



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
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June 12, 2020

Dr. Sandra Smyser, Superintendent
Poudre School District
2407 LaPorte Avenue
Fort Collins, Colorado 80521-2297

via email only to XXXX@XXXX

Re: **Poudre School District**
OCR Case 08-20-1289

Dear Superintendent Smyser:

We write to inform you of the resolution of the above-referenced complaint, filed on February 21, 2020, against Poudre School District ("District"), alleging discrimination based on disability. Specifically, the Complainant alleged that the District, at XXXX ("School"), engaged in the following discrimination:

1. School staff treated the Student differently based on disability during XXXX by requiring his Mother to attend and arrange food provisions for the Student.
2. The Student was harassed by his homeroom teacher throughout the 2019-2020 SY based on disability. The Complainant specified that the homeroom teacher has:
 - a. announced the removal of the Student's "XXXX XXXX (reward system);"
 - b. "forced [the Student] to sit to the side of the class and watch his class rather than participate directly in XXXX preparation activities;"
 - c. denied the Student an opportunity "to contact his mother at school through use of a Smartwatch while others possessed cell phones and were [al]lowed to do so in the hallway;"
 - d. accused the Student "in front of peers of having caused property damage after he re-set a floor plate to be flat on the ground so a third student would not trip and fall;"
 - e. consistently made negative and embarrassing comments about the Student around classmates;
 - f. "identified [the Student] openly with disabilities in a way which highlighted them as an inconvenience for her;" and
 - g. gave the Student an award which highlighted him at an assembly for peers and parents and peers for his disability accommodation.
3. District staff retaliated against the Student and Mother after she: (a) attempted to enforce the Student's rights a student with a disability; and (b) filed a previous Office for Civil Rights (OCR) complaint against the District (case 08-18-1345). The alleged adverse retaliatory actions were as follows:

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

- a. While the Student's placement was homebound (XXXX-XXXX 2019), School staff denied him the opportunity to try out for Honors Choir, the opportunity to participate with the Safety Patrol, and several months of free breakfast and lunch.
- b. During a meeting on XXXX XX, 2020, the District's director of student services did not allow the Mother to speak, talked over her, and used an aggressive tone toward her.
- c. During a meeting on XXXX XX, 2019, the District's assistant superintendent intimidated the Mother, used a threatening tone toward her, and postured and leaned toward her.
- d. On XXXX XX, 2020, the District's assistant superintendent ordered that all communications from the Mother to School staff be sent through the School's principal.
- e. The District failed to complete a Section 504 plan and healthcare plan for the Student.
- f. The District failed to provide the Student with allergen-free breakfasts and lunches.
- g. The District denied the Student a role in the school play.
- h. The District denied the Student "the opportunity to participate in the XXXX."
- i. The District denied the Student opportunities to use a smart watch to call his mother (from XXXX 2019 to XXXX 2020).

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 ("Section 504"), and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination based on disability in any program or activity operated by recipients of federal funds from the Department; and Title II of the Americans with Disabilities Act of 1990 ("Title II"), and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination based on disability by public entities, regardless of whether they receive federal financial assistance. As a recipient of federal financial assistance from the Department and a public entity, the District is subject to these laws and regulations.

On May 15, 2020, we notified the District that OCR was opening an investigation of the allegations. Prior to OCR issuing a data request, the District expressed an interest in taking voluntary action to resolve the Complainant's allegations. We determined that it was appropriate, pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), to resolve the allegations with an agreement ("Agreement") without conducting an investigation. On May 26, 2020, we sent the District a proposed Agreement. The District sent OCR a fully executed Agreement on June 12, 2020. Enclosed is a copy of the signed Agreement.

When the Agreement 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 from the District demonstrating that 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. The Complainant will be copied on our monitoring letters. If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions.

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

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

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 individual may file another complaint alleging such treatment.

This letter sets forth OCR's determination in an individual 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 prompt attention to this matter and cooperation. If you have any questions or concerns, you may contact Jason Langberg, the attorney assigned to this case, at (XXX) XXX-XXXX or XXXX@XXXX.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

Attachment: Resolution Agreement

cc (via email): Sarah Belleau, District Director of Integrated Services
XXXX XXXX, School Principal
Autumn Aspen, District Legal and Policy Counsel
Katy Anthes, Colorado Commissioner of Education