



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD, SUITE 310
DENVER, CO 80204-3582

REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

November 21, 2017

Dr. Gerald Slemmer, Principal
Leading Edge Academy – Gilbert Elementary
717 West Ray Road
Gilbert, Arizona 85233

Re: **Leading Edge Academy – Gilbert Elementary**
OCR Case Number: 08-17-1485

Dear Principal Slemmer:

We write to inform you of the resolution of the above-referenced complaint, filed on September 11, 2017, against Leading Edge Academy – Gilbert Elementary (“School”), alleging discrimination on the basis of disability. Specifically, the complaint alleged that the School effectively denied admission and enrollment to the Complainant’s grandson (“Student”) because of his disability (*i.e.*, because he might have required insulin injections for his diabetes while at the School).

The Office for Civil Rights (OCR) of the U.S. Department of Education (“the Department”) is responsible for enforcing: Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and its implementing regulation at 34 Code of Federal Regulations (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 (“Title II”), 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 School is subject to these laws and regulations.

OCR opened an investigation of the allegation and sent the School a data request on September 20, 2017. Before the due date for the data response and before sufficient evidence was obtained to support findings, the School expressed an interest in taking voluntary action to resolve the Complainant’s allegation. We gathered information to determine if, pursuant to Sections 207 and 302 of our *Case Processing Manual*, it was appropriate to enter into an agreement that appropriately addresses the issue raised by the complaint without continuing a full investigation of the allegation.

According to the Complainant, the School repeatedly told her that it had a policy of not providing injections for students with diabetes. To support this claim, the Complainant provided OCR with an email you sent her, on April 17, 2017, which read, in part, “our policy is that our Health Assistants do not administer injections.” The Complainant alleged that the Dean of Students (“Dean”) made a similar comment during a training about the Student’s insulin pump

on April 19, 2017. At the suggestion of the Complainant, we interviewed the trainer from the April 19th meeting; she confirmed the Complainant's account.

However, according to the School, you were confused when you sent the aforementioned email to the Complainant, the Dean never made the alleged statement,¹ and the Student was never denied enrollment. The School asserted to OCR that it does not have a policy against administering injections; in fact, the School indicated that it has staff who are qualified to administer injections and willingly provides such injections when doing so is called for by a student's individualized education program (IEP) or Section 504 plan. In support of its claims, the School provided OCR with documentation showing that the Student was enrolled in the School at the beginning of the school year and that the School had other students with diabetes who receive injections. The School also said that the Student was still welcome to enroll.

After reviewing initial information provided to OCR by the Complainant and the School, we determined that it was appropriate to enter into an agreement that appropriately addresses the issue raised by the complaint without continuing a full investigation of the allegation.² Therefore, we then drafted a Resolution Agreement ("the Agreement") and sent it to the School. On November 15, 2017, we received a signed Agreement from the School. Enclosed is a copy of the signed Agreement.

When the Agreement is fully implemented, the allegation will be resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. OCR will monitor implementation of the Agreement through periodic reports from the School 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 School fails to implement the Agreement, we will take appropriate action, which may include enforcement actions.

This concludes OCR's evaluation of the complaint and should not be interpreted to address the School's compliance with any law or regulatory provision, or to address any issues other than those addressed in this letter. We are closing this complaint effective the date of this letter.

Please note that a complainant may have the right to file a private suit in federal court whether or not OCR finds a violation. Please be advised that the School 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.

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.

¹ OCR interviewed the Dean by phone.

² Additional investigation would have included, at a minimum, interviewing additional School staff and reviewing additional records for other students.

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.

Thank you for your attention to this matter, and for the assistance of Ms. Davis. If you have any questions or concerns, you may contact Jason Langberg, the attorney assigned to this case, at (XXX) XXX-XXXX or XXXX.XXXX@ed.gov.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

Enclosure: Resolution Agreement

cc: Kimberly Davis, Attorney for the School, Udall Shumway (via email)

Diane Douglas, Superintendent of Public Instruction, Arizona Dept. of Education