



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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December 13, 2018

Superintendent Raquel Reedy  
Albuquerque Public School District  
P.O. Box 25704  
Albuquerque, NM 87125-8864

*Sent via email only to superintendent@aps.edu*

Re: Albuquerque Public School District  
Case Number: 08-18-1482

Dear Superintendent Reedy,

This letter advises you of the resolution of this complaint, filed against the Albuquerque Public School District (District). The Complainant alleged the District discriminated against her son (Student) on the basis of disability by treating him differently than his non-disabled peers when it did not permit the Student XXXX during the 2017-2018 school year. Additionally, the Complainant alleged that the District discriminated against the Student on the basis of disability by failing to ensure that the Student had equal access to the bus transportation services provided by the District.

Because we have the authority and the complaint was filed timely, we initiated an investigation of the complaint under the authority of 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.

We began our investigation with a review of data we requested from the District regarding the allegation raised in the complaint. While conducting this review, the District expressed an interest in voluntarily entering into an agreement with OCR prior to OCR conducting a site visit.

Our initial review of the information provided by the District revealed that it was not providing the Student with bus transportation services, which raises the possibility that the District treated the Student differently on the basis of disability. Additionally, our investigation revealed that the Complainant may have requested the District to provide the Student with bus transportation services as early as April 2, 2018, and possibly earlier, and that bus transportation services were not being provided to the Student throughout the 2017-2018 school year for which the last day of

classes at DRMS was May 23, 2018. However, our review also revealed that the District may have a legitimate non-discriminatory and non-pretextual reason for not providing transportation services to the Student, including that the Student did not use a XXXX that complied with safety standards for transport on the bus and the Complainant may have rejected accommodations the District offered to ensure the Student had equal access to its bus transportation services.

Regarding after school curbside pick-up, our initial investigation reveals that XXXX. However, the evidence obtained to date does not indicate how non-disabled students were treated and whether the Student was treated differently than them. Additionally, although the evidence suggests that the Student was XXXX because he was not picked up on time, it is unclear whether this is the District's justification for its actions.

Further investigation is necessary in order for OCR to make findings for each of the allegations.

Pursuant to Section 302 of OCR's Case Processing Manual, 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 allegation.

On December 10, 2018, we received the District's signed Resolution Agreement (enclosed). OCR is closing the investigative phase of this case effective the date of this letter. The 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 allegation will have been resolved consistent with the requirements of Section 504 and Title II, and its implementing regulation. If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions, as described in the Agreement.

OCR routinely advises recipients of Federal funds that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR and those participating in a complaint investigation. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

Please also note that the complainant 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, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions or concerns, please feel free to contact XXXX, Attorney Advisor at XXXX.

Sincerely,

/s/

Thomas M. Rock  
Supervising General Attorney

Enclosure – Copy of Resolution Agreement

cc (w/o enclosures): Ms. Diane Douglas, Superintendent of AZ Department of Education,  
via email only to [adeinbox@azed.gov](mailto:adeinbox@azed.gov)

cc (w/o enclosures): Lisa Zanussi  
via email only to [lisa.zanussi@aps.edu](mailto:lisa.zanussi@aps.edu)