



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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February 20, 2018

Dr. Curtis Finch, Superintendent  
Deer Valley Unified School District  
20401 N. 15<sup>th</sup> Ave.  
Phoenix, AZ 85027

*Sent via email only to superintendent@dvusd.org*

Re: Deer Valley Unified School District  
Case Number: 08-17-1436

Dear Dr. Finch:

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

Specifically, the complainant alleged that the District discriminated against her son (the student) on the basis of disability by failing to provide the student with a free, appropriate public education when the student was restrained in a manner inconsistent with the student's Behavior Intervention Plan, resulting in injuries to the student on March 8, 2017. 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; photographs of injuries to the student, the District's policies regarding restraint of students, and the transcript of a meeting including the District, the complainant, and the private school provider. OCR also communicated with the complainant and the District's attorney.

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 February 16, 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.

When the District receives a complaint that a student has been discriminated against on the basis of disability, the District is obligated to provide a prompt and equitable response pursuant to its Section 504 grievance procedures. This includes conducting an adequate investigation to determine whether a violation of Section 504 occurred, as well as whether any steps are necessary to end the discrimination and remedy the effects of the discrimination. Simply removing a student from the environment in which the alleged discrimination occurred may not be an adequate response.

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 Rebecca Tanglen, the attorney assigned to this case, at (303) 844-0434 or rebecca.tanglen@ed.gov. You also may contact me at (303) 844-5942.

Sincerely,

/s/

Sandra J. Roesti  
Supervisory Attorney

Enclosure: Signed Resolution Agreement

cc: Heather Pierson, Esq. (via email)  
Diane Douglas, State Superintendent of Public Instruction (via email)