



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII

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July 22, 2022

Ms. Tracy Dorland
Superintendent
Jefferson County Public Schools
1829 Denver West Drive #27
Golden, Colorado 80401

Sent via email only to Tracy.Dorland@jeffco.k12.co.us

Re: Jefferson County Public Schools
OCR Case Number: 08-22-1120

Dear Superintendent Dorland:

On December 15, 2021, the Office for Civil Rights (OCR) of the U.S. Department of Education (Department) received a complaint filed by an attorney (Complainant) on behalf of his client (Parent) against Jefferson County Public Schools (District) alleging that the District discriminated against the Parent's son (Student), on the basis of his disabilities (XXX, XXX, XXX, XXX, XXX and XXX). Specifically, the Complainant alleges that the District failed to implement the Student's Individualized Education Program (IEP) and Behavior Intervention Plan (BIP) when the Student: X – list redacted – X. In addition, the Complainant alleges that the District denied the Student a free appropriate public education (FAPE) when it did not provide any educational services from XXX until XXX.

On March 23, 2022, OCR initiated an investigation under 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; and 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. As a recipient of federal financial assistance from the Department and a public entity, the District is subject to these laws.

During the investigation, OCR reviewed documents provided by the Complainant, interviewed the Complainant, and spoke with a representative for the District. Before OCR completed its investigation, the District expressed a desire and willingness to resolve the complaint on May 9, 2022.

I. Legal Standards

The Section 504 regulations, at 34 C.F.R. §104.33, require public school districts to provide a free appropriate public education (FAPE) to all students with disabilities in their jurisdictions. An appropriate education is defined as regular or special education and related aids and services that are

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designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled students are met, and that are developed in accordance with the procedural requirements of §§104.34-104.36 pertaining to educational setting, evaluation and placement, and due process protections. Implementation of an individualized education program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements. OCR interprets the Title II regulations, at 28 C.F.R. §§35.103(a) and 35.130(b)(1)(ii) and (iii), to require districts to provide a FAPE at least to the same extent required under the Section 504 regulations.

II. Summary of Evidence Obtained to Date

The Student is a student with disabilities ((XXX, XXX, XXX, XXX, XXX and XXX)) who is enrolled in the District and will enter X grade at the start of the 2022-2023 school year (SY). The Student began the 2021-2022 SY at XXX School and finished the year at XXX XXX School.

The Complainant alleged that the staff at XXX School repeatedly failed to implement the Student's IEP and BIP throughout the 2021-2022 SY. Further, the Complainant told OCR that the District's failure to implement the Student's IEP and BIP resulted in the Student XXX XXX and engaging in behaviors that resulted in disciplinary actions. The District denied the Complainant's allegation that it did not implement the Student's IEP and BIP, but acknowledged that the Student engaged in behaviors that resulted in disciplinary actions throughout both the 2020-2021 and 2021-2022 SYs.

The Complainant and District agree that the Student did not attend school between XXX and XXX. The District told OCR that it sought to work with the Parent and her attorney, the Complainant, to find a suitable school for the Student to attend, after he was subjected to a non-disciplinary removal from XXX School. The Complainant told OCR that the District did not immediately enroll the Student at XXX XXX School because he is a student with a disability. The District denies that the Student's status as a student with a disability had any impact on its ability to immediately enroll him at XXX XXX School and shared that the delay in enrolling the Student at XXX XXX School was caused by an overall shortage of staff in the School and the District's inability to place additional students, with or without disabilities, at the school when the request was first made.

III. Analysis

Pursuant to Section 302 of the CPM, allegations under investigation may be resolved at any time when, prior to issuing a final determination under CPM Section 303, 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 potential issues that can be addressed through a resolution agreement. The provisions of the resolution agreement must be tied to the allegations and the evidence obtained during the investigation and will be consistent with applicable regulations.

On May 9, 2022, the District expressed an interest in resolving the allegations pursuant to CPM Section 302. Based on the allegations and the evidence provided, OCR determined that these allegations may be appropriately resolved through an agreement under Section 302 of the CPM. On July 22, 2022, OCR received the District's signed resolution agreement (Agreement), a copy of which is enclosed with this correspondence. Accordingly, this complaint investigation is closed as of the date of this letter, and OCR will monitor the agreement to ensure compliance.

IV. Conclusion

With this letter, OCR has closed the investigation of Case Number 08-22-1120. The case is now in the monitoring phase. OCR will closely monitor the District's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the District's policies and practices are administered in a nondiscriminatory manner. The monitoring phase of this case will be completed when OCR determines that the District has fulfilled the term of the Agreement and is in compliance with the statutory and regulatory obligations at issue in this case. When the Agreement is fully implemented, all allegations will be resolved consistent with the requirements of Section 504 and Title II and their implementing regulations. If the District fails to implement the Agreement, OCR will take appropriate action, which may include enforcement actions, as described in the Agreement.

This letter sets forth OCR's determination in an individual case and should not be relied upon, cited, or construed as a formal statement of OCR policy. 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.

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, it will seek to protect, to the extent provided by law, personal information, which, 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.

If you have any questions, you may contact either XXX XXX or XXX XXX, the OCR staff assigned to this case, at XXX.XXX or XXX XXX, respectively.

Sincerely,

Daniel Contreras
Supervisory Attorney

Attachment: Resolution Agreement

Cc: Ms. Alyssa Burghardt, Counsel for the District
Dr. Katy Anthes, Colorado Commissioner of Education