



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
50 UNITED NATIONS PLAZA
MAIL BOX 1200; ROOM 1545
SAN FRANCISCO, CA 94102

REGION IX
CALIFORNIA

September 8, 2016

Jose L. Banda
Superintendent
Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824

(In reply, please refer to case no. 09-16-1402.)

Dear Superintendent Banda:

The U.S. Department of Education, Office for Civil Rights (OCR), has resolved the above-referenced complaint against Sacramento City Unified School District. OCR began an investigation of whether the District discriminated against the Complainant's daughter (the Student)¹ on the basis of disability. Specifically, the Complainant alleged:

1. The District failed to provide the Student with a free, appropriate public education (FAPE) by failing to implement the Student's Section 504 plan testing accommodations and the District failed to respond adequately to the Complainant's complaint of discrimination.
2. The Student was subjected to harassment by a District employee based on disability, and the District failed to respond appropriately and effectively to notice of the harassment.

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 District is subject to laws and regulations enforced by OCR.

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

The Student attends XXXXXXXXXXXXXXXX High School (the High School) in the District. The Student was in the XXXX grade during the last school year, the 2015-2016 school year. The Student has a Section 504 plan that was put into effect during the prior school year when she was in the XXXX grade. The Student's Section 504 plan states that the Student should receive several accommodations due to her disability, including extended time on tests, using a calculator for math, and modifications on homework as needed. The Student took a Pre-Calculus course during the last school year. The Complainant stated that the Student's Pre-calculus Teacher failed to implement the Student's Section 504 plan during her class by denying the Student extra time during quizzes. The Complainant further stated that the Student's Pre-Calculus Teacher told the Student in front of a number of students that she was not allowed to use a calculator on an upcoming test because it would give her an unfair advantage over other students. The Complainant also stated that the Pre-Calculus Teacher asked the Student if she thought colleges were going to give her extra time on tests or allow her to use a calculator. In addition, the Complainant stated that the Pre-Calculus Teacher made comments to her showing a bias against Section 504 plans, including the comment that some students who should not have Section 504 plans fake their symptoms in order to get special advantages on tests and homework.

When OCR contacted the District to discuss the allegations in this case, the District indicated that they were willing to resolve the complaint without further investigation. After discussing the allegations with OCR and without admitting any violation of the law, the District agreed to implement the following remedies in order to resolve the concerns raised in the complaint: (1) provide a training for all of the teachers in the High School, including the Student's Pre-Calculus Teacher, regarding the following topics: (a) how to implement a student's Section 504 plan, (b) how to document and respond to complaints of disability discrimination, (c) not speaking about a student's Section 504 plan in front of or nearby other students, and (d) not making public statements in class regarding special accommodations a student is receiving, and (2) provide a letter in writing to the student's Pre-Calculus Teacher regarding the allegations raised in the complaint and potential consequences that could result from publicly discussing and/or failing to implement a student's plan. The District has voluntarily signed a Resolution Agreement agreeing to implement these remedies. Enclosed is a copy of the signed Resolution Agreement.

When fully implemented, the Resolution Agreement is intended to address all of OCR's compliance concerns in this investigation. OCR will monitor the implementation of the agreement until the District is in compliance with Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and their implementing regulations.

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 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 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 regarding this letter, please contact Sewali Patel at (415) 486-5380 or sewali.patel@ed.gov.

Sincerely,

/s/

Sara Berman
Team Leader

Enclosure: Resolution Agreement

cc: Raoul Bozio, Manager II, Legal Services for the District