



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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September 30, 2016

Ms. Wendy Johnson
Superintendent
Kuna Joint School District 3
711 East Porter Road
Kuna, Idaho 83634

Re: Kuna Joint School District 3
OCR Reference No. 10161166

Dear Superintendent Johnson:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is discontinuing its investigation of the referenced complaint of disability discrimination against Kuna Joint School District 3 (District) based on the enclosed Voluntary Resolution Agreement, which the District has signed. The complaint alleged:

1. The District discriminated against a parent based on disability when she was unable to attend a District meeting about her son on January 14, 2016, because the District's office facilities are inaccessible.
2. Specifically, the District office's facilities are inaccessible in the following ways:
 - (a) The District office's seven accessible parking spaces lack vertical accessibility signage, and at least one accessible parking space lacks an access aisle.
 - (b) There is no accessible pedestrian route from the accessible parking spaces to the main entrance of the District office building.
 - (c) There is insufficient maneuvering clearance outside of the door to the main entrance of the office building.
 - (d) The threshold for the main entrance doorway at the office building is too high, and the main entrance door is too heavy to open.

OCR accepted this complaint for resolution under the authority of section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990, and their implementing regulations. Section 504 and Title II prohibit disability discrimination in programs and activities receiving federal

financial assistance from the Department and by public entities, respectively. The District receives federal financial assistance from the Department and is a public entity. Therefore, it is subject to these federal civil rights laws.

The specific legal issues that OCR investigated in the complaint were: (1) whether the District's office facilities are readily accessible to and usable by individuals with disabilities; and (2) whether the District discriminated against the parent, because the District's office facilities are inaccessible or unusable, by excluding her from participation in and/or denying her the benefits of its services, programs, or activities.

Under the Section 504 and Title II regulations, a school district is prohibited from excluding from participation in, denying the benefits of, or discriminating under any services, programs, or activities of the school district against individuals with disabilities because its facilities are unusable by or inaccessible to them. See 34 CFR 104.21; 28 CFR 35.149. With respect to existing facilities, a school district is required to operate each program or activity housed in the existing facility so that the program or activity, when viewed in its entirety, is readily accessible to and usable by people with disabilities. See 34 CFR 104.22(a); 28 CFR 35.150(a). Under this program accessibility standard, a school district is not required to make all existing facilities or every part of its existing facilities accessible, as long as the program or activity provided at each facility is readily accessible to persons with disabilities. See 34 CFR 104.22(a); 28 CFR 35.150(a)(1). A school district is permitted to provide program accessibility in existing facilities through such means as a redesign or acquisition of equipment, reassignment of services to accessible buildings, delivery of services at alternate accessible sites, alteration of existing facilities or construction of new facilities, or any other method that results in making its services, programs, or activities readily accessible to and usable by people with disabilities. See 34 CFR 104.22(b); 28 CFR 35.150(b)(1).

With respect to altered or newly constructed facilities, each facility or part of a facility that has been altered or newly constructed is required to be designed, constructed, and maintained in operable working condition, in compliance with the applicable accessibility design standard. See 34 CFR 104.23(a) and (b); 28 CFR 35.133(a), and 35.151(a) and (b). The specific accessibility standard that applies to an altered or newly constructed facility depends upon the date of when the alteration or construction began. See 34 CFR 104.23(c); 28 CFR 35.151(c).

Additionally, Section 504 and Title II require a school district to ensure that interested persons can obtain information from the district about the existence and location of its accessible services, activities, and facilities, and designate at least one employee who will coordinate and carry out the district's efforts to comply with the Section 504 and Title II regulations, including the investigation of any disability discrimination complaints made under the district's grievance procedures. See 34 CFR 104.7 and 104.22(f); 28 CFR 35.107 and 35.163(a). A school district must also take continuing steps to provide notice of the district's designated employee, the availability of information about the district's accessible services, activities, and facilities, and that the district does not discriminate on the basis of disability. See 34 CFR 104.8; 28 CFR 35.106.

OCR's investigation to date has shown that the District offers parking at the District office, including designated disabled parking, and that the District's office building has a main entrance located at the front of the building. The investigation indicated that there is a curb ramp directly in front of the main entrance, and that the top of the curb ramp overlaps the maneuvering clearance outside of the main entrance door. The investigation to date also revealed that that the District and the complainant scheduled

a meeting on January 14, 2016, at the District office, but the parent, who uses a wheelchair, did not attend the meeting.

In accordance with Section 302 of OCR's *Case Processing Manual (CPM)*, a complaint may be resolved when the recipient expresses an interest in resolving the complaint before the conclusion of an investigation. When this occurs, the provisions of any agreement to resolve the complaint must be aligned with the complaint allegations and any information obtained during the discontinued investigation, and the agreement must be consistent with applicable regulations.

In this case, the District requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the District resulted in the District signing the enclosed Voluntary Resolution Agreement (Agreement).

The actions that the District will take under the Agreement include:

1. determining what federal accessibility standards the District office facilities are required to comply with and assessing whether they comply with the applicable accessibility standards;
2. developing and implementing a plan to address any of the District's office facilities that do not comply with the applicable accessibility standards;
3. reviewing and revising the District's accessibility policies and procedures;
4. designating an employee who will be responsible for providing accessibility information and addressing accessibility complaints for the District (hereinafter, designated individual);
5. providing training to the designated individual;
6. providing annual notice of accessibility to parents, students, employees, and other interested individuals, including the contact information of the designated individual; and
7. providing individual relief to the parent.

This concludes OCR's investigation of the complaint. The complainant may have the right to file a private suit in federal court regardless of OCR's determination.

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.

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, a complainant may be filed alleging such treatment.

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

OCR will monitor the implementation of the Agreement and will close the complaint when it has determined the terms of the Agreement have been satisfied. The first report under the Agreement

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is due by October 7, 2016. If District has any concerns about the implementation of the Agreement, please raise them with OCR.

Thank you for the cooperation that you and your staff extended to OCR in resolving this complaint. If you have any questions about this letter, you may contact Amy Kim, Attorney, by telephone at (206) 607-1621, or by e-mail at amy.kim@ed.gov.

Sincerely,

Kelli Lydon Medak
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement

cc: Honorable Sherri Ybarra, Superintendent of Public Instruction
Administrator, Student Support Services