



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII

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February 15, 2023

Mr. Franklin R. Narducci
Superintendent
Chandler Unified School District
Chandler, Arizona 85224

by email to: narducci.frank@cusd80.com

Re: Chandler Unified School District
OCR Case number 08-22-1239

Dear Superintendent Narducci:

This letter is to notify you of the disposition of the above-referenced case stemming from a complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR) on February 22, 2022. OCR opened an investigation into whether Chandler Unified School District (District) discriminated based on disability (Autism). Specifically, the Complainant alleged that the District, at Castille High School, failed to respond appropriately to a complaint of disability-based harassment of the Student.

OCR conducted the investigation under Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulations, 34 Code of Federal Regulations (C.F.R.) Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulations, 28 C.F.R. Part 35, which prohibit discrimination based on disability in programs or activities receiving federal financial assistance and public entities, respectively. As a recipient of federal financial assistance from the Department and a public entity, the School is subject to Section 504, Title II, and their regulations.

OCR notified the District that OCR was opening an investigation of the allegation. Before we made a final determination, the District expressed an interest in taking voluntary action to resolve the Complainant's allegation. We determined that it was appropriate, pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), to resolve the allegation with an agreement. We sent the District a proposed Agreement. The District sent OCR a fully executed Agreement, and enclosed is a copy of the signed Agreement.

Legal Standards

Responding to a complaint of disability harassment

The regulations implementing Section 504, at 34 C.F.R. Section 104.4(a) and (b), prohibit discrimination based on disability by recipients of Federal financial assistance. The Title II regulations, at 28 C.F.R. Section 35.130(a) and (b), create the same prohibition against disability-based discrimination by public entities. School districts are responsible under Section 504 and Title II for providing students with a nondiscriminatory educational environment. Under Section 504 and Title II, and their regulations, if a

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

student is harassed based on disability by peer students, the school district is responsible for determining what occurred and responding appropriately. OCR evaluates the appropriateness of the responsive action by assessing whether it was prompt, thorough, and effective. What constitutes a reasonable response to harassment will differ depending upon the circumstances. However, in all cases the school district must conduct a prompt, thorough, and impartial inquiry designed to reliably determine what occurred. If harassment is found, the school district must take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation. The response must be designed to stop the harassment, eliminate the hostile environment, and remedy the effects of the harassment on the student who was harassed. The school district must also take steps to prevent the harassment from recurring, including disciplining the harasser where appropriate.

Evidence

The Complainant alleged that the District failed to adequately respond to a complaint of disability harassment. She alleged that she informed the District that students asked the 16-year-old Student to do something inappropriate, took a video of it, and it went viral. According to the Complainant, and confirmed by the District, students were purposefully sharing the video of the Student at School. That harmed his mental health, and the Student continued to receive harassment at school from other classmates, being constantly ridiculed. The School provided a January 14, 2022, written communication to the Complainant that there was no bullying or harassment found. However, this communication was sent before an investigation was completed. Also, there was a complaint of alleged ongoing harassment that was not entirely reviewed by the School.

Conclusion

The District entered into a Resolution Agreement (Agreement) to resolve the matter. A signed copy of the Agreement is attached with this letter. When the Agreement is fully implemented, the issue will be resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. OCR will monitor implementation of this Agreement through periodic reports from the District about the status of the Agreement terms. OCR will monitor the implementation of the Agreement until the District follows its terms and the statutory and regulatory obligations under Section 504 and Title II that were at issue in the case.

This case is now in the monitoring phase. The monitoring of this case will be completed when OCR determines that the District has fulfilled all terms of the Agreement. When the monitoring phase of this case is complete, OCR will close this case and send a letter to the District stating that this case is closed.

This concludes OCR's investigation in this case and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determinations 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 OCR finds a violation. Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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, 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 courtesy and cooperation extended to OCR during the investigation and resolution of this case. If you have any questions, please contact the Equal Opportunity Specialist assigned to this case, XXX, at XXX or XXX.

Sincerely,

/s/
XXX

Attached: Resolution Agreement (signed)

cc: Heather Pierson, Counsel for District
Tom Horne, Arizona Superintendent of Public Instruction