



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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DENVER, CO 80204-3582

REGION VIII

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March 6, 2018

Superintendent Andy Franko
Falcon School District 49
10850 East Woodmen Road
Falcon, CO 80831

Via email only to afranko@d49.org

Re: **Falcon School District 49**
OCR Case Number: 08-17-1481

Dear Superintendent Franko:

On September 7, 2017, we received a complaint alleging Falcon School District 49 (District) discriminated on the bases of disability and sex. Specifically, the Complainant alleged the District failed to implement her son's (Student) Section 504 plan; failed to give the Student his award during an honor roll ceremony because of his disability; failed to respond appropriately to disability harassment against the Student; and failed to respond appropriately to sexual harassment.

The U.S. Department of Education (Department), Office for Civil Rights (OCR), is 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 and activities that receive Federal financial assistance from the Department; 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; and Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to these laws and regulations. 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 Section 504 plan, emails between the Student's parents and staff members at the Student's school, the District's position statement, and other related documentation provided by the Complainant and the District. OCR also communicated with the Complainant and District representatives. On February 14, 2018, the District informed OCR that it wished to voluntarily resolve the complaint allegations. Prior to OCR making any findings of fact, the District agreed to sign an Agreement which, when fully implemented, will address the allegations 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. 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 XXXXX, Equal Opportunity Specialist, at (303) 844-XXXX. You also may contact me at (303) 844-5942.

Sincerely,

/s/

Sandra J. Roesti
Supervisory Attorney

Enclosure: Signed Resolution Agreement

cc (w/o enclosures, via email only): Katy Anthes, Commissioner of Education
Edward Hayes, Deputy General Counsel