



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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December 3, 2018

Ms. Vicki Higgins, Principal
Arts Academy at Estrella Mountain
PLC Charter Schools
2504 South 91st Avenue
Tolleson, Arizona 85353

via email only to XXXX@XXXX.XXX

Re: **PLC Charter Schools**
OCR Case Number 08-19-1037

Dear Principal Higgins:

We write to inform you of the resolution of the above-referenced complaint, filed on August 25, 2018, against PLC Charter Schools – Arts Academy at Estrella Mountain (“School”), alleging discrimination on the basis of disability. Specifically, the Complainant alleged that the School failed to implement her son’s Section 504 plan during the 2018-2019 school year (SY).

Jurisdiction

The Office for Civil Rights (OCR) of the U.S. Department of Education (“Department”) is responsible for enforcing: 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 based on disability in any program or activity operated by recipients of Federal funds; 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 based on disability by public entities, regardless of whether they receive Federal financial assistance. As a recipient of Federal financial assistance from the Department and a public entity, the School is subject to these laws and regulations.

Procedural History

OCR opened an investigation of the allegation and sent the School a data request on November 2, 2018. Before the School provided its data response, the School expressed an interest in taking voluntary action to resolve the Complainant’s allegation. We determined that it was appropriate, pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM), to resolve the allegation with an agreement without completing an investigation of the allegation. Therefore, we drafted a Resolution Agreement (“Agreement”) and sent it to the School. On November 29, 2018, the School signed the Agreement and sent a signed copy to OCR.

Information from the School

After OCR opened the allegation for investigation, the School reported the following to OCR. During the 2017-2018 SY, the School maintained students' Section 504 plans in hardcopy form only. At the end of the 2017-2018 SY, the staff member in charge of maintaining Section 504 plans left the School and either took or discarded the plans. The School did not have backup copies of the plans or a list of students who had plans. Consequently, according to the School's principal ("Principal"), approximately four or five students who returned to the School for the 2018-2019 SY did not have Section 504 plans when the SY began. The Principal also reported to OCR that the School was working to remedy the situation.

Resolution Agreement

Pursuant to the Agreement, the School will identify, through various means, all students who currently attend the School and who should have had a Section 504 plan at the beginning of the 2018-2019 SY. Additionally, the School will ensure that, consistent with the procedural requirements of Section 504 and Title II, each identified student: (a) has a Section 504 plan that is designed to provide the student with a free appropriate public education (FAPE), unless the student is determined to no longer be a qualified student with a disability or there is some other legally recognized reason for not providing the student with a Section 504 plan; and (b) receives, in a timely manner, any compensatory services or other remedial actions owed to the student as a result of the School's failure, during the 2018-2019 SY, to implement a Section 504 plan that should have been in place for the student. Finally, the District will develop and implement a plan to ensure that students' Section 504 plans are properly maintained and provided to necessary staff in a timely manner.

Conclusion

Attached is a copy of the signed Agreement. 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 School demonstrating that the terms of the Agreement have been fulfilled. OCR 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 OCR's monitoring letters. If the School 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 School'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 School 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. 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 your attention to this matter. If you have any questions or concerns, you may contact Jason Langberg, the attorney assigned to this case, at (XXX) XXX-XXXX or XXXX@XXXX.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

Attachment: Resolution Agreement

cc (via email): Diane Douglas, Arizona Superintendent of Public Instruction