



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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DENVER, CO 80204-3582

REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

January 15, 2019

Ms. Susana Cordova, Superintendent
Denver Public Schools
1860 Lincoln Street
Denver, Colorado 80203

via email only to XXXX@XXXX

Re: **Denver Public Schools**
OCR Case Number 08-18-1577

Dear Superintendent Cordova:

We write to inform you of the resolution of the above-referenced complaint, filed on September 7, 2018, with the Office for Civil Rights (OCR) of the U.S. Department of Education ("Department"), against Denver Public Schools ("District"), alleging discrimination on the basis of disability. Specifically, the Complainant alleged that the District refused to allow her son ("Student") to attend school, from approximately XXXX 2018 to XXXX 2018, because she filed a state complaint and/or due process complaint with the Colorado Department of Education (CDE) and also revoked consent for the Student to have an individualized education program (IEP).

We investigated the allegations pursuant to: Section 504 of the Rehabilitation Act of 1973 ("Section 504"), and its implementing regulation, at 34 Code of Federal Regulations (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 ("Title II"), 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.

Prior to OCR issuing a final determination pursuant to Section 303 of our *Case Processing Manual* (CPM), the District expressed an interest in resolving the allegation pursuant to Section 302 of the CPM. OCR determined that it is appropriate to resolve the allegation because our investigation had identified issues that could be addressed through a resolution agreement. Therefore, on December 12, 2018, OCR sent the District a proposed resolution agreement ("Agreement"). On January 15, 2019, OCR received a signed Agreement from the District. The provisions of the Agreement are tied to the allegation and evidence obtained during the investigation, and will be consistent with applicable regulations.

This letter details the applicable legal standards and the status of our investigation prior to receiving the District's request to enter into an agreement.

I. LEGAL STANDARD

Under the Section 504 regulations, at 34 C.F.R. Section 104.4(a) and (b), no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. The Title II regulations, at 28 C.F.R. Section 35.130(a) and (b), create the same prohibition against disability-based discrimination by public entities. Under 34 C.F.R. Section 104.4(b)(1) and 28 C.F.R. Section 35.130(b)(1) a recipient school district may not, directly or through contractual, licensing, or other arrangements, on the basis of disability, deny a qualified student with a disability the opportunity to participate in or benefit from an aid, benefit, or service.

To determine whether an individual has been discriminated against on the basis of disability under Section 504 and Title II, OCR looks at whether there is evidence that the individual was treated differently than non-disabled individuals under similar circumstances, and whether the treatment has resulted in the denial or limitation of services, benefits, or opportunities. If there is such evidence, OCR examines whether the school district provided a nondiscriminatory reason for its actions and whether there is evidence that the stated reason is a pretext for discrimination. For OCR to find a violation, the preponderance of the evidence must establish that the school district's actions were based on the individual's disability.

II. INVESTIGATION

Our investigation focused on obtaining the evidence necessary to determine whether the District complied with these legal standards. As of the date we received the District's request for an Agreement, our investigation consisted of: (a) requesting and reviewing documents and information from the Complainant and District; and (b) interviewing the Director of Student Services at Wyatt Academy, the Director of Community Engagement at Wyatt Academy, and the District's Director of Special Education.

III. EVIDENTIARY STANDARD

OCR applies a preponderance of the evidence standard to determine whether the evidence is sufficient to support a particular conclusion. Specifically, OCR examines the evidence in support of and against a particular conclusion to determine whether the greater weight of the evidence supports or is insufficient to support the conclusion.

IV. EVIDENCE TO DATE

A. Background

The Student began the 2017-2018 school year (SY) in XXXX at XXXX in the District. He was identified as a student with a disability and had an individualized education program (IEP), with "serious emotional disability" as his area of eligibility. According to his education records, he has a history of problematic behaviors at school, including [XXXX – redacted – XXXX].

On January 16, 2018, the Complainant filed a state complaint against the District; however, she withdrew the complaint days later. Then, the Complainant filed four state complaints, on February 2, 2018, which CDE consolidated into one complaint. As a result of the complaints, the District offered and provided compensatory services to the Student during summer 2018.

On XXXX, the Student started in XXXX, an affective needs (AN), private day program physically located at XXXX School in the District. On XXXX, the Student's IEP team met and decided to continue the Student's placement at XXXX and to conduct a comprehensive re-evaluation of the Student in XXXX 2018.

B. Detailed Facts

At the beginning of the 2018-2019 SY, the Complainant was domiciled in the District's "XXXX School Enrollment Zone."¹ Pursuant to the District's student assignment policies and procedures, the Complainant could select any District school when completing the District's school choice application; however, the Student was only guaranteed assignment at the following schools in his zone: XXXX (ECE to 5); XXXX (K to 5); XXXX (ECE to 8); or XXXX (K to 8). February 28, 2018 was the deadline to be considered in the first round of the District's school choice process. According to the District, the Complainant did not submit anything for the first round of choice.

According to the District:

[The Complainant] remained dissatisfied with the "separate school" placement identified in [the Student]'s IEP—XXXX. Consequently, beginning XXXX, [the Complainant] utilized the District's choice of school process on numerous occasions to attempt to "choice" [the Student] into various District schools she preferred over XXXX. [The Complainant] utilized the District's school-choice interface, SchoolMint to do so. Between XXXX and XXXX, [the Complainant] identified at least 15 different schools as potential options for [the Student] and frequently edited her preference list (adding schools and adjusting her priorities within the system). In some cases, these repeated changes resulted in the withdrawal of schools from her preference list.

On XXXX, the Complainant submitted a school choice application for round two of the choice process for the 2018-2019 SY. On XXXX, the Complainant edited her school choice application.

On XXXX, the Complainant texted the program administrator at XXXX ("XXXX Program Administrator") that she would not sign consent for a re-evaluation of the Student. The XXXX Program Administrator notified the District's director of special education during the 2017-2018 SY ("17-18 Sped Director") and District's associate director of special education ("Associate Director").

Additionally, on XXXX, SchoolMint notified the Complainant that the District was offering the Student a seat at Downtown Denver Expeditionary School (DDES).² The Complainant contacted the student support dean at DDES ("DDES Dean") to express an interest in enrolling the Student. The DDES Dean notified the 17-18 Sped Director and the Associate Director.

On XXXX, the 17-18 Sped Director replied to the DDES Dean, "Her son has significant social and emotional needs. He has been placed in a program that mom is not happy with the placement. He is not appropriate for your school." Consequently, the enrollment secretary at DDES withdrew the offer to attend DDES through SchoolMint, noting in the system, "District states cannot place at DDES." The District wrote to OCR, "In summary, the offer was withdrawn because DDES determined, after

¹ According to the District, it "was unaware of any changes to the Complainant's address/domicile during the 2018-2019 school year."

² The first day of the 2018-2019 SY at DDES was August 20, 2018.

communicating with the District Special Education Department, that it was an inappropriate educational setting for the Student based on the Student's educational needs as outlined in the Student's IEP; more specifically, DDES did not offer the specific services that the student needed according to his IEP." The Dean emailed the Complainant, "I want to let you know that I did have a chance to talk to the district, and they sent me a copy of his most current IEP. Based on his most recent evaluation, I regret to inform you that we don't have the supports needed as listed in the IEP (Separate School), so we are not able to enroll him."

The Complainant next sought to enroll the student in University Preparatory School – Arapahoe Street ("U Prep").³ On XXXX, the Complainant emailed the District's "Choice and Enrollment Mailbox," "I've submitted a school choice form for XXXX. How long will this take to be approved? My child's name is [redacted] and it was for University Prep – Arapahoe Street." The District's senior manager of choice and enrollment services ("Senior Manager of Choice") replied, "U Prep is working on their enrollments as we speak and will let families know in the next week if they can accept off their waitlist."

On XXXX,⁴ XXXX,⁵ and XXXX,⁶ the Complainant notified the District that she had unilaterally decided to not have the Student return to XXXX for the 2018-2019 SY. On XXXX, the Complainant also filed a due process complaint against the District.

The first day of the 2018-2019 SY in the District was August 20, 2018. According to the District, the Student was enrolled in and could have attended XXXX that day.

On XXXX, SchoolMint notified the Complainant that the District was offering the Student a seat at Wyatt Academy ("Wyatt"), a K-5 charter school in the District. The same day, the Complainant accepted the offer, thereby enrolling the Student at Wyatt, with his first day set to be XXXX. The District wrote to OCR, "[The Complainant] never brought [the Student] to Wyatt Academy to actually begin attending." The District also wrote to OCR, "While Wyatt Academy remained willing and able to accept the Student's attendance, the family chose not bring the Student to Wyatt Academy at any time. Thus, the Student did not attend any days at Wyatt Academy."

On XXXX, SchoolMint notified the Complainant that the District was offering the Student a seat at Bryant Webster Dual Language ECE-8 School ("Bryant Webster"); however, the Complainant declined the offer.

On XXXX, SchoolMint notified the Complainant that the District was offering the Student a seat at Garden Place Academy ("Garden Place"); however, the Complainant declined the offer.

OCR asked the District why SchoolMint continued sending the Complainant enrollment invitations even though she had already accepted a seat for the Student at Wyatt. The District responded, "When a parent applies to multiple schools through SchoolMint, the parent can rank the schools in order of preference. If the student has accepted a seat at a school, the less preferred applications are

³ The first day of the 2018-2019 SY for first graders at U Prep was August 14, 2018.

⁴ The Complainant texted the XXXX Program Administrator that the Student would not attend XXXX for the 2018-2019 SY. The XXXX Program Administrator notified the 17-18 Sped Director and Associate Director.

⁵ The Complainant emailed the 17-18 Sped Director, "I did let [the XXXX Program Administrator] know [the Student] would not be returning to XXXX."

⁶ The Complainant emailed the 17-18 Sped Director, "[The Student] will not be attending XXXX and that was only a temporary placement per my email sent to the district and the attorney in March."

automatically withdrawn. However, the more preferred applications remain active, which means that a parent may continue to receive offers from more-highly-ranked schools.”

On XXXX, U Prep withdrew the Complainant’s application “because it was an inappropriate placement for [the Student] under [the Student]’s IEP.” U Prep staff sent a message to the Complainant, via SchoolMint, which read, “University Prep does not offer an ANI center and therefore we cannot enroll him at either of our campuses. Application Declined[.]” The Complainant was never offered a seat for the Student at U Prep.

On XXXX, the District’s Senior Manager of Choice emailed the director of operations at Wyatt (“Wyatt Director of Operations”), “It has come to our attention that [the Student] has enrolled at Wyatt. ... [T]his student is a student has [sic] a LRE code of Separate School and we want to make sure we can support you with next steps as, unfortunately, your school setting will not be appropriate for this student’s needs.” The director of student services at Wyatt (“Director of Student Services”) emailed the 17-18 Sped Director and others, “I ... discovered that [the Student]’s IEP service section indicates that his LRE is a center program which we do not currently have the services to provide. We as a team will elect to remove [the Student] from our enrollment effective today.” However, according to the District and the Wyatt Director of Student Services, he never actually removed the Student and never notified the Complainant that the Student had been removed.

On the evening of XXXX, the District received notification that the Complainant revoked consent for special education for the Student.⁷ The 17-18 Sped Director emailed the District’s special education director for the 2018-2019 SY (“18-19 Sped Director”), “I am really concerned that she will enroll him and he will be out of control right away. Do we have a 504 obligation? What recourse will a school have? I assume they will have to suspend him. We will need to be prepared to give any school he attends advice.”

On XXXX, before the District’s central office notified any schools of the Complainant’s revocation of consent, the Wyatt Director of Student Services met with the Complainant. The Wyatt Director of Student Services then emailed the 17-18 Sped Director and the District’s senior manager of special education (“Senior Manager of Sped”):

Today the [Complainant] contacted our school as a follow-up to our initial inquiries surrounding his attendance, which was prior to the information we received about his services. I informed her that I had spoken with our district partners and that the LRE of his services has him placed outside of the traditional setting in order to meet his needs. His mother mentioned that REACH is currently placement came to pick him up this morning but she was not communicated with that this was his school. She mentioned that she went to REACH and spoke with an administrator and was told that REACH too was not his placement.

I asked if I could call her back when I had answers and she agreed. Following this phone call I received a message that [the Complainant] was here at the school. I was taken out

⁷ The Complainant emailed the 17-18 Sped Director and the District’s attorney, “Upon receiving attached document all special educational services for [the Student] will end immediately or sometime soon after receiving notice of revocation of consent (which is attached to this email). Also, my due process complaint will be withdrawn at this time per request of parent.” The Complainant filed a revocation of consent with CDE on XXXX.

of a meeting and told that we had to accept him because Wyatt was his school. I informed her of the provisions within his IEP and she stated that this IEP was invalid and that she had requested an Independent Education Evaluation (IEE). I was empathetic to her situation, but informed her that we would need to follow the provisions surrounding his most recent IEP.

Ultimately, I let his mother know that I would get back with her as soon as I had more answers. Please advise on next steps for communication and the extent of our ability to adhere to the provisions set forth by [the Student]'s IEP.

On XXXX, the District sent a prior written notice to the Complainant, notifying her that the District had received the notice of revocation of consent and would no longer provide special education or related services to the Student through an IEP. The prior written notice read, "Denver Public Schools acknowledges receipt of your Notice of Revocation of Consent for special education and related services on XXXX. ... [The Student] will be placed in general education, and all special education and related services he was receiving pursuant to his IEP will cease, effective XXXX."

OCR asked the District why SchoolMint, from XXXX to XXXX, repeatedly offered the Complainant seats for the Student at various schools, even though the Student's special education placement (pursuant to his IEP) was "separate school." The District responded:

During Round 2 of the choice process, Choice and Enrollment did not have an established process for flagging students whose IEPs called for education within a center-based program or separate school. Choice and Enrollment expected that schools would review the Infinite Campus profiles of students who applied through SchoolMint to determine whether the LRE code of a student was such that the school might not be an appropriate placement for the student. Then, if the school believed that its setting was inappropriate under the student's IEP, the school could contact the DPS Special Education Department to determine how to ensure the student would be located in an appropriate setting. The enrollment secretaries at schools had access to the Infinite Campus profiles of DPS students to review this information before offering the student a seat through SchoolMint. The information available to enrollment secretaries through Infinite Campus included the students' Enrich tab, which indicated each student's LRE code (if any) as long as the student had an active DPS enrollment.

However, this information about how the Round 2 process would work and what information was available to schools was not clearly communicated to schools. The information was not expressed in the District's training offered to schools about the school-choice process. Consequently, Wyatt Academy staff expressed that they were unaware that the Wyatt registrar would have access to Infinite Campus for not-yet-enrolled students and expressed their impression that reviewing the IEP information of such students before offering the students seats would have been improper. In other words, for Round 2, the District did not have a clearly communicated procedure for notifying schools about or aiding schools in the determination whether each particular school could meet the educational needs of an applying student. Rather, as was the case here, District representatives simply contacted schools on an ad hoc basis when they determined that a student was applying to or had enrolled into a school that provided an inappropriate educational setting for the student.

On XXXX, the complainant reapplied to Bryant Webster through SchoolMint.

Also on XXXX, a resolution meeting for the XXXX due process complaint was held between the Complainant and the 18-19 Sped Director. The notes from the meeting read, in relevant part, “[The Complainant] stated that she prefers Wyatt School because it is closer to her home; however, she is concerned that they may try to have him kicked out of that school due to his behaviors.” According to the District, “[The 18-19 Sped Director] explained that he could help ensure interim services and a behavior plan for [the Student] under Section 504, but that he would need until XXXX (following Labor Day weekend) to ‘get the ball rolling.’” According to the 18-19 Sped Director, he told the Complainant that he needed time to make preparations and did not commit to a specific date. According to the Complainant, she and the 18-19 Sped Director agreed to the Student starting at Wyatt on XXXX. OCR asked the 18-19 Sped Director if there was an understanding about where the Student could attend school in the meantime. He replied that the Student should have attended XXXX, even after the Complainant revoked consent, and even though, on XXXX, the Complainant had accepted an offer from the District to enroll the Student at Wyatt Academy, and even though he also told OCR that the Student could have started at Wyatt on XXXX.

OCR asked the 18-19 Sped Director when he next communicated with the Complainant about the “ball” having finished “rolling” and a placement for the Student being ready. The 18-19 Sped Director said he has not spoken with the Complainant since the XXXX meeting.

On XXXX, the Director of Student Services emailed staff in the District and at Wyatt a calendar invitation, which listed as an agenda item, “Planning for entry, ideally Friday[.]”

According to the Complainant, she spoke with the Director of Student Services on XXXX, and his understanding was also that the Student would start at Wyatt the following day. The Complainant also reported that the Director of Student Services asked her to bring the Student to the School the following morning for a tour and then for the Student to start school. The Director of Student Services confirmed this conversation.

On XXXX, the Director of Student Services emailed staff at Wyatt, in part, “Today I spoke with our district sped partner about an incoming student [name redacted] (XXXX) and our Sped. FTE ratio. ... As of now [the Student] will begin full-time on Friday morning.” OCR asked the Director of Student Services where the Student was supposed to attend school in the meantime, but his answer was non-responsive. Asked who decided that the Student would not begin until Friday morning, the Director of Student Services simply said it was a “team decision.”

On XXXX, the District’s special education instructional specialist (“Instructional Specialist”) emailed an office support staff member on the District’s Student Equity and Opportunity Operations Team (“Office Support Member”), “I am requesting assistance from a behavior technician to support at Wyatt Academy for a first grade student. Student is [name redacted].” The Office Support Member sent the request to the Instructional Specialist.

On XXXX, the Complainant brought the Student to Wyatt for a tour and first day of school.⁸ They met in a conference room with the Instructional Specialist, Director of Student Services, and Wyatt's Director of Community Engagement ("Director of Community Engagement"). According to the Complainant, they told the Complainant that the Student could not start at Wyatt because there was not yet adequate supports to meet the Student's needs. Neither the Director of Student Services nor the Director of Community Engagement could recall such a statement. The Director of Student Services and the Director of Community Engagement reported that the Complainant listed a variety of supports the Student would need, including a one-on-one paraprofessional, a small group setting, and frequent, supervised breaks. The Director of Community Engagement and the Director of Student Services told the Complainant that such supports were not readily available at Wyatt. The Director of Community Engagement told the Complainant, however, that she would need to reach out to the District for further clarification. The Director of Community Engagement told OCR that the Instructional Specialist repeatedly told the Complainant that she was essentially requesting special education services that could not be provided in general education, and without allowing the District to have the Student in special education.

According to the Director of Community Engagement, she called the 18-19 Sped Director, and he said that the Student's start date would not be for least another week and that the Student would not start at Wyatt until a Section 504 plan was put into place for him, but he did not provide a specific date. The 18-19 Sped Director told OCR that he did not recall making such a comment about a Section 504 plan. In fact, his version of their discussion was very different than the Director of Community Engagement's version. According to the 18-19 Sped Director, he was "calming her down" during the call because she was upset about Wyatt not being prepared to meet the Student's needs. The 18-19 Sped Director said he agreed with the Director of Community Engagement that Wyatt was not ready to meet the Student's needs, but told her it was simply the unfortunate reality. Regardless, to accommodate the Complainant's work schedule, the Director of Community Engagement and Director of Student Services reported to OCR that Wyatt planned for the Student to start on XXXX.

On XXXX, the Director of Community Engagement left a voicemail for the Complainant in which she said:

[The 18-19 Sped Director] has something in writing, from your conversation on Friday, about school not starting until hopefully sometime next week. ... [The 18-19 Sped Director] has informed me that school will not be starting this week. ... We are going to wait to hear back from [the 18-19 Sped Director] and/or his legal representative from the legal department. And then we will find a time for the 504 that works for you, their team, and [the Instructional Specialist]. And then, after that 504 plan is put in place, we will be able to figure out the first day of school.

OCR asked the Director of Community Engagement where the Student could have attended school on XXXX. She responded that she was not sure, adding that someone from the District should have contacted Wyatt with a plan after the XXXX resolution meeting, but no one did.

On XXXX, the Complainant emailed the District's attorney and 18-19 Sped Director:

⁸ The District's assertion to OCR that "the family chose not bring the Student to Wyatt Academy at any time" appears to have been incorrect.

From our meeting on the 31st it was our agreement that he would start at Wyatt this week on Wednesday. Now not only is the district stalling but it's also denying my child a[n] education that he is entitled to. He is enrolled at Wyatt and the fact that this school is denying him access is against the law. ... I would also like to give the district the opportunity to come to the table before the end of this week regarding this urgent matter before completing my secondary complaint for a second due process court hearing.

On XXXX, the District's manager of tiered quality assurance ("Manager") emailed the Director of Student Services and others, "I am writing to connect you with [the Director of Student Services] who will be leading point on supports for [the Student] for Wyatt Academy with the support of [the Director of Community Engagement]." However, the Director of Student Services replied, "Before we can connect regarding a plan for supports we have been advised to wait for both the Wyatt and DPS legal teams to come to a consensus." The Manager replied, "Please let us know when the school gets an ok from its legal representation to resume conversations about coordinating supports."

Additionally, on XXXX, the Director of Community Engagement emailed the 18-19 Sped Director:

Yesterday when you and I spoke on the phone you stated that [the Student] would not be starting at Wyatt this week. ...

As of this afternoon, I am now being told that DPS's attorneys are saying that [the Student] will start tomorrow morning. This is too short of time to prepare a homeroom teacher and come up with an extensive support plan.

Please confirm that [the Student] will not start until next week. Please also confirm that he will not start until a 504 plan has been put in place.

According to the Director of Community Engagement, she thought the 18-19 Sped Director was going to follow up with her, after their phone call and her email to him, but he never responded. Additionally, she reported to OCR that Wyatt staff were confused because they were being told by the 18-19 Sped Director that the Student would not start until the following week, and at the same time, being told by the District's attorney(s) and the Manager that the Student would start on XXXX.

Finally, on XXXX, the Senior Manager of Sped emailed a group of individuals, including the District's manager of behavior strategies ("Manager of Behavior Strategies"), in part:

Immediate Next Steps for Completion TODAY

- [The Manager of Behavior Strategies]'s team to support starting tomorrow—need to speak with Wyatt today for planning
- [The Manager] to connect Wyatt and [the Manager of Behavior Strategies] to ensure communication and planning before [the Student]'s start tomorrow
- [The Manager] to start working on scheduling 504 meeting for next week (details below) ...

504 Meeting Outline ...

- LRE will be considered and location decision will come from the district
- Eligibility report to be used as the 504 Evaluation

On XXXX, the Complainant filed a complaint with OCR.

On XXXX, the Director of Community Engagement emailed the Manager, “Wyatt will not be participating in the 504 until the latest round of legal concerns have been addressed.” The Director of Community Engagement explained that Wyatt staff were frustrated by the lack of communication and mixed messages from the District.

On XXXX, the Senior Manager emailed the Manager, “I think you know this but we had heard that [the Student] hadn’t been attending yet ...” According to the District, “[A]fter the XXXX meeting, [Director of Student Services] attempted to contact [the Complainant] several times (on XXXX X, X, and X), receiving no response from [the Complainant].” According to the Director of Community Engagement and the Director of Student Services, the Student could have started attending Wyatt on XXXX, but that the Complainant did not bring him to the school after XXXX; and the Director of Student Services reached out to the Complainant multiple times.

On XXXX, SchoolMint notified the Complainant that the District was again offering the Student a seat at Bryant Webster in response to the Complainant’s XXXX re-application.

On XXXX, the Complainant notified Wyatt that the Student would not be attending Wyatt,⁹ and enrolled the Student at Bryant Webster. The Student began attending Bryant Webster that same day.

V. CONCLUSION

We thank the District for being willing to voluntarily address the allegation raised by the Complainant. A copy of the signed Agreement is attached. OCR will monitor implementation of this Agreement through periodic reports from the District about the status of the Agreement terms. We will provide the District written notice of any deficiencies regarding implementation of the terms of the Agreement and will require prompt actions to address such deficiencies. We will inform the Complainant of the status of the Monitoring, including providing the Complainant with copies of our monitoring responses. If the District fails to implement the Agreement, we will take appropriate action, as described in the Agreement.

This letter addresses only the issues listed previously and should not be interpreted as a determination of the District’s compliance or noncompliance with Section 504, Title II, or any other Federal law in any other respect.

The case is now in the monitoring phase. The monitoring phase of this case will be completed when OCR determines that the District has fulfilled all terms of the Agreement. When the monitoring phase of this case is complete, OCR will close this case and send a letter to the District, copied to the Complainant, stating that this case is closed.

This letter sets forth OCR’s determination in an 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. The

⁹ The Complainant texted the Director of Student Services, “[W]e have decided to go with another school for [the Student] and will no longer be interested in having him attend Wyatt.”

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

Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law.

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, personal information, which if released, could constitute an unwarranted invasion of privacy.

Thank you for the courtesy and cooperation that you and your staff extended to us during the investigation and resolution of this case. If you have any questions, please contact Jason Langberg, the attorney assigned to this complaint, at (XXX) XXX-XXXX or XXXX@XXXX.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

Attachment: Agreement

cc (via email): Stephen Fusco, Attorney for the District
Charles Fine, Attorney for the District
Susan Sperber, Attorney for Wyatt
Katy Anthes, Colorado Commissioner of Education