



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION IX
CALIFORNIA

September 3, 2014

Dr. Sid Salazar
Superintendent
Alvord Unified School District
10365 Keller Avenue
Riverside, California 92505

(In reply, please refer to case no. 09-14-1354.)

Dear Superintendent Salazar:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed against the Alvord Unified School District (District). The Complainant¹ alleged that the District discriminated against her son (Student) on the basis disability by failing to implement the Student's Individualized Education Plan (IEP) by not providing counseling services as required by the Student's IEP.

OCR initiated this complaint under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) and their implementing regulations. 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 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.

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 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.

¹ OCR notified the District of the identity of the Complainant and Student when the investigation began. We are withholding their names from this letter to protect the Complainant's and Student's privacy.

OCR began gathering evidence through reviewing documentation provided by the District and the Complainant.

Under Article III, Section 302, of OCR's Case Processing Manual, a complaint may be resolved at any time before the conclusion of an investigation when the District expresses an interest in resolving the complaint. Prior to OCR concluding its investigation, the District expressed an interest to resolve the complaint voluntarily. OCR and the District entered into an agreement to resolve the complaint on August 29, 2014, which addresses the issues raised by the complaint. Accordingly, OCR did not complete its investigation or reach conclusions regarding the District's compliance with Section 504/Title II.

Pursuant to the attached Agreement, the District has agreed to provide the Student with compensatory counseling service, and require counseling service providers to maintain accessible service logs in a centrally located place at the District. Further, the Agreement requires the District to institute an auditing system to ensure counseling services are being provided consistent with students' IEPs or Section 504 Plans. The District will also review counseling records for all special education students, for the 2013-2014 school year to assure that each student has received his or her counseling services consistent with his or her IEP or Section 504 Plan and will provide compensatory counseling services for any student who did not receive counseling services as required by the student's IEP or Section 504 Plan. The Agreement also requires the District to provide training to its counseling service providers to ensure that such providers understand that it is critical that students receive counseling services as required by each student's IEP or Section 504 Plan.

OCR is closing this complaint as of the date of this letter. OCR will monitor the District's implementation of the agreement. Resolution of this complaint 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.

The Complainant may have the right to file a private suit in federal court, whether or not OCR finds a violation.

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 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, 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.

We wish to thank the District, especially Ruth Heger, Program Director for her cooperation and assistance in resolving this matter. If you have any questions about this letter or OCR's resolution of this complaint, please contact G. Anthony Brown, Attorney, at (415) 486-5547.

Sincerely,

/s/

James Wood
Team Leader

Enclosure

cc: Ruth Heger, Program Director
Cynthia Vargas, Counsel