



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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August 7, 2018

Kelly Glass
Interim Superintendent
Sierra Vista School District
3555 E. Fry Blvd.
Sierra Vista, AZ 85635

Sent only via email to: Kelly.glass@svps.k12.az.us

Re: Sierra Vista Public Schools
OCR Case Number: 08-18-1218

Dear Superintendent Glass:

On January 30, 2018, we notified you of a complaint alleging Sierra Vista Public Schools discriminated on the basis of disability. We accepted for investigation the allegation that the District at Huachuca Mountain Elementary School failed to adequately respond to peer disability harassment of the Complainant's son.

OCR enforces Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 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 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.

The Complainant alleged that the District failed to adequately respond to complaints regarding peer disability harassment of the Complainant's son, a 6th grade student. The investigation reviewed alleged incidents from the start of the 2017-18 school year through February 2018. The Complainant provided three different times he informed the District that other students had called his son a variety of names, including "stupid," "idiot," and "retard." The School staff investigated the reports by interviewing the students alleged to be involved, staff, and other potential witnesses. Though the District did not corroborate the allegations, it increased supervision during the times the alleged harassment occurred, including in the cafeteria, during line up time, and at recess. The District moved the two other students to different classrooms, after the Student was asked to move and declined. We note that the District's Bullying and Harassment complaint procedures do not fully comply with the requirements of Section 504 and Title II. We also note that the District's staff could use additional training on conducting investigations related to disability harassment claims. We learned that the Complainant will not be enrolling the Student in the District in the fall 2018.

During the investigation, but before we obtained sufficient evidence to support findings, the District expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR's Case Processing Manual (CPM), resolution options were discussed with the District. The District indicated an interest in resolving the matter voluntarily, which will appropriately address the Section 504 and Title II issue raised by the complaint. We have, therefore, determined that the matter is appropriate for resolution pursuant to Section 302 of the CPM.

The District has entered into the enclosed Agreement. Accordingly, we are closing the investigation of this complaint effective the date of this letter. When the Agreement is fully implemented, the issue will be resolved consistent with the requirements of Section 504 and Title II and its implementing regulations. OCR will monitor implementation of the Agreement through periodic reports from the District demonstrating that 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. The Complainant will be copied on our monitoring letters. If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions.

This letter 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. The Complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and it 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 investigation. If this happens, the individual may file another complaint alleging such treatment.

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, personally identifiable information, which if released could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Thank you for your attention to this matter, the District's cooperation, and the assistance of Ms. Denise Bainton. If you have any questions, please contact Ms. Heidi Kutcher, the primary contact for this case, at 303-844-4572 or by email at heidi.kutcher@ed.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angela Martinez-Gonzalez".

Angela Martinez-Gonzalez
Supervisory General Attorney

Enclosure: Signed Resolution Agreement

Cc Denise Bainton, Attorney for the District (via email)

cc (w/o enclosures): Diane Douglas, Arizona Superintendent of Public Instruction