



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD, SUITE 310
DENVER, CO 80204-3582

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May 13, 2019

Mr. Rico Munn
Superintendent, Aurora Public Schools
Aurora Public Schools
Educational Services Center 1
15701 E. 1st Avenue
Aurora, Colorado 80011

Via email only to: rmunn@aurorak12.org

Re: **Aurora Public Schools**
Case Number: 08-19-1144

Dear Superintendent Munn:

This letter advises you of the resolution of this complaint, filed against Aurora Public Schools (District). The Complainant alleged that the District discriminated against her son (Student), a student at the Academy of Advanced Learning (School) on the basis of disability. Specifically, the Complainant alleged the District denied the Student a free, appropriate, public education (FAPE) when it failed to implement the following provisions of the Student's 504 Plan: (1) administer the Student's afternoon dose of medication; (2) provide the Student with XXX; (3) provide the Student with a calm environment for lunch; (4) administer no more than one test per day; (5) ensure the Student takes tests in small group settings; (6) notify the Complainant of outbursts at school; (7) refrain from providing the Student grades on tests; (8) failure to provide a communication notebook. Further, the Complainant alleged the District failed to respond to her complaints that the Student was harassed based on his disability when other students called him names and mocked him for having XXX.

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 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 and a public entity, the District is subject to these laws and regulations.

In the initial stage of investigating this case, OCR has reviewed information the Complainant provided, interviewed the Complainant, and reviewed the District's documentation in support of its position that it did not discriminate as alleged. After reviewing this information, OCR learned the following:

- The Student has four Section 504 Plans spanning the 2017-18 and 2018-19 school years. These Plans are dated August 16, 2017, September 24, 2018, October 30, 2018, and January 23, 2019.
- Shortly before OCR sent our February 7, 2019 notification letter to the District, a Section 504 meeting was convened on January 23, 2019. The Team included provisions within the new Section 504 Plan that address several of the implementation issues, as well as the harassment issue, listed above. However, the Complainant continued to express concerns regarding implementation of the 504 Plan, particularly with respect to testing and XXX.
- The District acknowledged that it failed to administer the Student’s afternoon dose of medication for “a period of approximately one to two weeks” after a “transition” that occurred in October 2018. The Complainant alleges that the Student may have gone without medication during other periods of the school year, including August 2018 and late November 2018, and the issue persisted into at least late December 2018.
- The evidence suggests there may be a lack of communication among School staff members, including substitute teachers for the Student’s various classes, regarding the provisions of the Student’s Section 504 Plan that need to be implemented. This appears to have been exacerbated, in part, by the fact that the Student’s homeroom/science teacher left early in the 2018-19 school year and several short-term teachers filled the position.

During the course of our investigation, the District indicated its desire to voluntarily enter into an agreement to resolve the complaint allegations pursuant to Section 302 of our *Case Processing Manual*. On May 6, 2019, prior to OCR completing its investigation or making any findings of fact, the District signed an Agreement which, when fully implemented, will address the issues raised in the complaint.

In accordance with Section 302 of OCR’s *Case Processing Manual* (CPM), the provisions of the Agreement signed by the District, when fully implemented, will address all of the allegations investigated and are consistent with the information obtained during OCR’s processing of this case, and consistent with the applicable regulations. Therefore, OCR is closing this complaint investigation effective the date of this letter. OCR, however, will actively monitor the District’s implementation of the Agreement until the District fulfills the terms of the agreement and is in compliance with the statutes and regulations at issue in this case. If the District fails to implement the Agreement as specified, OCR may initiate administrative or judicial proceedings as described in the Agreement or resume its investigation of the initial allegations. A copy of the Agreement is enclosed.

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. In addition, 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. If OCR receives such a request, we will protect personal information to the extent provided by law.

We thank you, and especially the District's Legal Counsel Brandon Eyre, for the cooperation extended us to this point in the matter. If you have any questions, you may contact XXX, the attorney assigned to this case, at (303) 844-XXXX or XXX@ed.gov. You also may contact me at (303) 844-5942.

Sincerely,

/s/

Sandra J. Roesti
Supervisory General Attorney

Enclosure: Signed Resolution Agreement
Cc: Brandon Eyre, Legal Counsel