



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VIII

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August 28, 2017

Dr. James R. Veitenheimer  
Superintendent  
Deer Valley Unified School District  
20402 North 15th Avenue  
Phoenix, Arizona 85027

Re: Deer Valley Unified School District  
Case Number: 08-17-1257

Dear Dr. Veitenheimer:

On March 28, 2017, we received a complaint alleging that Deer Valley Unified School District (the District) discriminated on the basis of disability. Specifically, the Complainant alleges that the District discriminated against her son (the Student) when it: (1) failed to implement his IEP by denying him brain breaks and/or making him earn them by exhibiting positive behaviors; and (2) changed his placement without conducting an evaluation or convening a group of persons knowledgeable about the student, the evaluation data, and the placement options.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Section 504 and Title II prohibit discrimination on the basis of disability by recipients of Federal financial assistance and by public entities, respectively. As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to Section 504 and Title II. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

During the investigation of this complaint, OCR reviewed the Student's IEP from the 2016-2017 school year as well as the Student's homeroom attendance. OCR also communicated with the Complainant and District representatives. On August 3, 2017, the District informed OCR that it wished to voluntarily resolve the complaint allegations. At that time, prior to OCR making any findings of fact, the District agreed to sign 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 on August 25, 2017 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

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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 Allison Morris, the attorney assigned to this case, at XXX or by email at XXX.

Sincerely,

/s/

Sandra J. Roesti  
Supervisory Attorney

Enclosure: Signed Resolution Agreement

cc (without enclosure): Diane Douglas, State Superintendent of Public Instruction  
Kimberly R. Davis, Esq., Udall Shumway PLC