



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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August 3, 2020

Dr. Curtis Finch, Superintendent
Deer Valley Unified School District
20402 North 15th Avenue
Phoenix, Arizona 85027

via email only to XXXX@XXXX

Re: **Deer Valley Unified School District**
OCR Case 08-20-1360

Dear Superintendent Finch:

We write to inform you of the resolution of the above-referenced complaint, filed on May 1, 2020, against Deer Valley Unified School District ("District"), alleging discrimination based on disability. Specifically, the Complainant alleged that the District, at XXXXX ("School"):

- School staff failed to implement the student's individualized education program (IEP) on January 24, 2020 by not using the specified de-escalation strategies;
- a secretary at the School subjected the student to disability-based harassment on January 24, 2020;
- School staff failed to implement the student's IEP from February 5, 2020 to February 19, 2020 by not providing him with a one-on-one aide;
- School staff failed to implement the student's IEP on March 2, 2020, including by not allowing him to go to the "special education room" when he was frustrated in class; and
- an aide at the School subjected the student to disability-based harassment on March 2, 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 22, 2020, we notified the District that OCR was opening an investigation of the allegations and we sent the District a data request. Prior to the deadline for responding to the 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 a resolution agreement ("Agreement") without conducting an investigation. On June 5, 2020, we sent the District a proposed Agreement. The District sent OCR a fully executed Agreement on July 31, 2020. Enclosed is a copy of the signed Agreement.

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

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When the Agreement is fully implemented, the allegations will be resolved consistent with the requirements of Section 504, 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): Melissa McCusker, District Director of Student Support Services
Heather Pierson, Attorney for the District, Udall Shumway
Kathy Hoffman, Arizona Superintendent of Public Instruction