



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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September 18, 2020

Dr. Jesse Welsh, Superintendent  
Paradise Valley Unified School District  
15002 N. 32<sup>nd</sup> St.  
Phoenix, AZ 85032

**Sent via email to XXXX@pvschools.net**

Re: Paradise Valley Unified School District  
OCR Case Number: 08-19-1478

Dear Superintendent Welsh:

We have completed our investigation of the above-referenced complaint, filed on August 28, 2019. The Complainant alleged that during the 2018-2019 school year, Paradise Valley Unified School District (District) at XXXX Elementary School (School) discriminated on the basis of disability. Specifically, the Complainant alleged that the District excessively restrained and secluded the Student, resulting in a denial of a Free and Appropriate Public Education (FAPE).

The Office for Civil Rights (OCR) is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to these laws and regulations.

During our investigation, OCR reviewed documents provided by the Complainant and District; conducted interviews with the Complainant; and interviewed the School's Principal, Assistant Principal (AP), Behavior Interventionist (Interventionist), Intervention Room Paraprofessional (Paraprofessional), and the Student's Special Education Teacher (Teacher). Prior to OCR issuing a final determination, the District expressed an interest in resolving the allegations being investigated. OCR determined that it was appropriate to resolve the allegations pursuant to Section 302 of our Case Processing Manual (CPM). The provisions of the Agreement are tied to the allegations opened for investigation and evidence obtained during the investigation and are consistent with applicable regulations.

During the 2018-2019 school year, the Student was enrolled in the District as a XXX student. The Student's initial Individualized Education Program (IEP) was drafted on March 7, 2019. The IEP indicated that the Student was referred for a special education evaluation by his XXXX teacher XXXX.

The Student's IEP team was comprised of staff from his previous school, his home school, which the Student attended immediately before the School at issue in this investigation. The IEP team placed him in the District's Choices Affect Behavior Success (CABS) program. The placement included XXXX.

The Student's home school did not have CABS program, so as part of his IEP placement he was transferred to the School. The Student began attending the School on March 11, 2019. Based on the documents reviewed and interviews with School staff, the Student began to display behaviors that led to intervention room referrals in April 2019. Those behaviors continued through roughly the first week of May 2019. It was during April and May 2019 that the Student was physically restrained XXXX. The School held an IEP meeting on May 2, 2019 to discuss the Student's behavior.

During interviews, the AP, Interventionist, and Teacher provided descriptions of the CABS program. The program incorporates the Boys Town Education Model,<sup>1</sup> which was described as a behavior intervention model used to encourage and teach appropriate behaviors through positive praise and the modeling and practice of social skills. Staff explained that each student in the program has a point sheet and receives points daily for performing certain behavioral skills, such as staying on task. Those skills work towards yearly goals. When a student does not display appropriate behavior, the student goes through corrective teaching. An example presented was if a student is off task the teacher will approach the student and provide positive praise for something the student is doing well. The teacher then points out the off-task behavior and provides 3-5 redirections or choices. If the student remains off task, the student receives a point deduction. The process repeats with the student being given another opportunity to display the on-task behavior. If after two rounds of point deductions the student is still off-task, the student receives a warning that he/she will be sent to the intervention room. If the student remains off-task the student is provided with a referral to the intervention room and asked to walk independently to the room. If at any point in the process the student can display on-task behavior, the student is provided with an opportunity to earn back points.

The intervention room was described by School staff as two classrooms, a quiet room, and a processing room. The quiet room, processing room, and four CABS classrooms form a rectangle that is split into 2 rows of 3 classrooms. The bottom middle room is the quiet room. The top middle room is the processing room. The other 4 rooms around the quiet and processing rooms are the CABS classrooms. It was explained that staff and students can access either the quiet room or processing room from inside any of the CABS classrooms.

School staff described the quiet room as an empty room where a student is allowed to de-escalate then move into the processing room. The processing room was described as a classroom with 3-5 desks bolted into the floor, a bathroom, and a sink. The quiet room and processing room are staffed by the Interventionist and Paraprofessional. While in the processing room, students complete a reflection sheet that includes drawing and writing a description of their off-task behavior. Students then work with the Interventionist and Paraprofessional to practice appropriate behavior and an apology to the classroom. Both the Interventionist and Paraprofessional asserted that students are always supervised, and that the Student was supervised at all times while in the quiet room and processing room. The District provided OCR with photographs of both the quiet room and processing room. The quiet room was shown as an empty classroom with carpeted floors. A doorway without a door connects the quiet

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<sup>1</sup> <https://www.boystowntraining.org/boys-town-education-model.html>

room to the processing room. From the photographs, the processing room presented as described and generally resembled a typical classroom, albeit with fewer student desks.

On April 5, 2019, the Complainant was given written notice that the Student was being transferred to the CABS program at another school in the District for the 2019-2020 school year. The reason provided for the change was that the District was opening a new CABS program at the new school to keep self-contained numbers down at some of the District's smaller campuses.

Additional interviews with District staff were needed to determine whether the District denied the student FAPE, as alleged. Additional interviews were not conducted because during our investigation and before we made findings regarding the complaint allegations, the District expressed a willingness to resolve the complaint. The District agreed to train School staff on the use, notice, and documentation of physical restraint. The District also agreed to hold an IEP meeting for the purpose of determining the compensatory services to which the Student is entitled, developing a plan for providing those compensatory services to the Student, and developing a plan to ensure the Student has appropriate behavioral supports while at school.

A copy of the signed Resolution Agreement is enclosed. When the Agreement is fully implemented, the allegations will be resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. OCR will monitor implementation of this Agreement through periodic reports from the District about the status of the Agreement terms. We will provide the District written notice of any deficiencies regarding implementation of the terms of the Agreement and will require prompt actions to address such deficiencies. If the District fails to implement the Agreement, we will take appropriate action, as described in the Agreement. OCR will provide the Complainant with a copy of OCR's monitoring letters.

Please note a complainant may have the right to file a private suit in federal court whether or not OCR finds a violation. Please also 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 individual may file another complaint alleging such treatment.

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.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information, which, if released, could constitute an unwarranted invasion of privacy.

Thank you for the District's cooperation and attention to this matter, and for the assistance of Ms. Cathleen Dooley. If you have any questions, please contact Mr. Daniel Contreras at XXXXX.

Sincerely,

/s/

Angela Martinez-Gonzalez  
Supervisory General Attorney

Enclosure – Copy of Resolution Agreement

Cc (via email): Cathleen Dooley, Counsel for the District, Udall Shumway  
Kathy Hoffman, Superintendent, Arizona Department of Education