



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200
SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

May 13, 2014

Christopher Steinhauser
Superintendent
Long Beach Unified School District
1515 Hughes Way
Long Beach, California 90810

(In reply, please refer to OCR case no. 09-14-1057.)

Dear Superintendent Steinhauser:

In a letter dated December 10, 2013, the U.S. Department of Education, Office for Civil Rights (OCR), notified you of a complaint filed against the Long Beach Unified School District (District) alleging discrimination based on disability. The complaint alleged that the District denied the Student¹ a free appropriate public education (FAPE) because the District did not implement the Student's Individualized Education Program (IEP) and changed the Student's placement without following adequate evaluation and placement procedures.

As explained below, prior to reaching findings of fact or conclusions of law in this matter, OCR accepted a resolution agreement from the District that resolves the complaint allegation. As such, OCR is closing the investigation of this complaint as of the date of this letter.

OCR enforces Section 504 of the Rehabilitation Act of 1973 and its implementing regulation. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of Federal financial assistance. OCR also has jurisdiction as a designated agency under Title II of the Americans with Disabilities Act of 1990 and its implementing regulation over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The District receives Department funds, is a public education system, and is subject to the requirements of Section 504 and Title II.

Pursuant to section 302 of its *Case Processing Manual* (CPM), a complaint may be resolved at any time before the conclusion of an investigation if the recipient expresses an interest in resolving the complaint.

After OCR began its investigation, the District offered to proactively address the complaint allegation through a voluntary Resolution Agreement Reached During an

¹ OCR notified the District of the Student's identity in its December 10, 2013 letter and is withholding the Student's name from this letter to protect his privacy.

Investigation (Agreement). The District, without admitting any violation of the law, signed the enclosed Agreement. The Agreement will fully address the issue raised in this complaint.

The Agreement requires the District to take the following actions: To issue a memorandum or guidance to all school administrators and special education staff stating that schools will not use the "Referral for Immediate Action" process to transfer students with disabilities to other schools without first conducting an evaluation of the student's disability and holding an IEP meeting; to provide training to administrators, special education staff, and other staff as appropriate on the District's duty to provide a free appropriate public education; to review the School's master schedule for the upcoming school year (2014-2015) to ensure that it provides students with the opportunity to be in a Special Day Class-Emotional Disturbance (SDC-ED) setting all day if needed and to review the IEPs of all students eligible under the ED category to ensure that they will receive the amount of time in an SDC-ED setting as required by their IEPs; to create or revise as needed procedures at the School to ensure that all teachers and other service providers with responsibility for implementing a student's IEP or Section 504 plan are given the necessary information in a timely manner in order to provide the student with FAPE; to conduct a comprehensive current evaluation of the Student's behavior, including a functional analysis assessment; and to convene an IEP meeting for the Student to review the results of the comprehensive evaluation and also to determine whether compensatory educational services are needed.

OCR has determined that the actions taken by the District and its commitments expressed in the enclosed Agreement, when implemented, will resolve the issue in this complaint. OCR will monitor the implementation of the enclosed Agreement and may reopen the investigation if the District does not implement the provisions of the Agreement. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

This concludes the investigation of the complaint 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 determination 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.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a complaint with OCR alleging such treatment.

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Under the Freedom of Information Act, it may be necessary to release this document and related records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR thanks you and your staff for your cooperation and assistance in resolving this matter. If you have any questions, please contact Jenny Moon, Civil Rights Attorney, at (415) 486-5338.

Sincerely,

/s/

Mary Beth McLeod
Team Leader

Enclosure

Cc: Connie L. Jensen, Assistant Superintendent, School Support Services