



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
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May 22, 2019

Mr. Todd A. Jaeger
Superintendent
Amphitheater Public Schools
701 Wetmore Rd.
Tucson, AZ 85705

Sent by email to tjaeger@amphi.com

Re: **Amphitheater Public Schools**
OCR Case Number: 08-19-1076

Dear Superintendent Jaeger:

We are writing to inform you of the resolution of the above-referenced case. On November 23, 2018, we received a complaint alleging that Amphitheater Public Schools (the District) discriminated against the son (the Student) of the Complainant's client on the basis of disability. Specifically, the Complainant alleged that the District failed to provide the Student with a free appropriate public education (FAPE) when the District 1) failed to evaluate the Student for all suspected disabilities (i.e., Social and Emotional) and 2) failed to adopt and disseminate policy and procedures for providing FAPE to students with disabilities.

We are responsible for enforcing Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulation 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, the District is subject to these laws and regulations.

OCR's investigation revealed that the District's policies and procedures could be interpreted to not fully extend to students with disabilities under Section 504. Additionally, OCR's investigation into the individual allegation demonstrated that the family had requested an updated evaluation of the Student for all known and suspected disabilities. The District was unable to complete the evaluation due to the parent's refusal to provide consent and the subsequent withdrawal of the Student from the District. OCR had not yet conducted interviews to obtain additional corroborating evidence on these issues, when during the course of investigating this matter, the District requested to resolve the issues pursuant to Section 302 of OCR's Complaint Processing Manual (CPM) by entering into the attached voluntary Resolution Agreement.

When the Agreement (enclosed) is fully implemented, the allegations 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 demonstrating 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. If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions.

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

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.

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 Complainant 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. If we receive such a request, we protect personal information to the extent provided by law.

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

If you have any questions, please contact me at 303-844-2557 or David Sumners, Equal Opportunity Specialist at 303-844-4512.

Sincerely,

/s/

Stephen Chen
Program Manager

cc: Kathy Hoffman, Arizona State Superintendent of Public Instruction
by email only to: adeinbox@azed.gov

XXXXXXX, Attorney
by email only to: XXXXXXXX