



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

Tuesday, June 26, 2018

VIA ELECTRONIC MAIL

Ms. Nancy Kelly, Ed.D.
Superintendent of Schools
Upland Unified School District
390 North Euclid Avenue
Upland, California 91786

Re: OCR Docket # 09-18-1207

Dear Superintendent Kelly:

This letter is to advise you of the disposition of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the Upland Unified School District (District). Specifically, the complaint alleges:

1. The District denied the Student¹ a free, appropriate public education (FAPE) by failing to implement the provisions in the Student's Individualized Education Program (IEP) for assistive technology and support for when the Student falls behind;
2. The Student was subjected to harassment by another student on the basis of disability during the 2016-2017 and 2017-2018 school years, and the District failed to respond in a prompt and equitable manner to notice of the harassment; and
3. The District retaliated against the Complainant because of her advocacy for the Student by prohibiting her from communicating with the Student's teachers and administrators about the Student's educational and health needs.

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 a public education entity. Therefore, the District is subject to laws and regulations enforced by OCR.

During its investigation, OCR reviewed information provided by the Complainant and the District and interviewed the Complainant. Prior to OCR making a final determination, the District expressed an interest in voluntarily resolving the allegations pursuant to section 302 of OCR's Case Processing Manual², and OCR agreed it was appropriate to do so. On June 25, 2018

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

² <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>

without admitting to any violation of law, the District signed the enclosed Resolution Agreement, which, when fully implemented, is intended to address the allegations in the complaint. Based on the commitments made in the enclosed Resolution Agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the complainant concurrently. OCR will monitor the implementation of the resolution agreement until the District is in compliance with its terms. Upon completion of the obligations under the resolution agreement, OCR will close the case.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District 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, retaliate, 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.

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

OCR thanks XXXXXXXX XXXXXXXX for the courtesy and cooperation extended to OCR during its investigation. If you have any questions, please contact Abony Alexander by email at abony.alexander@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader

Enclosure

cc: XXXXXXXX XXXXXXXX (by email only)