



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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October 6, 2021

Terry Croy Lewis, Ph.D., Executive Director
Colorado Charter School Institute
1600 Broadway, Suite 1250
Denver, Colorado 80202

via email only to XXXX@XXXX

Re: **Colorado Charter School Institute**
OCR Case 08-21-1214

Dear Director Lewis:

We write to inform you of the resolution of the above-referenced complaint, filed on April 15, 2021, against Colorado Charter School Institute (CSI) and Academy of Arts and Knowledge ("Academy"), collectively "Recipients," alleging that the Recipients failed to provide a free appropriate public education (FAPE) to students with disabilities at the Academy during the 2020-2021 school year (SY). Specifically, the Complainant alleged that the Academy failed to implement the students' individualized education programs and to provide individualized services to students.

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 prohibits discrimination based on disability in any program or activity operated by recipients of federal funds; and Title II of the Americans with Disabilities Act of 1990 ("Title II"), and its implementing regulation, at 28 C.F.R. Part 35. As recipients of federal financial assistance from the Department and public entities, the Recipients are subject to these laws and regulations.

OCR determined that it has the authority to investigate the allegation consistent with our complaint procedures and applicable laws. On April 21, 2021, OCR notified the Recipients that it was opening an investigation of the allegation and sent the Recipients a data request. Prior to OCR conducting interviews in this case, the Recipients expressed an interest in taking voluntary action to resolve the allegation.

Section 302 of OCR's *Case Processing Manual* (CPM) reads, "Allegations under investigation may be resolved at any time when, prior to the point when OCR issues a draft letter of findings under CPM Section 303(b), the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement." OCR determined that, pursuant to CPM Section 302, resolving the allegation with an Agreement without conducting any further investigation, was appropriate.

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

Summary of Evidence to Date

OCR obtained the following facts prior to completing a full investigation and negotiating the Agreement in this case.

The School is a charter elementary school authorized by CSI. The 2020-2021 SY began on August 24, 2020, and ended on May 27, 2021. Due to the COVID-19 pandemic, the School had various methods of instruction. See Figure 1.

Figure 1: The School's schedules during the 2020-2021 SY

Start Date	End Date	Method of Instruction	
		Monday-Thursday	Friday
August 24, 2020	September 30, 2020	K-1: Half-day hybrid 2-5: Remote/online	K-1: Remote/online 2-5: Remote/online
September 30, 2020	October 9, 2020	K-5: Hybrid	K-5: Remote/online
October 12, 2020	November 17, 2020	K-5: In-person	K-5: Remote/online
November 18, 2020	January 18, 2021	K-5: Remote/online	K-5: Remote/online
January 19, 2021	May 27, 2021	K-5: In-person	K-5: Remote/online

The School had 18 students with IEPs.¹ They were entitled to varying levels of special education and related services. See Figure 2. For various reasons, 10 of the 18 students with IEPs withdrew from the School during the 2020-2021 school year.

Figure 2: Special education services that the School's students with IEPs were entitled to during the 2020-2021 SY (not including speech and occupational therapy services or the students who only received such services)

Name	Direct Special Education Hours	Indirect Special Education Hours
Student 1	Reading: 4.0/week	Reading: 0.5/month
Student 2	Reading and writing: 0.5/day Math: 0.5/day Access skills: 2.0/day	Reading and writing: 0.5/day Math: 0.25/day Access skills: 0.5/day
Student 3	Reading: 0.25/day Written language: 0.25/day Access skills: 0.25/day	None
Student 4	Severe needs teacher: 7.5/week	Severe needs teacher: 0.25/week
Student 5	Reading and writing: 0.5/day Math: 0.5/day Access skills: 6.0/day	Reading and writing: 0.5/day Math: 0.5/day Access skills: 0.5/day
Student 6	Reading and writing: 0.45/day Math: 0.45/day Access skills: 0.05/day Behavior: 0.05/day	Reading and writing: 1.0/month Math: 1.0/month Access skills: 1.0/month Behavior: 1.0/month
Student 7	Reading: 0.5/day Written language: 0.25/day Math: 0.5/day	Reading: 2.0/month Written language: 2.0/month Math: 2.0/month

¹ One of the students was found eligible for an IEP on May 26, 2021.

Name	Direct Special Education Hours	Indirect Special Education Hours
Student 8	Reading and writing: 3.0/week Math: 3.0/week	Reading and writing: 0.1/week Math: 0.1/week
Student 9	Reading: 5.0/week Social: 1.0/week	Reading: 0.25/week
Student 10	Academics: 2.5/week	Academics: 0.5/week
Student 11	Written language: 2.0/week Reading: 2.5/week Math: 2.5/week	Written language: 2.0/month Math: 0.5/month Reading: 0.5/month
Student 12	Written language: 1.0/month Reading: 3.5/week Math: 1.0/week Social: 0.50/week	Written language: 0.25/month Reading: 0.5/month Math: 0.5/month
Student 13	Reading and writing: 4.0/week Math: 1.5/week	Reading and writing: 0.5/week

The students with IEPs were also entitled to a variety of accommodations, such as adapted books, additional time on assignments and tests, alternative seating (such as therapy balls, inflatable seats, wobble seats), copies of teacher notes, extra time on assignments, frequent breaks, graphic organizers, individual dry erase boards, noise-cancelling headphones, partnering with a peer, recorded books, recording devices, shortened assignments, teacher-provided notes, test questions read aloud, use of augmentative and alternative communication (AAC) device, use of speech-to-text for writing assignments, use of tablets, and visual schedules.

During the 2020-2021 SY, the School had a part-time school psychologist (1.5 days per week), speech pathologist (1.5 days per week), and occupational therapist (1.0 day per week). Additionally, from August 1, 2020 to March 3, 2021, the School also had one special education teacher (“Special Education Teacher”). After the Special Education Teacher was put on administrative leave on March 3, 2021, and her employment was terminated on March 9, 2021, the School did not have a special education teacher for the remainder of the 2020-2021 SY. The School asserted to OCR that it did not replace the Teacher “due to a shortage of qualified staff;” and, as of its May 27, 2021 data response to OCR, was “working proactively to provide all compensatory education required since [the Teacher]’s departure.”² Finally, from September 8, 2020 to December 18, 2020, the School had one special education paraprofessional (“Paraprofessional”). After the Paraprofessional resigned, the School did not have a special education paraprofessional for the remainder of the 2020-2021 SY. The School wrote in a narrative response to OCR that the Paraprofessional was not replaced due to the caseload being reduced to 5 students, and the School had three aides who were available to work with the Teacher to provide additional support.

Conclusion

On September 13, 2021, OCR sent the Recipients a proposed Resolution Agreement (“Agreement”). The Recipients sent OCR a fully executed Agreement on October 6, 2021. Attached is a copy of the signed Agreement.

When the Agreement is fully implemented, the allegation will be resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. OCR will monitor

² In late June 2021, the School hired a special education teacher for the 2021-2022 SY.

implementation of the Agreement through periodic reports from the School demonstrating that the terms of the Agreement have been fulfilled. OCR will promptly provide written notice of any deficiencies with respect to the implementation of the terms of the Agreement and require actions to address such deficiencies. CIS and the Complainant will be sent a copy of OCR's monitoring letters. If the Recipients fail to implement the Agreement, OCR will take appropriate action, which may include enforcement actions.

This concludes OCR's investigation of the allegation and should not be interpreted to address the Recipients' 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 Recipients may not harass, coerce, intimidate, or discriminate against any individual because he, she, or they 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 the prompt attention to this matter. OCR also appreciates the cooperation of the School. If you have any questions or concerns, you may contact XXXXX, 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): XXXXX, Principal
XXXXX, Attorney for the School
XXXXX, Colorado Assistant Attorney General
Katy Anthes, Colorado Commissioner of Education