



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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February 14, 2019

Dr. Javier Abrego
Superintendent
Adams County School District 14 (Commerce City)
5291 East 60th Avenue
Commerce City, Colorado 80022
Via email only at: jabrego@adams14.org

Re: Adams County School District 14 Commerce City
Case Number 08-18-1145

Dear Superintendent Abrego,

This letter is to inform you of the disposition of the above-referenced complaint, filed on December 16, 2017, alleging that the District discriminated against approximately 14 English language learner (ELL) students from Kearney Middle School/Adams City Middle School on the basis of national origin. Specifically, during the 2017-2018 school year, the District reduced the instructional time each school day for these ELL students by 40 minutes in the morning and 20 minutes in the afternoon for transportation, thus denying equal educational opportunities to these students.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 100 (Title VI) which prohibit discrimination on the bases of race, color, or national origin in activities and programs that receive Federal financial assistance from the U.S. Department of Education. As a local education agency, the District is subject to these laws and regulations.

The Complainant alleges that the District discriminated against ELL newcomer students (Students) traveling from Adams City Middle School to Kearney Middle by shortening their instructional day by 20 minutes to a half an hour in the mornings and by 25 minutes to a half an hour in the afternoon during the 2017-2018 school year.

The District denied that it discriminated against the identified students in the Newcomer Program citing that shortened day was *di minimis*. However, the District acknowledged that the ELL newcomer students from Adams City Middle School attending the newcomer program at Kearney Middle school were arriving late and leaving early each school day. In its position statement, he District stated that for the entire school year, the Students arrived approximately fifteen minutes late each day and left approximately fifteen minutes early each day.

There is additional conflicting evidence and testimony as to the amount of instructional time students missed.

Before the completion of the investigative process the District requested to enter into a Section 302 Resolution Agreement.

Pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*, 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. OCR agrees that a 302 Resolution Agreement is appropriate and addresses the allegation raised in the complaint.

On February 5, 2019, we received the signed Resolution Agreement from the District (enclosed) which resolves the allegations. OCR is closing the investigative phase of this allegation effective the date of this letter. This case is now in the monitoring phase. OCR will closely monitor the District's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the District'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 Title VI and its implementing regulations.

If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions, as described in the Agreement.

This concludes OCR's investigation of this complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in this individual OCR 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.

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 Complainants may file another complaint alleging such treatment. In addition, the Complainants 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. 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.

We thank you for your cooperation in this matter. If you have any follow up questions, please contact xxxxxxxx, attorney advisor, assigned to this complaint, at xxxxxxxx, or by email at xxxxxxxxxxxx.

You also may contact me at xxxxxxxx.

Sincerely,

/s/

Thomas M. Rock
Supervisory General Attorney

Enclosure

cc: Katy Anthes, Commissioner
Colorado Department of Education
Via email only at: anthes_k@cde.state.co.us
Without enclosure

Brian Condon, Attorney at Law
via email only at: bcondon@sempelaw.com