



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII

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July 20, 2020

Dr. Bill Johnson
Superintendent
Laveen Elementary School District
5001 West Dobbins Road
Laveen, Arizona 85339

Sent via email only to bjohnson@laveeneld.org

Re: Laveen Elementary School District
OCR Case Numbers: 08-20-1247 & 08-20-1342

Dear Superintendent Johnson:

We write to inform you of the resolution of the above-referenced complaints filed on February 21, 2020 and April 16, 2020, against Laveen Elementary School District (District) at XXX School (School) alleging discrimination based on race (Black), disability, and retaliation.

Specifically, the Complainant alleged that the District discriminated against her son (Student) when the School/District:

Subjected the Student to a racially hostile environment when:

- The School did not allow him to have an extra lunch/food during the lunch period, when other students have been allowed to have an extra lunch/food;
- The School denied him the opportunity to eat snacks in the classroom, when his White peer was able to eat a snack in the same classroom;
- School employees did not provide him with schoolwork that he missed when he was suspended;
- His teacher seated him by himself in a corner and failed to provide him with classroom instruction and/or the same classroom instruction as his White peers; and
- School employees labeled him as a “petty thief.”

Retaliated against the Complainant and the Student by:

- Transferring the Student to a different classroom and teacher;
- Failing to provide the Student classroom instruction; and
- Restricting the Complainant’s communication with School staff; and,

Denied the Student a free appropriate public education (FAPE) by:

- Failing to provide him with a voluntary homework packet from March 9 -23,

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

- 2020; and,
- Failing to implement his individualized education program (IEP) beginning on March 16, 2020, when it did not provide tutoring, counseling services, fidget tools, simplification of daily assignments, reading and writing comprehension support, and learning software during the COVID-19 pandemic.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, and its implementing regulation, at 34 Code of Federal Regulations (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; and Title VI of the Civil Rights Act of 1964 (Title VI), and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 100, which prohibit discrimination based on race, color, or national origin, in programs or activities receiving Federal financial assistance. Each of these laws protects individuals who file a complaint, participate in an investigation, or assert a right under Section 504, Title II, or Title VI from intimidation or retaliation. As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to these laws and regulations.

On March 24, 2020 and May 4, 2020, we notified the District that OCR was opening investigations of the above allegations. During the investigation of this complaint, before OCR had sufficient evidence to make findings regarding compliance, the District informed OCR that it wished to resolve the Complainant's allegations.¹ Pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), complaint allegations may be resolved when, before OCR has concluded its investigation and issued a final determination, a recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them. OCR has determined that the allegations in this complaint are appropriate for resolution through a Section 302 Agreement (Agreement). Therefore, on June 24, 2020, OCR sent the District a proposed Agreement. OCR received a signed Agreement from the District on July 17, 2020. A copy of the signed Agreement is attached.

When the Agreement is fully implemented, the Complainant's allegations will be resolved consistent with the requirements of Section 504, Title II, Title VI, 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 regarding the implementation of the terms of the Agreement and will promptly require actions to address any 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.

¹ OCR reviewed documentation provided by the District and the Complainant and spoke with the Complainant and counsel for the District. The District expressed an interest in resolving this case before OCR requested data from the District or conducted interviews of District witnesses.

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. If 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 the District's cooperation. If you have any questions, you may contact Rachel Phillips-Cox, the Civil Rights Investigator assigned to this case, at (303) 844-4559 or Rachel.Phillips-Cox@ed.gov.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

Attachment: Signed Resolution Agreement

Cc: X, Gust Rosenfeld, Counsel for the District
Kathy Hoffman, State Superintendent of Public Instruction