



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
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September 13, 2017

Douglas County School District RE-1
Attn: Superintendent Dr. Elizabeth Celania-Fagen
620 Wilcox St.
Castle Rock, CO 80104

Re: Douglas County School District
Case Number: 08-17-1249

Dear Dr. Celania-Fagen:

On March 21, 2017, we received a complaint alleging that the Douglas County School District (District) discriminated on the basis of disability. Specifically, the Complainant alleged that the District discriminated against her son (Student) by failing to implement the Student's IEP, including X-[provision]-X.

We initiated an investigation of the complaint under the authority of 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 Department; 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.

We began our investigation with a review of the data we requested from the District regarding the allegation raised in the complaint. Our preliminary review of the data demonstrates that the Student's various IEPs in effect during the relevant time period did contain language that provide for X-[provision]-X. Additionally, we note that the Student's IEPs did not provide for XXX, but provided for a variety of other related accommodations, for example by allowing the Student to X-[provision]-X. The District's submission demonstrates that the District has provided the required accommodations for certain assignments and assessments. However, since OCR did not specify to the District which assignments or assessments the Student did not receive the required accommodations, the District was unable to address whether it provided the accommodations in those instances. We also note that the meaning or practical application of some of the terms in the IEP are unclear or confusing, such as the meaning or application for allowing the Student to "XXX", or for X-[provision]-X. As a result, we determined that in order to make findings, it is necessary for OCR to engage in further investigation, including interviewing District staff.

During our investigation, the District was also subject to an investigation by the Colorado Department of Education (CDE) regarding other concerns of the Complainant. As a result of the CDE findings for which the District is required to engage in remedial actions, the District expressed an interest and willingness in resolving the OCR complaint through a voluntary agreement with OCR. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved when, before the

conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations.

On September 13, 2017, we received the District's signed Resolution Agreement (enclosed). OCR is closing the investigative phase of this case effective the date of this letter. The case is now in the monitoring phase. OCR will closely monitor the recipient's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the recipient's policies and practices are administered in a nondiscriminatory manner. When the Agreement is fully implemented, the allegations will have been resolved consistent with the requirements of Section 504 and its implementing regulation. If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions, as described in the Agreement.

OCR routinely advises recipients of Federal funds 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.

Please also note the Complainant has 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.

If you have any questions or concerns, please feel free to contact XXX, Attorney Advisor and primary contact for this case, at XXX or by email at XXX@ed.gov, or me at XXX.

Sincerely,

/s/

Thomas M. Rock
Supervising General Attorney

Enclosures – Copy of Resolution Agreement

cc: Elizabeth Friel – Caplan & Earnest, LLC