



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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December 26, 2018

Ms. Cindy Franklin
President
Franklin Phonetic School
6166 E. State Highway 69
Prescott Valley, AZ 86314

Sent via email only to Designated Representative at: lgc@condoslaw.com

Re: Franklin Phonetic School
OCR Case Number: 08-18-1533

Dear Ms. Franklin:

On August 29, 2018, we notified you of a complaint alleging that Franklin Phonetic School discriminated on the basis of disability. We accepted for investigation the allegation that the School treated the Student differently based on his disability when the Complainant and her husband were required to attend a field trip and School events in order for the Student to participate.

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. As a recipient of Federal financial assistance from the Department and a public entity, the School is subject to these laws and regulations.

The Complainant alleged she and her husband were required to attend any field trips and school events in an Individualized Education Program (IEP) meeting on May 3, 2018. During the 2017-18 school year, the Complainant's son (Student) attended the School in the 3rd grade. At the beginning of the school year, the School began the process of evaluating the Student for a suspected disability. The Student was found eligible and placed on an IEP on October 18, 2017 for Attention Deficit Hyperactivity Disorder (ADHD), Oppositional Defiance Disorder (ODD), and anxiety. Towards the end of the year, the Student began having increased behavioral issues in the classroom. The Complainant and her husband withdrew the Student from attending the School following the May 3, 2018 IEP meeting but prior to any field trips or school events.

During the investigation, but before we obtained sufficient evidence to support findings, the School expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR's Case Processing Manual (CPM), resolution options were discussed with the School. The School indicated an interest in resolving the matter voluntarily, which will appropriately address the

Section 504 and Title II issues raised by the complaint. We have, therefore, determined that the matter is appropriate for resolution pursuant to Section 302 of the CPM.

The School 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 their implementing regulations. OCR will monitor implementation of the Agreement through periodic reports from the School 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 School fails to implement the Agreement, we will take appropriate action, which may include enforcement actions.

This letter should not be interpreted to address the School'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 School 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 the assistance of Mr. Leo Condos. If you have any questions, please contact Ms. Heidi Kutcher 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', with a stylized flourish at the end.

Angela Martinez-Gonzalez
Supervisory General Attorney

Enclosures – Resolution Agreement

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