



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION IX
CALIFORNIA

January 30, 2014

Jon R. Gundry
Superintendent
Pasadena Unified School District
351 South Hudson Avenue
Pasadena, California 91109

(In reply, please refer to case no. 09-13-1277.)

Dear Superintendent Gundry:

On May 14, 2013, the U.S. Department of Education, Office for Civil Rights (OCR), notified you of a complaint against the Pasadena Unified School District (District) alleging discrimination on the basis of disability. The letter identified the following complaint allegations that OCR opened for investigation:

1. The Student¹ was subjected to harassment based on disability by a District employee during fall 2012, and the District failed to respond appropriately and effectively to notice of the harassment.
2. The District denied the Student a free appropriate public education when it failed to implement the Student's individualized education program (IEP) and behavior support plan during fall 2012.
3. The District failed to respond adequately to internal complaints the Student's mother made on November X and December X, 2012, alleging that the District had failed to implement the Student's IEP and that the Student had been harassed by a District employee based on disability.

OCR began its investigation of 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.

¹ OCR previously provided the District with the Student's name in its May 14, 2013, notification letter and is withholding the Student's name from this letter to protect the Student's privacy.

OCR gathered and reviewed documents from the complainant and the District and conducted on-site interviews of District administrators. Prior to OCR conducting on-site interviews of school site staff and reaching a determination on the complaint allegations, the District expressed an interest in resolving the complaint allegations. Under Article III, Section 302 of OCR's Case Processing Manual,² a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint.

The District has agreed to implement the enclosed Resolution Agreement which provides for training, self-monitoring of staff use of restraints and physical interventions against students with disabilities and the provision of Braille equipment and services to students at the Student's former school site, and periodic observation of the Student's former classroom teacher by a District behavioral specialist for the remainder of this school year and next school year. Additionally, the District has agreed to convene an IEP team meeting to determine appropriate compensatory education for the Student, evaluate the Student regarding potential counseling/mental health needs resulting from the alleged harassment of the Student, and provide or pay for the treatment. Finally, the District has agreed to provide a substantive response to the two complaints filed by the Student's mother.

OCR has determined that when implemented, the Resolution Agreement will resolve the issues in this case. Based on the commitments made in the Resolution Agreement, OCR is closing the investigative phase of the case as of the date of this letter. The District will remain subject to OCR monitoring until the terms of the Resolution Agreement are completed. OCR is informing the Complainant of its decision by concurrent letter.

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.

OCR complainants may file a private suit in federal court whether or not OCR makes a compliance determination.

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 that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

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.

² See, http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html#III_2

We appreciate the cooperation and assistance of the District and District's legal counsel in the resolution of this complaint. If you have any questions about this letter, please contact Gloria Guinto at (415) 486-5519 or gloria.guinto@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader

Enclosure

cc: XXXXXX XX XXXXXXXXXXXXX