



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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December 18, 2019

Flagstaff Arts Leadership Academy
Attn: Eli Cohen – Executive Director
3401 N. Fort Valley Road
Flagstaff, AZ 86001

By Email to: XXXX

Re: Flagstaff Arts Leadership Academy
OCR Case Number: 08-19-1400

Dear Mr. Cohen:

We are notifying you of OCR's decision in this case.

On June 10, 2019, OCR received a complaint alleging Flagstaff Arts Leadership Academy (Academy) discriminated on the basis of disability. Specifically, the Complainant alleged the Academy discriminated when her daughter's (Student's) Geometry teacher (Teacher) failed to implement the Student's 504 plan, specifically regarding sending home a math textbook and grouping larger projects into manageable timelines. Additionally, the Complainant alleged the Academy failed to timely evaluate the Student for a Section 504 Plan.

Because OCR has the authority and the complaint was filed timely, OCR initiated an investigation of this complaint pursuant to 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 Academy is subject to these laws and regulations.

After carefully considering all of the information obtained during the investigation, OCR found insufficient evidence that the Academy failed to implement the Student's Section 504 plan as alleged. Regarding the allegation that the Academy failed to timely evaluate the Student for a Section 504 Plan, OCR found the Academy failed to timely evaluate. The reasons for our conclusion are set forth in this letter.

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.

In reaching a compliance determination regarding this, OCR reviewed documentation submitted by the Complainant and the Academy. OCR also interviewed the Complainant and various Academy staff.

Legal Standard

The Section 504 implementing regulation at 34 C.F.R. § 104.33(a), states that a recipient that operates a public elementary or secondary education program or activity shall provide a free and appropriate public education (FAPE) to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. The Section 504 regulation at 34 C.F.R. § 104.33(b)(1) defines an appropriate education as the provision of regular or special education and related aids and services that are designed to meet individual educational needs of persons with disabilities as adequately as the needs of non-disabled persons are met. The development and implementation of an individualized education program (IEP) or Section 504 Plan is one means by which FAPE may be provided.

Section 504's implementing regulation at § 104.35(a) requires school districts to conduct in a timely manner an evaluation of any student who needs or is believed to need special education or related aids and services because of disability before taking any action with respect to the student's initial placement and before any subsequent significant change in placement.

Allegation: Failure to Timely Evaluate

Findings of Fact

During the 2018-2019 school year, the Student was enrolled in the Academy. The Student was absent from school due to a hospitalization from November 26, 2018 until December 4, 2018. On November 27, 2018, the Complainant emailed several Academy staff stating, "Due to the extenuating family circumstances [Student] will not be in school at least through Thursday 11/29."

On December 20th, the Complainant reached out to the Student's Geometry teacher via email requesting "the use of notes and flashcards on all future tests, quizzes and exams...." That day, the Geometry teacher responded and notified the Complainant that students who were able to use note cards are granted them through their IEPs or 504 plans. She added that she did not believe that the Student qualifies for either of those plans, but she notified the Complainant that it is not the teacher's decision. She referred the Complainant to the Academy's Section 504 Coordinator [504 Coordinator] for more information about the eligibility process. The Complainant emailed in response, copying the Academy's Dean (Dean) and the 504 Coordinator, "We raised the issue

of the flash cards and notes because our current standard of practice has moved to a UDL¹ approach whereby effective strategies and supports should be available to all students. An IEP and 504 is not required to do this.”

After returning from the winter break, on January 16, 2019, the Complainant emailed the Geometry teacher stating, “[Student] asked if I would please email you to confidentially disclose to you that her absence in December of last semester was due to hospitalization. Since returning to school, she has had difficulty focusing due to extenuating circumstances. She is concerned about her ability to concentrate on even the simplest of tasks. Therefore, geometry poses an even greater challenge.” She proceeded to request for an extension to complete some assignments. In this email, the Complainant did not provide any information regarding what the “extenuating circumstances” were.

In response, the Geometry teacher stated that she noticed the Student seemed unmotivated in class and possibly depressed. She then stated she was willing to give the Student an extension for a project and retake of a test.

Two days later, on January 18, 2019, the Geometry teacher reached out to the Dean expressing concern that the Student seemed depressed and unmotivated as the Student had expressed to her that day that she did not care and that it did not matter when she earned a low grade and did not want to redo an assignment for a better grade. In response, the Dean affirmed that the Student was depressed.

On January 28, 2019, the Complainant emailed the Geometry Teacher, the Dean, the 504 Coordinator, and other Academy staff to inform them that the Student was “recently diagnosed with XXXX along with features of depression and anxiety.” The Complainant added that the Student was on new medication. The Complainant stated that the Student has expressed to the Complainant that she has “difficulty with focus and concentration most likely due to the XXXX.” This email is the first evidence provided to OCR that the Complainant notified the Academy that the Student is a student with a disability.

That day, the Geometry teacher responded via email, stating that she observed the Student had “increased attention and willingness to ask questions” and that the Student asked for a small break during the class. On January 30th, the teacher updated the Complainant and stated that the Student had trouble working independently that day and stated that the Student informed the teacher that she was very tired. She added that the Student was “much less engaged...like her head was somewhere else.” Other Student’s teachers also replied and stated that they would keep an eye on the Student and provide the Complainant with updates and the Student with support.

On Friday February 1, 2019, the Complainant and the Geometry teacher had a meeting to discuss the Student’s incomplete in Geometry for the first semester. On Saturday February 2nd, the teacher emailed the Complainant, including the Dean, summarizing the February 1st meeting. The teacher detailed that she was allowing the Student to retake a test, an exam, and a project for the Student to obtain a better grade on them for the first semester. She additionally stated that as

¹ Universal Design for Learning is an educational framework for teaching and learning.

of that date, the Student had a D in Geometry. She stated, “I have extended her incomplete to Friday 2/15 due to extenuating circumstances related to the XXXX.”

On Sunday February 3rd, because of her concerns regarding the “nature of the extenuating circumstances,” the Complainant requested that the teacher not discuss the February 1st meeting with the Student or to discuss a timetable for the Student related to her work. In responses that day, the teacher and the Dean emailed stating their agreement with the Complainant’s proposal, stating that the student’s mental health and health are the priority.

On March 6, 2019, the Complainant emailed the Dean and the 504 Coordinator, stating that the Student desired to pursue a Section 504 plan. Within two minutes, the Dean responded by email and stated that the 504 Coordinator would work with the Complainant to schedule it. The next day, the 504 Coordinator reached out to the Complainant and stated, “appointments are going in mid-April at this point due to high requests for 504 and Special Education.” In addition, the 504 Coordinator provided the Complainant with resources for the family, such as OCR’s Section 504 Resource Guide.

Six days later on March 13th, the Academy sent out a meeting notice for a meeting dated April 24th.² On April 24, 2019, a Section 504 team was convened to determine whether the Student was eligible for a Section 504 plan. The team determined that the Student was eligible as a student with a disability. As a result, the team created a Section 504 plan for the Student.

The 504 Coordinator stated that after she was made aware of the Student’s November hospitalization the Student was on her radar, but the Student was performing well academically. She added that there needed to be more evidence that the Student was struggling either mentally or academically in order to trigger the Section 504 process. The 504 Coordinator stated that in December 2018 the Complainant declined to pursue a Section 504 plan, but the Complainant was provided with resources she needed and was to contact the 504 Coordinator if she changed her mind. The Complainant chose not to initiate a 504 plan until March 2019. She added that the Geometry teacher reached out to her as the teacher had felt the Student was “disengaged.” As a result, the 504 Coordinator and a school counselor (Counselor) performed mental health check-ins of the Student. Based on these check-ins, the 504 Coordinator and Counselor did not feel that the information conveyed to them would trigger a 504 referral.

The Geometry teacher stated that in December or January, she had a conversation with the Complainant regarding the Student’s hospitalization; however, the Complainant did not share details as to the reasons or circumstances surrounding the Student’s hospitalization. She added that the Student did not show signs to her that the Student had a disability. She stated that during the months of December and January, the Student was missing work and avoided or deflected the teacher’s help. For example, when the Student returned to school in January with a project to turn in for her incomplete, the teacher went through the project and tried to point out different aspects of the project to the Student that she could redo in order to get a better grade. According to the teacher, the Student stated, “I do not care,” in response to the teacher’s suggestions. The

² Spring Break was the week of March 18th and state-mandated testing was the week of April 6th. The Academy stated that both weeks contributed to the time it took to schedule the Section 504 meeting for the Student.

teacher stated that the Student may have been depressed and she mentioned that to the Complainant in a January 16th email. She stated that she gave the Student an “Incomplete” for the first semester due to the hospitalization, and once the Student had a chance to make up her missing work, she changed the grade.³

The Dean stated that at the time of the hospitalization the Complainant had only provided that the Student was being hospitalized and that it was sensitive. The Dean stated that the Academy was not made aware until December that the Student had been hospitalized for depression, anxiety, and multiple personality disorder. The Dean stated that the Academy had notified the Student’s parents of Section 504 plans and IEPs, but the Student’s parents made it clear that they did not want anyone in the Academy to know what was going on with her.

In an interview with OCR, the Complainant acknowledged the December 20th email communications with the Geometry teacher and that she was notified of the availability of Section 504 plans. However, she stated that, regarding notecards, she was requesting notecards for all students, not just the Student, and that it should not require a Section 504 plan. In an email in response to OCR, the Complainant stated that she did not communicate that she and the Student’s father did not want the Student on a Section 504 plan. She wanted the Student to have accommodations, but at the same time she was concerned with the “over-identification of children of Color in special education.”

In an interview with OCR, the Student’s father added that there is a stigma especially for black parents regarding mental health, such that they did not want to their child on a Section 504 plan or in special education. He noted that the Student’s other teachers independently accommodated the Student and that they (Complainant and father) were waiting for the Geometry teacher to approve accommodations for the Student on her own without a Section 504 plan. Additionally, the Student’s father emailed inquiring, “[I]sn’t it reasonable to change class assignments without 504 for a student already expressing conditions that affect their ability to perform in class.”

Analysis & Conclusion

A recipient must evaluate a student if it has reason to believe the student has a disability and the student needs special education or related services as a result of that disability. If a recipient is aware and denies or delays the evaluation, the recipient is in violation of Section 504.

In this case, although there is some evidence that the Academy may have had reason to believe that the Student has a disability as early as early December 2018, there is insufficient evidence for OCR to determine the Academy was aware of or had reason to believe the Student had a disability at this point.

³ The Geometry teacher stated that she was not aware that the Student suffered from XXXX until the Student’s Section 504 meeting. She added that she had become aware on February 1st that the Student allegedly was assaulted approximately 2 years earlier. However, OCR notes that the Geometry teacher was a recipient of the Complainant’s January 28th email notifying the recipients that the Student was diagnosed with XXXX.

However, the evidence shows that as late as January 28, 2019, in an email, the Complainant made it clear to multiple Academy staff that the Student was a student with a disability. On this date, she notified the Geometry Teacher, the Dean, and other Academy staff that the Student was diagnosed with XXXX, depression, and anxiety. In this email, she also described that it impacts the Student's focus and concentration.

The evidence also shows that prior to January 28th, Academy staff were aware of the Student's struggles with concentration and depression. For example, in the Complainant's January 16th email, she described the Student's struggles to "concentrate on even the simplest of tasks." The Geometry teacher and Dean's January 18th email communications further support that they suspected the Student was depressed and knew that it was impacting the Student in school. Additionally, the Geometry teacher observed the effects of the Student's disability in her classroom when she stated that the Student had trouble working independently, seemed very tired, was not engaged, seemed depressed. The evidence also shows that the Academy was aware of the Student's struggles in completing tasks, particularly in Geometry, which was reflected in her grades on assignments for the class. Her disability was sufficiently severe that on February 3rd the Geometry teacher and the Dean agreed to postpone discussions of or requiring the Student to complete missed work in Geometry because of the Student's health and mental health.

As a result, OCR found sufficient evidence that the Academy failed to timely evaluate the Student for disability-related services.

Allegation: Failure to Implement Section 504 Plan

Findings of Fact

The Student's April 24, 2019, Section 504 plan provides that the Student was to receive, amongst other things, extended time (1.5x) to complete assignments, access to note cards or other study aids during exams and assignments, "chunking" big projects into a timeline, access to a math textbook at home, breaks as needed, and reduced math problems on homework.

"Chunking"

Regarding "chunking," it states that the Student's area of need is "Organization" and that she requires "Chunking big projects into a timeline that incorporates check ins with content area teacher." It provides that the student, teacher and parents are the "Persons Responsible." It no further details or instructions.

With respect to the Student's Section 504 plan requirement for grouping larger projects into manageable timelines, the Complainant specifically referenced Portfolio Check #2 required for the Student's Geometry class for which the Complainant stated the teacher did not implement this Student's Section 504 plan provision.

The Complainant stated that on April 24th the Student's Section 504 team discussed what "big project" meant, and each of the team members had different interpretations. However, the team

agreed it meant to require that the teacher provide a timetable and frequent check-ins. She acknowledged that although the Geometry teacher pointed out how the Student could improve her grade on the project after the Student had turned it in, the Student was not given enough time to finish the project and the teacher's advice to do greater reflections was inadequate guidance for the Student. The Complainant stated that the teacher told the Student what she needed to do to improve her grade on Portfolio Check #2, but not how to do it. Specifically, the Complainant stated that the teacher did not provide a rubric, grade sheet, or any other guidance for the Student to understand what the teacher meant.

When OCR inquired in the Complainant's rebuttal whether the Complainant complained to the Academy that she believe the Geometry teacher was not implementing this Section 504 plan requirement, the Complainant stated that she sent the Dean an extensive list of her concerns, which included that the Geometry teacher was passive aggressive, failed to grade assignments on time, failed to provide the Student with extensions on assignments and other complaints. However, when OCR specifically inquired if the Complainant ever complained that this accommodation was not being implemented regarding Portfolio Check #2, the Complainant stated that she had not specifically done so.

The Geometry teacher stated that there were no actual "projects" assigned after the Student's Section 504 plan went into effect. According to her, a project is an assignment where she asks students to create something new based on what they learned. According to her, Portfolio Check #2 was not a project but rather it was a display of the six (6) projects that the class had already finished and had been graded. For Portfolio Check #2, students were simply required to put together a portfolio consisting of the completed projects and provide three (3) written reflections for each of the projects.

The Geometry teacher explained that she felt that her responsibility was to ensure that there were intermittent times to check-in with the Student between the time that a project was assigned and the time of the due date. With respect to "check-ins" for Portfolio Check #2, the Geometry teacher stated that she told the Student on May 22nd that the Student's reflections on the Portfolio Check #2 were not satisfactory, and she showed the Student ways that she could improve them. The teacher stated that she remembered the Student's reflections being things like, "I turned this project in late, so that was a difficulty," or, "I didn't use my time wisely in class." She wanted the Student to use deeper reflections on the math content and that the Student had time in class on May 24th and 29th to make those adjustments, and they were not made.

The Dean stated that the Complainant complained about the Geometry teacher. The Dean stated that she worked with the Geometry teacher who showed her how she was chunking a project within a timeline and specifically for the Student.

The Academy provided OCR with a copy of the email communications between the Complainant and Academy staff regarding the implementation of the Student's Section 504 plan, especially communications between May 21st to May 29th. In these email communications, the Complainant complained to the Dean and the Academy's Executive Director (Director) regarding a variety of things. OCR notes that the Complainant did not complain about the implementation of this provision of the Student's Section 504 plan in any of the

communications. Rather, consistent with the Complainant's statement in her rebuttal interview, the Complainant complained that the Geometry teacher was passive aggressive and unprofessional, did not timely grade assignments, did not maintain a website that was clear regarding assignments, inconsistent acceptance of late work, and other issues.

The Academy provided OCR with a copy of the Geometry teacher's May 2019 calendar of class events. It shows that Portfolio Check #2 was assigned on Monday May 13th and due on Wednesday May 29th. It also shows that the teacher provided "class work days" for which students could work on the final exam review guide, missing assignments, or their portfolio on May 13th, 15th, 20th, 22nd, and 29th. Specifically regarding the Student, it states that on the 20th the Student retook the Unit 5 test, and on the 22nd the Student submitted her portfolio and stated that it was completed. It additionally states on the 22nd, "We reviewed her portfolio and I identified missing artifacts and weak reflections." Finally, for the 29th, it states that the Student did a verbal retake of the final exam and that the remaining time was given to work on missing assignments and make corrections to the portfolio that was discussed on the 22nd.

Math Textbook

Regarding a math textbook, the Student's Section 504 plan states that the Student's area of need is "Classroom Materials and that she requires "Access to a math textbook at home." It provides that the student, teacher and parents are the "Persons Responsible." It provides no further details or instructions.

During rebuttal when OCR referenced the October 23rd email, the Complainant stated that she didn't remember getting an October 23, 2018 email from the Geometry teacher stating that an electronic textbook was available to the Student online, but she remembers requesting a hardcopy of the textbook prior to the Section 504 meeting. She stated that she assumed that the Section 504 plan meant a hardcopy of the textbook. She explained that online things that the Geometry teacher posted were not put together cohesively and she wanted a textbook so the Student could follow along. The Student's father stated that every teacher had a link to a textbook, but he added that if the link was not working it was not of any use. When OCR inquired whether the link for the textbook for the Geometry class was not working at any time, the Complainant stated that she does not know.

When OCR inquired specifically whether the Complainant, the Student's father, or the Student complained to the 504 Coordinator or any other Academy staff that the Academy was failing to implement the Student's Section 504 plan with respect to access to a textbook, the Complainant stated that she went to the Dean throughout the school year for a copy of the physical textbook. However, she did not state that she complained of the Academy's failure to provide the Student with a textbook after the Section 504 meeting.

The Complainant also stated that the Student did not believe that she asked the Geometry teacher for a physical copy of the textbook. The Student stated, rather, that the teacher would not let students in the classroom use them and that students were only allowed to take pictures of contents in the textbook to take home.

The Geometry teacher stated that she was aware that the Student's Section 504 plan required the Student to have access to a math textbook. She stated that she had made an electronic version of the math textbook available to the Student and all students in the class. Specifically, she stated that an online link to the textbook was available on her website, and she had sent the Complainant the October 23rd email notifying her of its availability online. It was available to any student to access online. The Geometry teacher stated that she felt that she adequately met the Section 504 requirement by making the math textbook available online to the Student. She added that neither the Student nor the Complainant ever requested a physical copy of the textbook from her.

The Dean stated that she did not believe that the Student's Section 504 plan required the Student to have access to a physical textbook. She explained that there is a set of textbooks available for the class and that it is difficult to send home a book and ensure that there are enough physical textbooks in the classroom. The Dean also stated that she does not recall any conversation during the Student's Section 504 meeting regarding the form of the textbook should be provided in. Additionally, the Dean stated she does not recall the Complainant or the Student ever requesting for a physical copy of the textbook.

The 504 Coordinator stated that the Geometry teacher had written in the class syllabus that a physical textbook was available upon request. She stated that she does tell parents and students to let her know immediately if a 504 plan isn't being implemented. She stated that she does not recall being told that the Student was not provided a textbook and that she was not aware if the Student ever requested one from the teacher.

The Academy provided a copy of an October 23, 2018 from the Geometry teacher to the Complainant. It states in part, "Attached is the Geometry progression that details what we will cover in each unit. We are currently midway through Unit 2. There is a link to an online version of the textbook on my website. The section numbers correspond to each chapter."

The Academy provided OCR with access to the Geometry teacher's web page⁴. OCR verified it was able to access the link to the Geometry textbook online.

Analysis & Conclusion

"Chunking"

Because of the Student's need in "organization," the Student's Section 504 plan requires the Academy to chunk "big projects into a timeline that incorporates check ins with content area teacher." It also provides that the student, teacher and parents are the "Persons Responsible." No further details or instructions were provided for this term to clarify this term. The Complainant specifically referenced the "Portfolio Check #2" project required for the Student's Geometry class as the assignment that the Academy failed to chunk. As a result, OCR only evaluated whether the Academy failed to implement this term of the Student's Section 504 plan as it relates to Portfolio Check #2.

⁴ <https://sites.google.com/a/flagarts.com/ms-richards-classroom-site/home/geometry>

The Complainant and the Academy agree that for big projects, the term requires the teacher to establish a timetable and to conduct check-in with the Student for big projects. However, the Complainant and the Academy dispute whether Portfolio Check #2 should be considered a “big project” within the meaning of this term of the Student’s Section 504 plan.

The evidence shows that after Portfolio Check #2 was first assigned, there were only 5 Geometry classes⁵ before it was due. Although there is no evidence that the Geometry teacher provided the Student with an individualized timeline other than what was provided to the entire class, the evidence shows that the Student quickly turned in Portfolio Check #2 as completed early on May 22nd after only 2 Geometry classes, one of which the Student retook the Unit 5 test. The evidence also shows that the Geometry teacher met with the Student on the day the Student turned in the portfolio to discuss her portfolio and how to improve upon it.

During rebuttal, although the Complainant acknowledged that the Geometry teacher met with the Student to discuss her portfolio, the Complainant argued that the teacher’s advice was inadequate guidance for the Student and that the Student did not have adequate time to complete the portfolio. Specifically, she believes that the teacher should have provided a rubric or grade sheet or other guidance.

However, OCR notes that the Student’s Section 504 plan does not require that the teacher provide a rubric, grade sheet, or any other specific guidance as the Complainant argued the teacher should have provided. Rather, the term requires the teacher to check-in with the Student in order to assist in the area of need of organization in order to assist the Student in completing and turning in big projects. In this case, the Student had already turned in her portfolio after only approximately one week and also one week prior to it being due, and did not require assistance with a timetable or organization. The Student did not request for additional time or assistance with organization to complete it. The evidence also shows that the Geometry teacher’s concern with the Student’s work in the portfolio she turned in on the 22nd was in its contents or the quality of her comments, which the Student’s Section 504 does not address.

Finally, the evidence also shows that the Complainant did not complain to the Academy that this accommodation was not being implemented regarding Portfolio Check #2. Rather, she complained about other issues as described above regarding the Geometry teacher.

OCR found insufficient evidence that the Academy failed to implement the Student’s 504 plan regarding grouping larger projects into manageable timelines.

Math Textbook

The Student’s Section 504 plan requires the Academy to provide the Student with “Access to a math textbook at home.” It also provides that the student, teacher and parents are the “Persons Responsible.” No further details or instructions were provided for this term to clarify whether

⁵ This includes May 29th, the due date, as the Student was permitted to work on Portfolio Check #2 after completing a verbal retake of her final exam.

the term required access to a physical textbook or whether access to a digital textbook would be sufficient.

The evidence also shows that prior to the Student's Section 504 meeting, on October 23, 2018, the Geometry teacher had notified the Complainant of its availability online. Additionally, OCR verified that the link to the digital textbook was available online and the Complainant did not assert to the Academy or OCR that the link somehow did not work. Finally, there is no evidence that the Complainant, Student's father, or the Student complained to the Academy after the Student's Section 504 plan was implemented that the Student was not provided access to a math textbook at home.

Thus, OCR found insufficient evidence that the Academy failed to implement the Student's 504 plan regarding access to a math textbook at home.

Consequently, based on the information provided to OCR, OCR found insufficient evidence that the Academy failed to implement the Student's Section 504 plan as the Complainant alleged.

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

The Complainant has a right to appeal OCR's determination within 60 calendar days of the date indicated on this letter. In the appeal, the Complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

The Academy is prohibited from intimidating or harassing anyone who files a complaint with our office or who takes part in an investigation.

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.

If you have any questions, please contact Michael Germano, Attorney and primary contact for this case, at (303) 844-2559 or by email at Michael.Germano@ed.gov, or me at (303) 844-6086 or by email at Michael.Todd@ed.gov.

Sincerely,

/s/

Michael D. Todd
Supervisory Attorney

cc: XXXX via email only to XXXX

Ms. Kathy Hoffman, Superintendent of Public Instruction, via email only **XXXX**