



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION IX  
CALIFORNIA

July 29, 2014

Richard Savage  
Principal  
Capistrano Connections Academy Charter School  
26800 Aliso Viejo Parkway, Suite 120  
Aliso Viejo, California 92656-2625

(In reply, please refer to Docket # 09-14-1264.)

Dear Mr. Savage:

On March 31, 2014, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against the Capistrano Connections Academy. The complaint alleged that the Academy discriminated against a student on the basis of disability when it failed to provide her with a free, appropriate public education (FAPE) when she was disenrolled from the Academy's educational program.<sup>1</sup>

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 Academy is subject to laws and regulations enforced by OCR.

The Student attended the Academy's on-line educational program beginning in spring 2013. On April XX, 2013, the Academy developed a Section 504 plan and identified the Student's disability as a medical condition (inflammatory bowel disease) that significantly impacts learning. The 504 team identified the following accommodations: two weeks extra time on portfolio assignments and omission of certain lessons not vital to core standards. The complainant alleges that the in fall 2013, the Student experienced medical problems related to her health condition and the Academy disenrolled her in January 2014 without consideration of her disabling condition.

OCR discussed the allegations with the Academy. OCR confirmed that the Student had been disenrolled from the Academy after her counselor attempted several interventions. In October 2013, the counselor attempted to reduce the work load that the Student was carrying by leveling her classes away from honors and AP classes into a "standard

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<sup>1</sup> OCR has previously identified the names of the complainant and the Student. We are withholding their names from this letter to protect their privacy.

curriculum.” At the time, the Student was not logging on and was not submitting any work. The Student would not agree to this change. Neither the complainant nor the Academy indicated that the Student was denied extra time to submit assignments (her Section 504 accommodation); the Student was not submitting any work. The counselor also told OCR that she and other administrators attempted to contact the Student’s parents but were unsuccessful. On November XX, 2013, the Academy convened a Section 504 meeting. The notes indicated that the parents were invited to attend the meeting, but did not appear. No new accommodations were added to the plan; several teachers expressed significant concerns with the Student’s low level of participation and lesson completion. On November XX, 2013, the Academy sent a letter to the Student advising her to meet specific goals as evidence of progress; when she failed to meet these goals, the Academy terminated her enrollment on January XX, 2014 due to lack of “attendance, participation and lessons.” The Academy did not convene a Section 504 meeting at the time of disenrollment.

The Section 504 regulations, 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 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. Section 104.35(a) of the regulations requires school districts to conduct an evaluation of any student who needs or is believed to need special education or related aids and services because of disability before taking any action with respect to the student's initial placement and before any subsequent significant change in placement, such as disenrollment from an educational program.

Because of its failure to convene a meeting when a decision was made to terminate the Student’s enrollment, OCR found that the Academy did not follow the process requirements of Section 504/Title II. On July 24, 2014, the Academy, without admitting to any violation of Federal laws enforced by OCR, voluntarily signed the enclosed Resolution Agreement which commits the Academy to make a concerted effort to meet with the Student and her parents regarding her possible re-enrollment in the program. The Academy will discuss additional accommodations and the feasibility of her re-enrollment in light of limitations imposed by disability. The Academy also committed to provide training on Section 504 requirements, including an obligation to convene a section 504 meeting for any student with a disability who undergoes a significant change in placement, such as being disenrolled for lack of progress. OCR will monitor implementation of this Agreement.

OCR is closing this complaint as of the date of this letter and concurrently notifying the complainant.

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.

Please be advised that the Academy 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 or Student may file another complaint alleging such treatment.

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 which, if released, would reasonably be expected to constitute an unwarranted invasion of privacy.

If you have any questions please contact Ava De Almeida Law, Investigator, at 415-486-5513.

Sincerely,

/s/

Sara Berman  
Team Leader

Enclosure