



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD., SUITE 310  
DENVER, CO 80204-3582

\*REGION VIII

ARIZONA  
COLORADO  
NEW MEXICO  
UTAH  
WYOMING

**DATE**, 2021

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

By email only to [superintendent@dvusd.org](mailto:superintendent@dvusd.org)

Re: OCR Complaint No. 08-21-1114  
Deer Valley Unified School District

Dear Dr. Finch:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has resolved the above-referenced complaint. On February 8, 2021, OCR received a complaint against the Deer Valley Unified School District (DVUSD, Recipient, or District). The Complainants alleged that the District discriminated against their son (Student A) and daughter (Student B) on the basis of disability, and that the District retaliated against them. Specifically, the Complainants alleged that the District:

1. failed to implement the accommodations in Student A's Section 504 plan during the 2020-2021 school year;
2. failed to reevaluate Student A during the 2020-2021 school year;
3. failed to evaluate Student B for a Section 504 plan;
4. failed to provide the Complainants with notice of the District's procedural safeguards, as required by Section 504;
5. retaliated against them. Specifically, after the Complainants had requested that Student A and Student B be reevaluated and evaluated for Section 504 plans, respectively, and after the District became aware of their intention to file a complaint against staff members, the District retaliated by submitting two allegations of neglect to the Arizona Department of Child Safety (DCS).

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

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

Additionally, individuals filing a complaint, participating in an investigation, or asserting a right under Section 504 and Title II are protected from intimidation or retaliation by 34 C.F.R. § 104.61, which incorporates 34 C.F.R. § 100.7(e), and 28 C.F.R. Because the District receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II. Additional information about the laws OCR enforces is available on OCR's website at <http://www.ed.gov/ocr>.

On March 15, 2021, OCR opened an investigation into the above allegations.

As part of its investigation, OCR reviewed information provided by the Complainants and District, conducted a preliminary interview with the Complainants, reviewed written data provided by the District, and discussed the allegation with counsel for DVUSD.

OCR's review indicates that Students A and B were enrolled at West Wing Elementary School (School) during the 2020-2021 school year. Student A was a qualified individual with a disability and required a 504 plan. The Complainants allege that DVUSD failed to fully implement Student A's 504 plan. Additionally, Complainants allege Student B was not evaluated to determine whether a 504 plan was required. Further, Complainants allege that they did not receive notice of the District's procedural safeguards. Lastly, OCR's review confirms that the District reported an incident to DCS on February 1, 2021, concerning the Complainants and Students A and B. There is a discrepancy between the Complainants' allegation that the District made several allegations in its report to DCS, and the District's assertion that it made only one allegation in the DCS report. As of the date of this letter, DCS's investigation into the District's report is ongoing. If true, the allegations above could be compliance issues. OCR would need to conduct additional interviews with relevant witnesses and review more written data to make such a determination. Accordingly, these allegations remain concerns that can be addressed through a resolution agreement.

Before OCR completed its investigation, the District asked to voluntarily resolve the allegations under investigation pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), which provides that a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint and OCR determines that such a resolution is appropriate. Although OCR had identified concerns regarding the issue under investigation, OCR had not yet reached a full compliance determination. On April 15, 2021, OCR determined that a resolution under CPM Section 302 was appropriate.

On May 12, 2021, the District voluntarily signed and submitted to OCR a Resolution Agreement (Agreement) to resolve the issue under investigation. A copy of the Agreement is enclosed. OCR determined that the provisions of the Agreement are aligned with the allegations under investigation and appropriately resolves them. Further, OCR accepts the Agreement as an assurance that the District will fulfill its obligations under Section 504 and Title II with respect to the allegations under investigation. The dates for implementation and specific actions are detailed in the Agreement. OCR will monitor the District's implementation of the Agreement.

Effective the date of this letter, OCR concludes its investigation of the above referenced allegation. This letter should not be interpreted to address any issues other than those addressed therein.

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

Please be advised that a recipient 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, an individual may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event OCR receives such a request, OCR will seek to protect to the extent provided by law personal information that if released, could constitute an unwarranted invasion of privacy. Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law.

In addition, the Department has developed guidance to support recipients, as well as the students, families, staff, and community served therein, through the unprecedented challenges faced by COVID-19. For more information, see the Department’s [COVID-19 \(“Coronavirus”\) Information and Resources for Schools and School Personnel](#). If you are in need of assistance from the Department or OCR as a result of COVID-19, please don’t hesitate to reach out.

If you have any questions about this letter, please contact Mr. Craig Nydick, the attorney assigned to this complaint, by telephone at (303) 844-7104 or by email at [craig.nydick@ed.gov](mailto:craig.nydick@ed.gov). You may also reach me at (303) 844-6086 or via email at [michael.todd@ed.gov](mailto:michael.todd@ed.gov).

Sincerely,

Michael D. Todd  
Supervisory Attorney  
Office for Civil Rights  
Denver Office

Cc: xxx (xxx), Outside Counsel