



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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DENVER, CO 80204-3582

REGION VIII

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November 26, 2019

Terry Garza, Superintendent
Presidio Schools
1695 E. Ft. Lowell Rd.
Tucson, AZ 85719

Sent via email to tgarza@presidioschool.com

Re: Presidio School
OCR Case Number: 08-19-1432

Dear Ms. Garza:

On July 5, 2019, the U.S. Department of Education (the Department), Office for Civil Rights (OCR), received a complaint alleging that Presidio School (the School) discriminated against a student (the Student) on the basis of disability. The complainant alleged that the School failed to perform the following:

- provide a free appropriate public education by implementing the Student's 504 plan;
- periodically reevaluate the Student for special education or related services;
- reevaluate the Student when the Student's academic performance demonstrated a possible need for additional services; and
- evaluate the Student for special education or related services and convene a 504 team before changing his placement by disenrolling him from the School.

We are responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 Code of Federal Regulations 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 School is subject to these laws and regulations.

In investigating this case, OCR requested information from both the Complainant and the School. Based on the Complainant's and School's responses, OCR requested additional information from the School. The requested information included the School's relevant policies,

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copies of the Student's 504 plan, information on the implementation of the Student's 504 plan, and information concerning how evaluation and placement of the Student under Section 504.

During the course of our investigation, the School indicated its desire to voluntarily enter into an agreement to resolve the complaint's allegations pursuant to Section 302 of our *Case Processing Manual (CPM)*. On November 7, prior to OCR completing its investigation or making any findings of fact, the School signed an agreement which, when fully implemented, will address the issues raised in the complaint.

In accordance with Section 302 of OCR's *CPM*, the provisions of the Agreement signed by the School, when fully implemented, will address the allegations and are consistent with the information obtained during OCR's processing of this case and the applicable regulations. Therefore, OCR is closing this complaint investigation effective the date of this letter. OCR, however, will actively monitor the School's implementation of the Agreement until the School fulfills the terms of the agreement and is in compliance with the statutes and regulations at issue in this case. If the School 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 allegation. A copy of the Agreement is enclosed.

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 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.

If you have any questions, you may contact Stephen Worthington, the attorney assigned to this case, at (303) 844-3682 or stephen.worthington@ed.gov. You may also contact me at (303) 844-5942.

Sincerely,

Sandra J. Roesti
Supervisory General Attorney

Enclosure: Signed Resolution Agreement

cc: Kathy Hoffman, Superintendent of Public Instruction, *via email only*