



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

November 3, 2021

Dr. Chris Fiedler, Superintendent  
Educational Services Center  
18551 E. 160<sup>th</sup> Avenue  
Brighton, CO 80601

*By email only to XXXX@XXXX*

Re: OCR Complaint No. 08-21-1246  
27J Schools

Dear Dr. Fiedler:

On May 12, 2021, the United States Department of Education (Department), Office for Civil Rights (OCR) received a complaint against 27J Schools (the District). The Complainants allege that the District discriminated against their XXXX (the Student) on the basis of disability. Specifically, the Complainants allege that the District subjected the Student to different treatment by failing to consider the 27J Online Academy (Online Academy) as an option for the Student because of XXX disabilities.

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. 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.

In June 2021, we formally notified the District that OCR opened an investigation regarding the above-listed allegation. We also requested information from the District. OCR reviewed information from the District and from the Complainants and interviewed the Complainants and District employees. During the course of these investigative activities, OCR learned the following:

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

- The Student successfully attended school exclusively online for the 2020-21 school year at one of the District's XXXX schools.
- The Online Academy's Frequently Asked Questions (FAQ) document states at page 13 that Individualized Education Program (IEP) services are available at the Online Academy and that "the Special Education Service Providers will need to review the most recent IEP to determine if the identified needs and services can implemented as written. If not, they will schedule an IEP meeting with parent/guardian participation, to discuss any changes/amendments that may be appropriate." The Online Academy's FAQ document goes on to state at page 13 that "Some students may require a more intensive/supportive learning environment ([Significant Support Needs] SSN and Center-based programs) to the degree that an online learning platform is not able to provide them the Least Restrictive Environment (LRE) as identified within their IEP and therefore, they may not be able to access and/or benefit from enrolling in an online school."
- The Student's IEP Team did not determine whether changes/amendments could be made to the Student's IEP that would allow the Online Academy to meet the Student's needs.

After discussing the information learned by OCR, the District indicated that it wanted to take voluntary action to resolve the allegation. Based on the information provided by the District and the Complainants thus far, we determined that voluntary resolution of the allegation was appropriate, pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). Section 302 provides that an allegation may be resolved with a voluntary Resolution Agreement (Agreement) before completing a full investigation when identified concerns can be addressed through an Agreement. On October 15, 2021, we sent the District a proposed Agreement. The District sent OCR a signed Agreement on November 2, 2021. A copy of the signed Agreement is enclosed.

When the Agreement is fully implemented, the above-listed allegation 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. If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions.

OCR is closing the investigative phase of the case effective the date of this letter. The case is now in the monitoring phase. The monitoring phase of the case will be completed when OCR determines that the District has fulfilled all of the terms of the Agreement. When the monitoring phase of the case is complete, OCR will close case number 08-21-1246 and will send a letter to the Complainants and to the District stating that the case is closed.

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.

Recipients of Federal funds are prohibited from intimidation, harassment, or retaliation against individuals filing a complaint with OCR and those participating in a complaint investigation. complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

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

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, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

We thank the District for being willing to voluntarily address the allegation raised by the complaint. We appreciate the District's attention to this matter and the help of Melissa L. Barber. We look forward to working with the District to meet the terms of the Agreement.

If you have any questions, please contact XXXX, the OCR attorney assigned to this complaint, at XXX-XXX-XXXX or XXXX@XXXX.

Sincerely,

/s/

Sandra J. Roesti  
Supervisory Attorney

Enclosure – Resolution Agreement

cc: Melissa L. Barber, Caplan & Earnest LLC (by email only)  
Katy Anthes, Commissioner of Education (by email only and without enclosure)