



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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July 29, 2019

Dr. Andi Morency
Principal
The Honors Academy of Literature
195 N. Arlington Ave
Reno, Nevada 89501

Re: Honors Academy of Literature
OCR Reference No. 10191096

Dear Dr. Morency:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Honors Academy of Literature (school) with the U.S. Department of Education (Department), Office for Civil Rights (OCR). The complaint alleged that the school discriminated against a student with disabilities (student), when it denied the student a Free Appropriate Public Education (FAPE) when it restrained and secluded the student and when the school frequently removed the student from his regular education classroom placement during the 2018-2019 school year.

As explained below, prior to completion of OCR's investigation, the school expressed an interest in voluntarily resolving the complaint and signed the enclosed Voluntary Resolution Agreement (agreement) to address the complaint allegation.

OCR investigated this case under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) and their implementing regulations. These statutes prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance from the Department and by public entities, respectively. The school is a recipient of federal financial assistance from this Department and is a public entity.

The regulation implementing Section 504, at 34 C.F.R. § 104.33, require public school districts to provide a FAPE to all students with disabilities in their jurisdictions. An appropriate education is defined as regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled

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students are met, and that are developed in accordance with the procedural requirements of §§104.34-104.36 pertaining to educational setting, evaluation and placement, and due process protections. Implementation of an IEP developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements. Title II is interpreted consistently with Section 504 pursuant to the Title II regulation at 28 C.F.R. §§35.103(a).

The investigation to date indicated that the student was a XXXXXXXXX student with a disability who received services under an IEP, and that he was removed from class multiple times during the first few months of the 2018-19 school year. The information also indicated that the student spent time regularly in a room separate from other students, and the parent provided information indicating that the student had been restrained at the school by staff.

In accordance with Section 302 of the *OCR Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the issues under investigation with an agreement during the course of an investigation. In this case, the school requested to resolve the complaint prior to the conclusion of OCR's investigation. In light of the school's willingness to address the concerns identified by OCR comprehensively without further investigation, OCR determined that entering into an agreement was appropriate. Subsequent discussions with school resulted in the school signing the enclosed agreement.

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.

This concludes OCR's investigation of the complaint. The complainant may have the right to file a private suit in federal court regardless of OCR's determination.

Please be advised that the school 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.

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.

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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. The first report under the agreement is due by October 1, 2019.

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 Claudette Rushing, Attorney, by telephone at 206-607-1606, or by e-mail at claudette.rushing@ed.gov.

Sincerely,

Claudette Rushing
Attorney

Enclosure