



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION IX  
CALIFORNIA

March 11, 2015

Dr. Louise Johnson  
Superintendent  
Nevada Joint Union High School District  
11645 Ridge Road  
Grass Valley, California 95949

(In reply, please refer to case no. 09-15-1011.)

Dear Superintendent Johnson:

On October 14, 2014, the U.S. Department of Education, Office for Civil Rights (OCR), opened a complaint of discrimination against the Nevada Joint Union High School District (District) on the basis of disability.

On November 26, December 2 and 10, 2014, OCR contacted the Complainant<sup>1</sup> to discuss the complaint and has corresponded with her through e-mail and by telephone. The Complainant alleges that the District failed to provide her daughter, (Student), with a free, appropriate public education (FAPE) by failing to implement the Student's Individualized Education Program (IEP) plan in regards to the provision of physical therapy (PT) services. The Complainant advised OCR that her daughter has not received PT services since September 2014 through the present time.

OCR enforces Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability in programs and activities operated by recipients of Federal financial assistance. OCR also has jurisdiction under Title II of the Americans with Disabilities Act of 1990 over disability discrimination complaints filed against public educational entities. The District receives funds from the Department and is subject to the above laws and their regulations as enforced by OCR.

The issue considered by OCR was whether the District implemented the Student's IEP when the District failed to provide PT services from the beginning of the 2014-2015 school year through the present time. On January 12, 2015, OCR discussed the allegations with the District's Director of Special Education Services (Director). OCR learned that in August or September 2014, the physical therapist, who was providing PT services to the Student, moved out of the area. Since the therapist left, the Director has contacted several PT therapists in the Sacramento area and has asked them to provide services to the Student. He stated that the District offered to provide (1) roundtrip transportation for the Student from school to the PT's office because the

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<sup>1</sup> OCR previously informed the District of the identity of the Complainant and Student. We are withholding their names from this letter to protect their privacy.

therapist's office has all the equipment that the Student needs; and (2) to have the Student's one-on-one aide accompany the Student to the PT's office and provide all the services that the Student normally gets at school. The Director stated that he spoke to the Complainant about the offer, but the Complainant wanted the Student to get PT services at the school and not off campus.

The Director advised OCR that he has been making calls on a weekly basis to get a therapist to work with the Student. The Director provided evidence that the District has contacted approximately 15 therapists and/or facilities that provide PT services for the period from August 2014 to February 2015. On February 9, 2015, the Director advised OCR that the District has been able to secure a physical therapist for the Student; the physical therapist has agreed to provide PT services at the school site; the District has agreed to provide 100% compensatory PT services from September 2014 through the present time, and hold an IEP meeting to discuss compensatory PT services for the Student.

Under OCR procedures (Article III, Section 302), a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. On January 12, 2015, the District communicated to OCR that it was interested in resolving the complaint. OCR informed the District that resolving the complaint prior to the completion of the investigation was voluntary. OCR also informed the Complainant of the District's interest in resolving the complaint.

On March 4, 2015, the District, without admitting to any violations of Federal laws enforced by OCR, voluntarily signed the enclosed Resolution Agreement, which commits to the following: (1) The District will continue its efforts to schedule an IEP meeting to take place by April 30, 2015; (2) the IEP meeting will address the PT needs of the Student; (3) the District will calculate the total number of hours of PT services that are due to the Student for the period of time beginning in September 2014 when the Student was not receiving PT services as called for in her IEP; and (4) the District will develop a compensatory plan to provide PT services for the Student.

OCR is closing this complaint as of the date of this letter and concurrently notifying the Complainant.

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.

OCR routinely advises recipients of Federal funds and public education entities that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR and those participating in the complaint resolution process. Complainants and other participants who feel that such actions have occurred may file a separate complaint with OCR.

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 which, if released, would reasonably be expected to constitute an unwarranted invasion of privacy.

If you have any questions, please contact Nefertiti Sadat, Civil Rights Investigator, at (415) 486-5550 or [nefertiti.sadat@ed.gov](mailto:nefertiti.sadat@ed.gov).

Sincerely,

/s/

Anamaria Loya  
Team Leader

cc: Sean Manchester  
Director of Special Education Services

Enclosure