



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

915 2<sup>ND</sup> AVE., SUITE 3310  
SEATTLE, WA 98174-1099

March 31, 2015

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Mr. Pat Skorkowsky  
Superintendent  
Clark County School District  
5100 West Sahara Avenue  
Las Vegas, Nevada 89148

Re: Clark County School District  
OCR Reference No. 10141043

Dear Superintendent Skorkowsky:

This is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR) is discontinuing its investigation of the above-referenced discrimination complaint against the Clark County School District because it has obtained an agreement to address the allegations in the complaint. The complaint alleged that the district discriminated against the student when it subjected him to disability-based harassment by his p.m. school bus driver during the 2013-2014 school year.

OCR accepted this complaint for resolution under the authority of section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990, and its implementing regulation. These statutes prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance from the U.S. Department of Education, and by public entities, respectively. The district is a recipient of federal financial assistance from this Department and is a public entity and is therefore subject to Section 504 and Title II.

Disability harassment under Section 504 and Title II is intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the institution's program. Harassing conduct may take many forms, including verbal acts and name-calling, as well as non-verbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating.

When harassing conduct is sufficiently severe, persistent, or pervasive that it creates a hostile environment, it can violate a student's rights under the regulations implementing Section 504 and Title II. A hostile environment may exist even if there are no tangible

effects on the student where the harassment is serious enough to adversely affect the student's ability to participate in or benefit from the educational program.

When disability harassment limits or denies a student's ability to participate in or benefit from an educational institution's programs or activities, the institution must respond effectively. Where the institution learns that disability harassment may have occurred, the institution must investigate the incident(s) promptly and respond appropriately.

Disability harassment that adversely affects an elementary or secondary student's education may also be a denial of free appropriate public education (FAPE) under IDEA, as well as Section 504 and Title II. These laws require school districts to provide an appropriate special education and related services to students with disabilities that enable them to access and benefit from public education. The specific services to be provided a student with a disability are set forth in the student's individualized education program (IEP) or Section 504 plan. Harassment of a student based on disability may decrease the student's ability to benefit from his or her education and amount to a denial of FAPE.

Educational institutions have a legal responsibility to prevent and respond to disability harassment. The responsibility to respond to disability harassment, when it does occur, includes taking prompt and effective action to end the harassment and prevent it from recurring; and where appropriate, remedying the effects on the student who was harassed.

The parent told OCR that on October 23, 2013, the student, who was placed in a self-contained kindergarten class, came home crying that the pm bus driver hit him in the head and called him "stupid." The parent filed a report with the district's Police and Transportation Departments. The district's police department opened a law enforcement investigation regarding the incident. On November 4, 2013, the parent filed a complaint with the district's Ombudsman stating that the student unintentionally struck the p.m. bus driver and the p.m. bus driver then hit the student in the head.

In accordance with Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the institution expresses an interest in resolving the complaint. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and must be consistent with applicable regulations. In this case, the district requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the district resulted in the district signing the enclosed agreement.

The actions the district will take under the agreement include conducting an effective and impartial investigation into the bus incident; providing a written report to the student's parents of the investigative process, the outcome of the investigation, and an outline of the remedies identified and implemented; providing the student's parent with the contact

information of the district employee responsible for resolving disability-based harassment complaints; and ensuring that the bus driver in question does not drive the student again unless there is an unforeseen emergency. In addition, the district will notify the parent, other parents, and district staff of its grievance procedures regarding complaints of disability-based harassment, provide district expectation regarding physical reprimand by bus drivers toward special education students, and ensure that all transportation staff is provided training so as to implement students' education plans on school buses.

OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied.

OCR would like to thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions, please feel free to contact Ellen Chestnut, attorney, by telephone at (206) 607-1605 or by e-mail at [ellen.chestnut@ed.gov](mailto:ellen.chestnut@ed.gov).

Sincerely,

/ s /

Barbara Wery  
Team Leader

Enclosure: Voluntary Resolution Agreement

cc: Dale Erquiaga, Superintendent of Public Instruction  
District Deputy General Counsel