



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION IX
CALIFORNIA

December 18, 2013

Britta M. Skavdahl, Ed.D
Superintendent
Stanislaus Union Elementary School District
2410 Jana Avenue
Modesto, CA 95350

(In reply, please refer to case no. 09-13-1382.)

Dear Superintendent Skavdahl:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the Stanislaus Union Elementary School District (District). The Complainant alleged discrimination on the basis of disability.¹

Specifically, the Complainant alleged that since January 2013, her son (Student) was subjected to harassment by District employees based on disability, and the District failed to respond appropriately and effectively to notice of the discrimination; the Student was disciplined differently than non-disabled students.

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 subject to the above laws and their regulations as enforced by OCR.

As an initial step, OCR gathered evidence by reviewing documents provided by the complainant and the District and by interviewing the Complainant and District staff. Prior to OCR concluding its investigation and reaching a compliance determination, the District expressed its willingness to resolve this issue voluntarily. Under Article III, Section 302, of OCR's Case Processing Manual, a complaint may be resolved at any time before the conclusion of an investigation when the recipient expresses an interest in resolving the complaint. OCR determined that it was appropriate to resolve this complaint under Section 302.

¹ OCR notified the District of the identity of the Complainant and the Student during the investigation. We are withholding their names from this letter to protect their privacy.

On December 2, 2013, OCR received a signed copy of the Resolution Agreement (Agreement) from the District. The following is a summary of the terms of the Resolution Agreement (Agreement).

- Within thirty days from the date of the Agreement, the District will convene an IEP team to review the Student's Behavior Support Plan (BSP). The team will ensure that the provisions in the plan are sufficient to appropriately address any behavior issues related to the Student's disabilities; if not the team will revise the BSP.
- The District will provide training to all appropriate staff at XXXXXXXXX Elementary School on the following topics:
 1. staff's responsibility for understanding and implementing BSP's for students with disability-related behavioral issues;
 2. District and school policies for discipline of students with disabilities, including due process requirements under the IDEA and Section 504;
 3. ensuring that the burden of the steps taken to resolve conflicts between students is not imposed on students with disabilities, and that students with disabilities are not isolated from other students to resolve student conflicts (except as provided in a student's BSP).

OCR has determined that when implemented, the Resolution Agreement will resolve the issue 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.

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.

OCR routinely advises recipients of Federal funds and public education entities that Federal regulations prohibit intimidation, harassment or retaliation against those filing complaints with OCR and those participating in the complaint resolution process. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

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.

If you have any questions, please contact G. Anthony Brown, Investigator, at 415-486-5547.

Sincerely,

/s/

James Wood
Team Leader

Encl.