



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

July 16, 2018

Mr. Tom Boasberg  
Superintendent  
Denver Public School District  
1860 Lincoln Street, 12<sup>th</sup> Floor  
Denver, Colorado 80203

*Sent via email only to XXXX*

Re: Denver Public School District  
Case Number: 08-18-1321

Dear Superintendent Boasberg:

On April 6, 2018, we received a complaint alleging that Denver Public School District (District) discriminated against the Complainant's son (Student) on the basis of disability. Specifically, the Complainant alleged that the District discriminated when XXX (School) revoked the Student's Section 504 Plan without conducting an evaluation or seeking the input of a group of knowledgeable persons.

We initiated an investigation under the authority of 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 U.S. Department of Education; 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.

During the investigation, and before we conducted interviews and had sufficient evidence to support findings, the District expressed a desire to take voluntary action to resolve the complaint allegation. OCR determined that it was appropriate, pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), to resolve the allegation with a 302 Agreement without completing a full investigation. The District has entered into the attached Agreement which, when fully implemented, will resolve the concerns raised in the complaint. The Agreement requires the District to: (1) introduce the Complainant to a District Parent Liaison who will be available to assist him with educational matters related to the Student's disability-related needs until the Student graduates in XXX; (2) convene a Section 504 meeting to determine whether the Student consistently received accommodations throughout the 2017-2018 school year and, if not, to determine the amount and nature of compensatory services; (3) conduct a full re-evaluation of the Student *or* provide documentation to OCR that demonstrates that the Student has been evaluated consistent with the requirements of the regulations implementing Section 504 at 34

C.F.R. §§ 104.35 and 104.36 ; (4) provide notice to the Student’s teachers if his Section 504 Plan is changed as a result of his re-evaluation; (5) convene a Section 504 meeting to determine whether the Student’s placement was inappropriately changed when the District changed his disability from “actual” to “perceived” and whether the District failed to appropriately place the Student and provide accommodations for his diagnosis of XXX; (6) provide notice to the Student’s teachers of the accommodations they are responsible for implementing and who they may contact if they have questions; and (7) provide training on the Section 504 regulations to the School’s Section 504 Coordinator, Testing Coordinator, Administrative Team, and other relevant staff identified by the District.

Prior to resolving the allegation through the Agreement, OCR learned that the Student was placed on a Section 504 Plan at the XXX on XXX. The Student transferred to the School XXX school year. During the XXX semester, the School held a Section 504 meeting to determine whether the Student’s placement was appropriate. The Complainant and District disagree about what transpired prior to, during, and following the meeting; specifically, the parties disagree about how and why the categorization of the Student’s disability was changed, whether the Student’s 504 Plan was fully implemented, and whether the Student’s placement was changed prior to a re-evaluation.

After reviewing initial information provided to OCR by the Complainant and District, 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. Therefore, we then drafted a Resolution Agreement (Agreement) and sent it to the District. On July 12, 2018, we received a signed Agreement from the District. A copy of the signed Agreement is attached.

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 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 concludes OCR’s investigation of the allegation and should not be interpreted to address the District’s compliance with any law or regulatory provision, or to address any issues other than those addressed in this letter.

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

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 are committed to prompt and effective service. If you have any questions, please contact Allison Morris, the attorney assigned to this case, at XXX, or by email at XXX.

Sincerely,

/s/

Angela Martinez-Gonzalez  
Supervisory General Attorney