



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION IX
CALIFORNIA

July 2, 2015

Gary Rutherford, Ed.D
Office of the Superintendent
Desert Sands Unified School District
47-950 Dune Palms Road
La Quinta, CA 92253

(In reply, please refer to case no. 09-15-1266.)

Dear Dr. Rutherford:

On April 20, 2015, the U.S. Department of Education, Office for Civil Rights (OCR) notified you that it had received a complaint against the Desert Sands Unified School District (District) alleging disability discrimination. The Complainant¹ on behalf of Students alleged discrimination on the basis of disability and retaliation. Specifically, the complaint alleged the following:

1. The District failed to provide the Students with a free, appropriate public education (FAPE) when the District did not implement the Students' Individualized Education Program components that relate to toileting.
2. The District retaliated against the Complainant and the Students after the Complainant disagreed with the District regarding an interim placement decision regarding the Students on January XX, 2015 and the Complainant complained about the adequacy of the seat restraint used in the school bus provided by the District. Specifically, the District restricted the Applied Behavioral Analysis specialist's access to the Students' classroom and required the Students to be dropped off further from school.

Prior to the conclusion of the OCR investigation, and before OCR reached compliance determinations, the District expressed an interest in taking action to resolve the allegations in this complaint. Under Article III, Section 302 of OCR's Case Processing Manual a complaint may be resolved before the conclusion of an investigation when the recipient expresses an interest in such a resolution and agrees to a resolution that is aligned with the complaint allegations and consistent with applicable regulations. On

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

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

June 23, 2015, the District provided OCR with a signed Resolution Agreement (Agreement). As such, OCR is closing the investigative activity of this matter as of the date of this letter.

Legal Authority

OCR investigated the complaint under the authority of 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.

Conclusion

OCR concludes that the actions agreed to by the District in the enclosed Resolution Agreement will resolve the compliance issues in this case. OCR will monitor the implementation of the Resolution Agreement.

This concludes OCR's 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 Complainant may file another complaint alleging such treatment.

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.

We wish to thank the District, especially Dina Harris, legal counsel for the District, 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

Encl.

cc: Dina Harris, Esq.