



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGION IX
CALIFORNIA

50 UNITED NATIONS PLAZA
MAIL BOX 1200; ROOM 1545
SAN FRANCISCO, CA 94102

October 3, 2016

Dr. Ramona Bishop
Superintendent
Vallejo City Unified School District
665 Walnut Avenue
Vallejo, California 94592

(In reply, please refer to case No. 09-16-1509.)

Dear Dr. Bishop:

On June 14, 2016, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against Vallejo City Unified School District (Recipient). The Complainant alleged discrimination on the basis of disability on behalf of her son (Student).¹ OCR opened the following allegation for investigation: The Recipient subjected the Student to different treatment on the basis of disability when the Recipient refused to let the Student participate in a fieldtrip on May XX, 2016, because the Student's teacher (Teacher) was concerned that the Student would run away.

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 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, as amended, and its implementing regulation over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The Recipient receives Department funds, is a public education system, and is subject to the requirements of Section 504, Title II, and the regulations.

Under the Section 504 regulations, at 34 C.F.R. §104.4(a) and (b), no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. The Title II regulations, at 28 C.F.R. §35.130(a) and (b), create the same prohibition against disability-based discrimination by public entities. Under 34 C.F.R. §104.4(b)(1) and 28 C.F.R. §35.130(b)(1) a recipient public school district may not, directly or through contractual, licensing, or other arrangements, on the basis of disability,

¹ OCR informed the District of the identities of the Complainant and Student in our letter notifying it of the complaint. We are withholding them here to protect their privacy.

- i. deny a qualified disabled individual the opportunity to participate in or benefit from an aid, benefit, or service.

To determine whether an individual has been discriminated against on the basis of disability under Section 504 and Title II, OCR looks at whether there is evidence that the individual was treated differently than non-disabled individuals under similar circumstances, and whether the treatment has resulted in the denial or limitation of services, benefits, or opportunities. If there is such evidence, OCR examines whether the school district provided a nondiscriminatory reason for its actions and whether there is evidence that the stated reason is a pretext for discrimination. For OCR to find a violation, the preponderance of the evidence must establish that the school district's actions were based on the individual's disability.

Under Section 302 of OCR's Complaint Processing Manual, a complaint may be resolved at any time when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint. When OCR first contacted the Recipient about this case, the Recipient notified OCR that it did not have notice of the incident and would conduct its own investigation. As part of its investigation, the Recipient obtained a statement from the Complainant, the Teacher and School Principal. After completing its investigation, the Recipient determined that the Student was inappropriately excluded from the fieldtrip. The Recipient committed to providing training for the Student's teacher and all certificated staff at the School concerning relevant School Board policies that fieldtrips and other co-curricular activities must not be conducted in a manner that discriminates against students on the basis of disability.

OCR contacted the Complainant to determine if she wanted an individual remedy for the Student as to the fieldtrip, such as the opportunity to attend an upcoming fieldtrip or to go to the fieldtrip location at no cost. The Complainant explained to OCR that she was not interested in this type of individual remedy since the Student was no longer attending a Recipient school.

On September 29, 2016, the Recipient signed an agreement with OCR to implement the corrective actions that the Recipient identified after its investigation. OCR will monitor the District's implementation of the agreement. Because the Recipient voluntarily resolved this complaint, OCR did not complete its investigation or reach conclusions as to whether the Recipient failed to comply with Section 504 or Title II. This concludes OCR's investigation of the complaint.

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 Recipient 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 or student may file another complaint alleging such treatment.

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 Alvaro Soria at (415) 486-5580 or alvaro.soria@ed.gov.

Sincerely,

/s/

Sara Berman
Team Leader

Enclosures

Cc: District's Chief Academic Officer (by email only)