



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VIII  
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February 14, 2019

Dr. Diana Sirko, Superintendent  
Mesa County Valley School District 51  
2115 Grand Ave.  
Grand Junction, CO 80501

*Via email only to [diana.sirko@d51schools.org](mailto:diana.sirko@d51schools.org)*

Re: Mesa County Valley School District 51  
OCR Case Number: 08-18-1575

Dear Dr. Sirko:

This letter advises you of the resolution of this complaint, filed against Mesa County Valley School District 51 (District). The Complainant alleged that the District discriminated against him on the basis of disability. Specifically, the Complainant alleged that he was not permitted to bring his service animal when he visited his child's (the student) school during the fall semester of 2018. Additionally, he alleged that the District's policy on the use of service animals does not comply with the Americans with Disabilities Act.

The Office for Civil Rights (OCR) of the U.S. Department of Education (Department) is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulation Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the U.S. Department of Education; 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.

In the initial stage of investigating this case, OCR has reviewed information provided by the Complainant, interviewed the Complainant, reviewed the District's service animal policy available on its website, and spoken to the superintendent. After reviewing this information, OCR learned the following:

- During a portion of the 2018-19 school year, the Complainant has been prevented from bringing his service animal with him when visiting the student's school.
- The District expressed concerns related to other individuals with allergies to dogs, individuals who may be afraid of dogs, and the potential for a dog to cause disruption to the educational environment.
- The Complainant may have reached an agreement with the school principal regarding his access to the school with his service animal, but it is unclear if that agreement complies with the requirements of Title II of the ADA.

- The District has a policy and regulation regarding animals on school premises (IMC and IMC-R).
- The District's regulation regarding animals on District premises, IMC-R, includes a number of provisions that are generally consistent with the requirements of the Title II regulation. However, OCR noted potential concerns with the regulation. For example, the regulation provides that students with disabilities may only use service animals as specified by their IEP or Section 504 plan, rather than recognizing that the right to use a service animal is separate from the student's IEP or Section 504 plan. OCR also noted that the regulation uses the term "service animals" to include both service animals used by individuals with disabilities and working animals used by law enforcement agencies. This may be confusing, because the Title II requirements regarding service animals apply only to services animals used by individuals with disabilities. Finally, while the regulation indicates that service animals for other individuals shall be permitted to the extent required by law, the policy does not state that individuals with disabilities may be accompanied by their service animals in all areas where the individual is allowed to go.

During the course of our investigation, the District indicated its desire to voluntarily enter into an agreement to resolve the complaint allegations pursuant to Section 302 of our *Case Processing Manual*. On February 13, 2019, prior to OCR completing its investigation or making any findings of fact, the District signed an Agreement which, when fully implemented, will address the issues raised in the complaint.

In accordance with Section 302 of OCR's *Case Processing Manual* (CPM), the provisions of the Agreement signed by the District, when fully implemented, will address all of the allegations investigated and are consistent with the information obtained during OCR's processing of this case, and consistent with the applicable regulations. Therefore, OCR is closing this complaint investigation effective the date of this letter. OCR, however, will actively monitor the District's implementation of the Agreement until the District fulfills the terms of the agreement and is in compliance with the statutes and regulations at issue in this case. If the District fails to implement the Agreement as specified, OCR may initiate administrative or judicial proceedings as described in the Agreement or resume its investigation of the initial allegations. A copy of the Agreement is enclosed.

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 may file another complaint alleging such treatment. In addition, the Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 protect personal information to the extent provided by law.

If you have any questions, you may contact XXXX XXXX, the attorney assigned to this case, at (303) 844-XXXX or xxxx.xxxx@ed.gov. You also may contact me at (303) 844-5942.

Sincerely,

/s/

Sandra J. Roesti  
Supervisory Attorney

Enclosure: Signed Resolution Agreement

Cc: David A. Price, Esq.