



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION IX
CALIFORNIA

March 23, 2015

Superintendent Aida Buelna
Esparto Unified School District
26675 Plainfield Street
Esparto, California 95627

(In reply, please refer to OCR case no. 09-14-1320.)

Dear Superintendent Buelna:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the Esparto Unified School District (District). The Complainant, the parent of a high school student in the District, alleged that the District discriminated against the Student on the basis of disability.¹ Specifically, OCR investigated the following issues:

- (1) Whether the District failed to provide the Student with a free, appropriate public education (FAPE);
- (2) Whether the District retaliated against the Student by accusing him of cheating and of violating the computer use policy after the Complainant filed a complaint alleging disability discrimination with the District; and
- (3) Whether the District's response to the complaint of discrimination based on disability and retaliation was prompt and equitable.

OCR investigated this complaint pursuant to its authority under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. Section 504 and its implementing regulation prohibit discrimination on the basis of disability in programs and activities operated by recipients of Federal financial assistance. Title II and its implementing regulation prohibit discrimination on the basis of disability by public entities. The District receives Department funds, is a public education system, and is therefore subject to the requirements of Section 504, Title II, and their implementing regulations.

To investigate this complaint, OCR conducted interviews and reviewed documents and other information provided by the Complainant and the District. After careful review of the information gathered in the investigation, we concluded that there was insufficient evidence to support a finding of noncompliance regarding the second issue. With respect to the first and third issues, we concluded there was sufficient evidence to support a finding of noncompliance. The facts gathered, the applicable legal standards, and the reasons for our determinations are summarized below.

¹ OCR notified the District of the Complainant's and Student's identities at the beginning of the investigation. In order to protect their privacy, we are omitting their identities in this letter.

Issue 1: Whether the District failed to provide the Student with a free, appropriate public education (FAPE).

- During the 2013-2014 school year, the Student was enrolled in ninth grade at Esparto High School (School) in the District. The Student has been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD), which results in distractibility and challenges to his executive functioning.
- The 504 Plan was reviewed and modified by the Student's 504 team when the Student enrolled in middle school in the District. The Student's 8th grade written 504 Plan included the following accommodations: (1) In classes, the Student will use activities to avoid "boredom," including silent reading after checking with the teacher; (2) After conferring with the parent and the Student, the classroom teacher will use an alternative test taking location for administration of the STAR test; (3) In seventh period, a teacher (who is identified by name in the 504 Plan) will remind the Student to utilize study hall time for starting his homework, organizing, and checking his planner; and (4) the administration agreed to move the Student to a different classroom for third period.
- The parents reported to OCR that they never saw a written copy of the 8th grade 504 Plan until late in the Student's 9th grade year. They believed that the 504 Plan included preferential seating, extended time on assignments, and other provisions that were not documented in the 8th grade 504 Plan.
- In August 2013, the Student began attending 9th grade at the High School (School), and his parents notified the School that he had a 504 Plan from the previous school year. The Principal sent an email to the Student's teachers on September XX, 2013 notifying them that the Student had a 504 Plan. The Principal's email stated that the accommodations included: engaging the Student in activities to avoid "boredom" such as silent reading after checking with the teacher and reminding the Student to use his study time for homework.
- On October XX, 2013, the Principal and the Student's parents had a meeting by phone to discuss the 504 Plan. Although the 504 Plan from 8th grade included names of teachers and other staff at the middle school, and other services and references specific to the middle school setting, the 504 Plan was not modified. They decided to reconvene to further discuss the 504 Plan in November. After the October meeting, the Principal emailed his staff to say that the Student's 504 Plan from 8th grade would remain in effect since the Student was doing well. The Complainant, Principal and Counselor met again in November 2013 and did not amend the 504 Plan. The District told OCR that no concerns were brought to the School's attention in the meeting.
- In one email in October 2013, the Student's agriculture biology teacher (Teacher 1) thanked the Complainant for stating what was included in the 504 Plan because, Teacher 1 wrote, she knew there was a 504 Plan but didn't know what was in it.
- Between mid-October 2013 into March 2014, the Complainant was in regular email contact with the Principal and the Student's teachers, particularly Teacher 1. The emails often involved questions about why the Student was missing grades in the School Loop page for Teacher 1, whether the Student had turned in certain assignments or not in Teacher 1's class, and whether he received adequate credit from Teacher 1. The Complainant's emails also often referenced the fact that the Student had a 504 Plan, and periodically mentioned accommodations that the parents erroneously believed to be part of the 504 Plan. For example, on October XX, 2013, the Complainant noted that

the Student's 504 Plan included "preferential seating." However, preferential seating is not included in the 8th grade 504 Plan. In another example, the Complainant noted in a March XX, 2014 email to Teacher 1 that the Student has a 504 Plan and would therefore sometimes need extra time for assignments. This was also not written in the 504 Plan.

- The Principal also seemed confused as to what was included in the Student's 504 Plan. In an early 2014 email, he erroneously noted that the Student's 504 Plan included a provision for extra time.
- On April X, 2014, there was a 504 meeting regarding the Student. The parents, Principal, Counselor, and four teachers (not including Teacher 1) were present and discussed updating the 504 Plan. After several communications between the Principal and the Complainant to fine tune the 504 Plan, it was completed and appropriately updated to the 9th grade setting.
- The parents' concerns continued after the 504 Plan was revised, including concerns about how the School was treating their son generally (including whether he was being retaliated against; see below) -- whether Teacher 1 was tracking and grading assignments accurately, and whether the Student's 504 Plan was being implemented.
- The parents took the Student out of school and had him placed on independent study at the beginning of May 2014. The District did not convene a Section 504 meeting for this significant change in placement.

Legal standards

The Section 504 regulations require public school districts to provide a free, appropriate public education (FAPE) to all students with disabilities in their jurisdictions.² An appropriate education is defined as regular or special education and related aids and services that are 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 to require districts to provide a FAPE at least to the same extent required under the Section 504 regulations.³

Placement decisions -- i.e., decisions about whether any special services will be provided to the student and, if so, what those services are -- must be made by a group of persons knowledgeable about the student, the evaluation data, and the placement options.⁴ Placement decisions must be based on information from a variety of sources, with information from all sources being carefully considered and documented. In addition, school districts are required to have a system of procedural safeguards with respect to any action taken by the district regarding the identification, evaluation or placement of the student.⁵ Such safeguards must include notice of the action, an opportunity to examine relevant records, an impartial hearing with opportunity for participation by parents or guardians and representation by counsel, and a review procedure.

² 34 C.F.R. §104.33

³ 28 C.F.R. §§35.103(a) and 35.130(b)(1)(ii) and (iii)

⁴ 34 C.F.R. §104.35(c)

⁵ 34 C.F.R. §104.36

Analysis

To determine whether or not the District provided the Student in this case with a FAPE, OCR first looked at the content of the 504 Plan in place at the beginning of the 2013-2014 school year and how the Student's teachers were notified of its contents. OCR also looked at how the 504 Plan was modified, if at all, to the new school setting (i.e., applying a 504 Plan from middle school to high school). In addition, OCR looked at whether the provisions of the 504 Plan were implemented by the Student's teachers, how the District monitored the Student's progress, and how it responded to any concerns about his progress.

When a student with a disability changes schools or graduates to a new school, the 504 Plan should be provided promptly by the sending school to the new school. When the new school receives the 504 Plan, school staff should review the 504 Plan in order to notify the student's teachers of the accommodations in the 504 Plan. In addition, the responsible staff at the new school should note whether or not the 504 Plan is applicable to the different setting. A 504 Plan that references specific school staff or classes that are not present at the new school is not applicable in the new school. If this is the case, the new school should reasonably and promptly convene a meeting with the Student's 504 team to amend the 504 Plan.

In this case, the 504 Plan in place when the Student started high school had been developed in February 2013, when the Student was in 8th grade in middle school, and several of those accommodations referenced the middle school schedule and personnel. Given that the 504 Plan in place at the School from the beginning of 9th grade through early April 2014 was designed for the spring semester of the Student's 8th grade year, the plan was not designed to meet the Student's individual educational needs in his high school setting as adequately as the needs of nondisabled students are met.

While the inapplicability of most of the 504 Plan should have been clear to the District, the District also missed multiple cues that a discussion of the 504 Plan was necessary long before April 2014. While the Principal and Complainant discussed the 504 Plan in October and November 2013, it did not include teachers or other persons knowledgeable about the Student as required by Section 504 regulations. Notably, starting in October 2013, the Complainant became increasingly upset with the Student's grades, particularly in Teacher 1's class, and referenced accommodations that were not, in fact, part of the documented 504 Plan. Further, Teacher 1 did not understand what was in the Student's 504 Plan, and the Principal also seemed to be confused as to what was required pursuant to the 504 Plan. In summary, erroneous statements by the Student's parents, Teacher 1, and the Principal demonstrate confusion and frustration about the content of the 504 Plan, and strongly suggest that the 504 Plan was not being read or referenced by anyone in charge of implementing the plan.

The confusion surrounding the Student's 504 Plan highlights the difficulties that may arise when a 504 Plan is not written down, and why OCR recommends that school districts adopt the practice of reducing the plan to writing. The Complainant did not receive a copy of the Student's 504 Plan from 8th grade until well into his 9th grade year, and then discovered that the contents of the 504 Plan were different from what she believed was included. Had the District ensured that the parents and School teachers had a copy of the 504 Plan at the beginning of the school year, the problems with the 504 Plan from middle school would have been noticed much sooner, the 504 team would have met to update the plan as appropriate, and the Student's teachers would have understood the accommodations that were required for the Student to access a FAPE.

With respect to the first issue, OCR concluded that there was sufficient evidence to support a noncompliance determination.

Issue 2: Whether the District retaliated against the Student by accusing him of cheating and of violating the computer use policy after the Complainant filed a complaint alleging disability discrimination with the District.

- On April XX, 2014, Teacher 1 reported to the Principal that she had observed the Student copying off of another student's papers as she collected assignments, and gave him no grade on the assignment. The Principal directed Teacher 1 to contact the Student's father about the incident, which she did.
- Later that day, the Student's father visited the School office after being told that the Student was caught cheating on an assignment in Teacher 1's class. He requested a 504 meeting be held. According to the Complainant, the day before (April 10, 2014), the Student's father had notified the School secretary in person that he intended to file a complaint against the Principal, Teacher 1, and the Counselor for neglecting to implement the Student's 504 Plan.
- On April XX, 2014, the Superintendent emailed the Complainant and stated that she had received notice that the Student's parents wanted to have a meeting with the Principal and Teacher 1. The Complainant responded to the Superintendent, "We are tired of meetings, emails, phone calls, and continuing to go in circles" and have decided to file a complaint. At some point on April XX, 2014, the Complainant participated in a phone meeting to discuss the alleged cheating incident and request a change in the Student's schedule.
- On April XX, 2014, the parents emailed a completed Uniform Complaint Procedure form to the Superintendent.
- On April XX, 2014, a different teacher at the School, Teacher 2, emailed the Principal and the Counselor to notify them that the Student had created several file folders in his class folders on the school computer system without permission. This created confusion for Teacher 2 and other students about where to save assignments. When the extra folders were deleted, some other students' work was also deleted. The Student admitted he created the extra folders.
- The District's research found that the Student had created multiple folders on April XXXX and XXXX. The Student also had created a text document entitled "*School Internet Info Open to Hackers.*" The Student's network account on the District system was suspended for 30 days per the District's "*Acceptable Use Policy for District Computer Systems*" (*Acceptable Use Policy*).
- The District's *Acceptable Use Policy* states that an unacceptable use of the network includes "[c]ausing harm to others or damage to their property, such as . . . deleting, copying, modifying, or forging other users' names, emails, files or data . . ." Additionally, the School's 2013-2014 Student Handbook notes that the consequences of violating the computer system and network policy includes revoking computer use privileges for at least 30 days.
- On May X, 2014, the parents wrote a letter to the School Board President. The parents mentioned the computer incident ("hacking incident") and stated that the School had failed to follow the

Student's 504 Plan. The parents stated that the Student admitted to creating extra folders on the network. However, the letter then questioned the timing of the appearance of new programs on his computer account and the "hacking" allegations. The parents notified the School Board President that they were taking the Student out of school for fear of retaliation by the Principal.

- On May X, 2014, the Principal emailed the Complainant to set up a meeting to discuss a consequence for the computer incident since the parents did not agree that the 30-day loss of access to the computer system was appropriate. The parents did not respond to the Principal.
- On May X, 2014, the parents requested that the District place the Student on independent study for fear of student retaliation. The parents were afraid that other students were upset at the Student for causing their work to be deleted from the computer folders.

Legal standards

The Section 504 regulations incorporate 34 C.F.R. §100.7(e) of the regulations implementing Title VI of the Civil Rights Act of 1964 and prohibit school districts from intimidating, coercing, or retaliating against individuals because they engage in activities protected by Section 504.⁶ The Title II regulations similarly prohibit intimidation, coercion, or retaliation against individuals engaging in activities protected by Title II.⁷

When OCR investigates an allegation of retaliation, it examines whether the alleged victim engaged in a protected activity and was subsequently subjected to adverse action by the school district, under circumstances that suggest a connection between the protected activity and the adverse action. If a preliminary connection is found, OCR asks whether the school district can provide a nondiscriminatory reason for the adverse action. OCR then determines whether the reason provided is merely a pretext and whether the preponderance of the evidence establishes that the adverse action was in fact retaliation.

Analysis

The Complainant alleges that the District retaliated against the Student on two occasions: first, when Teacher 1 accused the Student of cheating after the parent notified the School that he was going to submit a UCP complaint to the District based on the School's failure to follow the Student's 504 Plan; and second when the Student was accused of violating the District's computer use policy the day after the parents emailed the UCP complaint to the Superintendent. OCR analyzed these two allegations of retaliation separately.

To determine whether the District retaliated against the Complainant and Student, OCR examined whether the parents engaged in a protected activity and were subsequently subjected to adverse action by the District, under circumstances that suggest a connection between the protected activity and the adverse action. In this case, the father stated that he notified the School's secretary on April XX, 2014, that he and the Complainant were going to submit a UCP complaint against the District for failing to implement the Student's 504 Plan. No one at either the School or the District claimed to know about the parents' intention to submit the UCP complaint until the Superintendent received an email from the Complainant on April XX, 2014. Teacher 1 accused the Student of cheating on an assignment in class on

⁶ 34 C.F.R. §104.61

⁷ 28 C.F.R. §35.134

April XX, 2014, a full six days before the District received an email about a pending UCP complaint by the parents. The parents did not submit the UCP complaint until April XX, 2014.

OCR finds that the protected activity of submitting the UCP complaint did not occur until after the alleged adverse action of Teacher 1 accusing the Student of cheating. While the parent stated that he notified the School of his intention to file a UCP complaint on April XXXX, no other evidence corroborates this timeline of events. The UCP complaint itself does not include a retaliation claim concerning the cheating incident although it was not submitted until April XXXX. While the parents did not raise the issue, the concerns they raised about implementation of the Student's Section 504 plan throughout the year was also protected activity. OCR, however, found no evidence of a causal connection between the parents' advocacy on the Student's behalf, which occurred throughout the year, and the cheating accusation. Therefore, there is insufficient evidence to support a retaliation determination as to the cheating allegation.

With regard to the Student's alleged violation of the District's computer use policy, on April XX, 2014, the Student was accused of creating the excess folders in Teacher 2's class files, confusing other students about the appropriate place to save their work. Some of those students' assignments were deleted during the School's cleanup process. This was the day after the parents emailed the UCP complaint to the Superintendent. The proximity in time between the protected activity of submitting the UCP complaint and the alleged adverse action of the Student being accused of violating the District's computer use policy suggests a causal connection between the two actions.

The next step of OCR's analysis is to see if the District can provide a non-discriminatory reason for accusing the Student of violating the computer use policy. In this case, the Student admitted, and it is not in dispute, that he created multiple folders in Teacher 2's class file system, which resulted in some students having their work deleted. This is a non-discriminatory reason for the District's action.

Finally, OCR looks to whether the reason provided is merely a pretext for retaliation. In this case, the Complainant relied only on the temporal proximity of the events in question to argue the violation of the District's computer use policy was retaliation. There is no other evidence supporting the Complainant's position. The Student's actions that resulted in the deletion of other students' work, therefore, do not appear to be a pretext for retaliation.

With respect to the second issue, OCR concluded that there was insufficient evidence to support a determination of retaliation.

Issue 3: Whether the District's response to the complaint of discrimination based on disability and retaliation was prompt and equitable.

- The applicable grievance procedures are the District's Uniform Complaint Procedures (UCP). The UCP are described at Administrative Regulation 1312.3 (AR 1312.3). Per the UCP, within 30 days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision (Report). The Report shall include: (1) The findings and disposition of the complaint, including corrective actions, if any; (2) The rationale for the disposition; (3) Notice of the complainant's right to appeal; and (4) A special requirement if the complainant wishes to pursue civil law remedies.

- On April XX, 2014, the Student's parents filed a written complaint alleging that the School discriminated against the Student on the basis of disability. The parents added allegations orally when they spoke with the District's legal counsel (Counsel), including alleged retaliation against the Student by accusing him of cheating and of violating the computer use policy.
- The complaint alleged that: Teacher 1 and the Principal were not following the Student's 504 Plan; Teacher 1 failed to notify the parents that the Student was struggling in her class; Teacher 1 did not attend the Student's 504 meeting; Teacher 1 retaliated against the Student by falsely accusing him of cheating; and the Principal was retaliating against the Student by falsely accusing him of "hacking" into the school's computer system and of creating multiple copies of files within a class folder. In addition, the complaint included a number of very specific allegations that did not necessarily allege discrimination. These allegations included: Teacher 1 too frequently being away from the classroom, usually for field trips; and Teacher 1 not giving the Student proper credit for assignments that have been turned in.
- On April XX, 2014, the Superintendent asked the Counsel to investigate the parents' complaints.
- OCR asked the Counsel about her investigation process. In investigating the parents' complaints, Counsel interviewed seven staff members (the Principal, Teacher 1, Teacher 2, the Counselor, the IT staff person, and two other teachers), nine students, the Student, the Student's brother, and the parents.
- In response to our question about what Counsel understood to be the nature of the complaint, Counsel stated that the initial complaint was about "a grade dispute" ("comments [by the parents] such as assignments have been turned in and they received no credit"), staff conduct (comments by the parents such as "[Teacher 1] goes on field trips that take her away from class"), and "a less specific complaint that the 504 Plan was not followed."
- Thereafter, the parents wrote to the Board President on May X, 2014, stating that they had filed a complaint against Teacher 1 and the Principal for failing to follow the Student's 504 Plan, retaliation against the Student in regard to the computer incident, and that the Student had been defamed.
- Counsel stated that the Section 504 regulations were considered in her analysis, but that the family's allegations were very specific. When OCR asked whether or not she reached a conclusion as to whether the District had discriminated against the Student on the basis of disability, Counsel sidestepped the question and stated she had found that the District "did not ignore" the Student's requests for additional time and noted that he was ultimately given credit for the late assignments.
- The Summary of Findings sent to the parents regarding the UCP complaint states that "the findings and rationales were arrived at as a result of several interviews of staff and several interviews of your family members. Documents were obtained from staff whenever appropriate. Credibility determinations were made when necessary." Other than these general statements, no other discussion or analysis is provided to explain how Counsel reached these findings. In contrast, the District's internal and confidential investigation report includes many details about the witnesses' statements, corroborating evidence, and when credibility determinations were made.
- The Summary of Findings regarding the alleged computer use policy violation that was sent to the parents, unlike the findings regarding the 504 Plan and cheating incident, included a report prepared

by the IT Staff and made note of the Student’s admission to creating multiple folders on Teacher 2’s class file system. However, again, the District’s internal and confidential investigation report included discussion of witnesses’ statements by School students, staff and administration regarding the incident, which were not included in the letter to the parents.

- In the letter accompanying the summary of findings in the 504 Plan investigation, the District informed the parents that it would be “reviewing and revising its 504 procedures (so that there is clearer communication between relevant school sites when 504s are created and a requirement for signatures on all 504s), and providing appropriate trainings to staff on the 504 procedures.” While noting the problems with the Student’s 504 Plan, the District concluded that the Student failed to request extra time, and therefore “could conclude that [the Student] was not entitled to any credit for late assignments”, but because of the confusion by the School staff and in an attempt to resolve the matter, “[the Student] was recently given full credit for late assignments during the current semester.”
- In the letter accompanying the summary of findings in the computer use violation investigation, the District concluded that “no staff sought to retaliate against [the Student] as a result of [the parents’] prior complaint.”
- Counsel stated that some of the facts on which the findings were based were not provided to the parents because some of the information was confidential (such as student records), as well as a concern about possible retaliation because the Student’s grandfather is a board member, and/or concerns about a potentially angry response by the father. Counsel noted that her confidential and internal investigative reports “were provided to OCR with the knowledge that the reports and excerpts would be provided to the family if OCR felt it was necessary or warranted.”

Legal standards

The Section 504 regulations require a recipient employing 15 or more persons to adopt grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging disability discrimination.⁸ The Title II regulations similarly require a public entity employing 50 or more persons to adopt and publish prompt and equitable grievance procedures.⁹

OCR examines a number of factors in evaluating whether a recipient’s grievance procedures are prompt and equitable, including whether the procedures provide for the following: notice of the procedure to parents of elementary and secondary school students and employees, including where to file complaints; application of the procedure to complaints alleging discrimination by employees, other students, or third parties; adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; designated and reasonably prompt timeframes for major stages of the complaint process; notice to the parties of the outcome of the complaint; and an assurance that steps will be taken to prevent recurrence of any discrimination and to correct its effects.

⁸ 34 C.F.R. §104.7(b)

⁹ 28 C.F.R. §35.107(b)

Analysis

OCR found two areas of concern with regard to the District's use of the Uniform Complaint Procedure (UCP) in this case. The first is District Counsel's narrow analysis of the parent's discrimination complaint as a "grade dispute." The second is the District's failure to provide the Student's parents with sufficient factual findings to explain how it reached a decision after investigation of the UCP complaint.

The District's decision to treat the parents' UCP complaint about the School's failure to implement the Student's 504 Plan narrowly as a "grade dispute" led to confusion and inconsistencies in its investigation. The District concluded that the Student's 504 Plan from middle school to high school did include an "unwritten accommodation" that he would receive additional time to complete assignments, if requested, and that the School staff was initially confused about whether the accommodation did apply. An investigation focused on 504 plan implementation could have concluded that this confusion deprived a student of a FAPE and that he would be entitled to receive credit for assignments as well as compensatory education. Yet, because the District focused on grades instead of discrimination, the District failed to identify the deficiencies in its 504 processes and implementation and instead decided that while it was not obligated to do so, it would provide the Student with credit for some late assignments. The District's conclusion allowed it to abdicate its responsibility under Section 504, and place the burden on the Student to insist on an accommodation that no School staff member was made aware of until April 2014.

Regarding the UCP investigation conducted by the District in this case, OCR found that Counsel conducted a thorough and impartial investigation into the parents' grievance, and that the findings were supported by the information obtained during the investigation. Counsel interviewed several witnesses about the Student's 504 Plan, the cheating incident, and the computer use violation, as well as reviewed relevant documentation. However, OCR determined that her findings letter and report to the parents failed to explain the reasoning/analysis that led to the conclusion of no discrimination. While it summarized the factual conclusions she reached and provided the parents with the District's conclusion, Counsel did not discuss that she received conflicting information, how she weighed the conflicting information, and when she made credibility determinations in reaching the findings. While the District noted concerns with confidentiality and potential retaliation, this is not sufficient justification for its failure to provide adequate reasoning for its conclusion.

With respect to the third issue, OCR concluded that there was sufficient evidence to support a determination that the grievance procedure was not prompt and equitable.

Conclusion

On March 20, 2015 the District, without admitting to any violation of law, agreed to implement corrective actions and signed an agreement that, when fully implemented, will resolve the issues in the complaint. This agreement includes, in summary, the following remedial actions: revision of the District's Section 504 policies, procedures, and forms; development of a memorandum for District and school staff explaining the changes to the 504 policies and procedures; in-service training on the requirements of Section 504 and the revisions to the District's policies and procedures; revisions to the District's discrimination complaint procedures; development of a memorandum or in-service training for District and school staff explaining the requirements for internal complaints and the revisions to the District's policies and procedures; a prompt meeting of the Student's 504 team to review the 504 Plan for any needed changes and to determine whether compensatory services are needed to compensate

for the delay in convening a 504 team meeting when the Student transitioned to the high school setting; and provision of a revised written response to the Complainant's internal grievance explaining the rationale for the determination. OCR will be monitoring the District's compliance with the enclosed agreement.

This concludes the investigation of this complaint. OCR's determination in this matter 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. We are notifying the Complainant simultaneously of OCR's determination. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 Complainant may file another complaint alleging such treatment.

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, it will seek to protect, to the extent provided by the law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact attorneys Alvaro Soria at 415-486-5580 or alvaro.soria@ed.gov , or Laura Welp at 415-486-5577 or laura.welp@ed.gov.

Sincerely,

/s/

Anamaria Loya
Team Leader

Cc: Donna Matties and Jennifer Fain
Atkinson, Andelson, Loya, Ruud & Romo
(By email only)