case will be resolved consistent with the requirements of Section 504 and Title II, and their implementing regulations. The Agreement will expedite the appropriate delivery of services to students with disabilities in the upcoming school year, which began August 17, 2017. This concludes OCR's investigation of the complaint, which is now in monitoring. OCR will monitor implementation of the Agreement through periodic reports from the District 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. We look forward to receiving the District's initial monitoring report.

This letter should not be interpreted to address the District's compliance with any law or regulatory provision, or to address any issues other than those addressed in this letter. Additionally, this letter sets forth OCR's determination in an individual 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 note that a complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Page 3

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 individual may file another complaint alleging such treatment.

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, personal information, which, if released, could constitute an unwarranted invasion of privacy.

If you have any questions or concerns, you may contact Sandra Sanchez, Civil Rights Attorney, at (303) 844-6096. You may also contact me at (303) 844-6083.

Sincerely,

/S/

Angela Martinez-Gonzalez
Supervisory General Attorney

Enc.: Agreement

cc: Elizabeth R. Friel, Esq.
Caplan and Earnest, LLC