



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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August 6, 2018

Dr. Gabriel Trujillo  
Superintendent  
Tucson Unified School District  
1010 E. Tenth St.  
Tucson, AZ 85719

Sent via email only to: [Gabriel.Trujillo@tusd1.org](mailto:Gabriel.Trujillo@tusd1.org)

Re: Tucson Unified School District  
Case Number: 08-18-1248

Dear Superintendent Trujillo:

This letter is to inform you of the disposition of the above-referenced complaint, filed on February 13, 201, alleging the Tucson Unified School District (District) discriminated on the basis of disability.

Specifically, the Complainant alleged the following: the District retaliated against her and her son for filing a special education due process complaint in May 2017 on behalf of her son, a student with a disability (Student), when it targeted him, suspended him and brought charges against him several times during the 2017-18 school year; the District failed to appropriately respond to an internal disability discrimination grievance the Complainant lodged with the District; and the District failed to implement her son's IEP when it placed him in a quiet room and restrained him in February 2018.

We are responsible for enforcing 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. Additionally, individuals filing a complaint, participating in an investigation, or asserting a right under Section 504, and Title II are protected from retaliation or intimidation by 34 C.F.R. § 104.61, which incorporates 34 C.F.R. § 100.7(e), and 28 C.F.R. § 35.134. 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 course of the investigation, the District expressed an interest in voluntarily entering into an agreement to resolve the allegations regarding retaliation and failure to implement the Student's IEP, and to ensure compliance with Section 504 and Title II. 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.

On July 31, 2018, we received the District's signed Resolution Agreement (enclosed) which resolves the retaliation and failure to implement allegations. OCR is closing the investigative phase of these allegations effective the date of this letter. This case is now in the monitoring phase. OCR will closely monitor the recipient's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the recipient'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 Section 504, Title II, and their 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.

Additionally, the District provided information indicating that the remaining allegation has been resolved. The Complainant alleged the District's Director of Middle Schools (DMS) failed to respond to an internal disability grievance she lodged with him.<sup>1</sup> The District and Complainant both provided information including emails, which we reviewed. The information showed that on approximately January 12 and January 26, 2018, the Complainant met with District staff and raised various concerns regarding the Student.<sup>2</sup> On February 12, 2018, the Complainant emailed the DMS inquiring about the status of the investigation. The DMS responded that same day, asking if she was referring to a recent incident at school. The Complainant responded that she was not referring to that incident, but rather was referring to the concerns she raised with him in January. On February 13, 2018, the Complainant filed the OCR complaint, and subsequently sent an additional email to the DMS stating many concerns, including a concern of disability discrimination. On that same day, the DMS emailed the Complainant clarifying and outlining her concerns she had raised and that he was investigating, and requested that the Complainant let the DMS know if there were additional concerns or clarifications. On February 21, 2018, the DMS emailed the Complainant a detailed response to all of her concerns, including addressing her concern of disability discrimination.<sup>3</sup>

Upon our review of the information provided by both the Complainant and the District, we determined the District appropriately and promptly responded to the Complainant's concerns, including her concern of disability discrimination. Pursuant to OCR's *CPM Section 108(i)*, OCR will dismiss an allegation when it obtains credible information indicating that an allegation raised by the complainant has been resolved or is no longer appropriate for investigation. Because the District appropriately responded to the Complainant's internal disability discrimination grievance, we are dismissing this allegation effective the date of this letter.

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<sup>1</sup> The Complainant alleged she lodged this grievance in Fall 2017. However, the information provided by the Complainant and the District shows the grievance was lodged in January/February 2018.

<sup>2</sup> The concerns raised do not appear to include disability discrimination.

<sup>3</sup> We note the Complainant filed the OCR complaint alleging failure to respond to her internal disability discrimination complaint on February 13, 2018, which is one week before the District provided its response to the Complainant.

## **Conclusion**

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. If OCR receives such a request, we will protect personal information to the extent provided by law.

We thank you for your cooperation in this matter. If you have any questions, you may contact xxxx, the Attorney assigned to this case, at xxxx or by email at xxxx.

Sincerely,

/s/

Thomas M. Rock  
Supervisory General Attorney

Enclosure: Signed Resolution Agreement

cc: Honorable Diane Douglas, Arizona Superintendent of Public Instruction (w/o enclosure)  
Rob Ross, Esq.  
Denise Bainton, Esq.