



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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DENVER, CO 80204-3582

REGION VIII

ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

August 16, 2022

Dr. Brian Hill
Superintendent
2115 Grand Avenue
Grand Junction, Colorado 81501

By email only to: superintendent@d51schools.org

Re: Mesa County Valley 51
OCR Case Number: 08-22-1252

Dear Dr. Hill:

On March 9, 2022, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint of discrimination against Mesa County Valley 51 (District). The Complainant alleged that her son (Student) was denied a Free Appropriate Public Education:

- When staff at Grand Junction High School (School) did not implement his Section 504 plan from January 2022 to March 2022, under “Behavior & Classroom Management” and “Behavior & Classroom Management: Other Comments or Accommodations,” and
- When staff at the School suspended the Student for more than ten days during February 2022 but did not conduct a manifestation determination meeting until March 2022.

We are 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 prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department, and Title II of the Americans with Disabilities Act of 1990 (Title II), 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 and regulations.

On June 24, 2022, we formally notified the District that OCR opened an investigation regarding the above-listed allegations. We also requested information from the District. OCR reviewed

information from the District and from the Complainant. During the course of these investigative activities, OCR learned the following:

- The Student had a Section 504 plan active for the 2021-2022 school year containing the provisions identified above.
- The Complainant had discussions with School staff about the Student's Section 504 plan, and how to deal with him when his environment becomes stressful.
- School staff held a manifestation determination meeting after the Student was suspended for more than ten days.

Based on this information, OCR has concerns that the Student's Section 504 plan may not have been fully implemented from January 2022 to March 2022 related to "Behavior & Classroom Management" and "Behavior & Classroom Management: Other Comments or Accommodations" at the School, and that the District did not hold a manifestation determination meeting until after the Student was suspended from school for more than ten days. After discussing the information learned by OCR, the District indicated that it wanted to take voluntary action to resolve the allegations. Based on the information provided by the District and the Complainant thus far, we determined that voluntary resolution of the allegations was appropriate, pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*. Section 302 provides that allegations may be resolved with a voluntary Resolution Agreement (Agreement) before completing a full investigation when identified concerns can be addressed through an Agreement. On July 27, 2022, we sent the District a proposed Agreement. The District sent OCR a signed Agreement on August 15, 2022. A copy of the signed Agreement is enclosed.

When fully implemented, the Agreement will address the evidence obtained and all of the allegations raised in this complaint. OCR will monitor the implementation of the Agreement until the District is in compliance with the terms of the Agreement and the statutes and regulations at issued in the case. 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.

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 and is in compliance with the Section 504 and Title II. When the monitoring phase of the case is complete, OCR will close case number 08-22-1252 and will send a letter to the Complainant 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 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. 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.

If you have any questions, please contact XXXX, Equal Opportunity Specialist, the OCR person assigned to this complaint, at XXX or XXX.

Sincerely,

Sandra J. Roesti
Supervisory Attorney

Enclosure – Resolution Agreement

cc: Tammy Eret, Attorney at Law, *by email only*
Katy Anthes, Commissioner of Education, *by email only*