



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
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January 3, 2020

Dr. Michael J. Thomas, Superintendent
Colorado Springs School District 11
1115 N. El Paso Street
Colorado Springs, CO 80903

Sent via email to michael.thomas@d11.org

Re: Colorado Springs School District 11
OCR Case Number: 08-19-1492

Dear Superintendent Thomas:

We have completed our investigation of the above-referenced complaint, filed on September 5, 2019. The complaint alleged Colorado Springs School District 11 (District) at XXXX (School) discriminated on the basis of disability when it failed to timely evaluate the Student based on a February 12, 2019 request.

The Office for Civil Rights (OCR) is responsible for enforcing 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 District is subject to these laws and regulations.

OCR conducted an interview with the Complainant and discussed the allegation with the District's representative, the Director of Equal Opportunity Programs. Prior to OCR issuing a final determination, the District expressed an interest in resolving the issues being investigated. OCR determined that it was appropriate to resolve the issues pursuant to Section 302 of our Case Processing Manual (CPM). The provisions of the Agreement are tied to the issues opened for investigation and evidence obtained during the investigation and are consistent with applicable regulations.

The Complainant alleged that on February 12, 2019, she made a written request to the District for a special education evaluation of the Student. At the time of the request the Student was in the XXXX grade at the School and had a Section 504 plan. The Student's medical diagnoses were for Post-Traumatic Stress Disorder (PTSD) and Autism Spectrum Disorder (ASD).

Interviews with District staff and an additional records request would have been needed to determine whether the District failed to timely evaluate the Student based on a February 12, 2019 request. Further information was not obtained, and further interviews were not conducted because during our investigation and before we made final findings regarding the complaint allegation, the District

expressed a willingness to resolve the complaint. The District conducted a special education evaluation of the Student in November 2019. As part of the evaluation process the District agreed to discuss with the Complainant, at the eligibility meeting, whether compensatory education was owed the Student for the alleged failure to timely evaluate the Student based on the request made on February 12, 2019.

A copy of the signed Resolution Agreement is enclosed. When the Agreement is fully implemented, this allegation will be resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. OCR will monitor implementation of this Agreement through periodic reports from the District about the status of the Agreement terms. We will provide the District written notice of any deficiencies regarding implementation of the terms of the Agreement and will require prompt actions to address such deficiencies. If the District fails to implement the Agreement, we will take appropriate action, as described in the Agreement.

Please note a complainant may have the right to file a private suit in federal court whether or not OCR finds a violation. Please also 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 individual may file another complaint alleging such treatment.

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.

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 cooperation and attention to this matter, and the assistance of Mr. Alvin Brown. If you have any questions, please contact XXXX at XXXX or by email at XXXX.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

Enclosure – Copy of Resolution Agreement

Cc: Alvin Brown, Director of Equal Opportunity Programs (via email); Katy Anthes, Commissioner, Colorado Department of Education (via email).