



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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June 27, 2019

Reid Newey, Superintendent
Davis School District
45 E. State St
PO Box 588
Farmington, UT 84025-0588

By email only to: rnewey@dsdmail.net

Re: Davis School District
Case Number: 08-19-1206

Dear Superintendent Newey:

On February 2, 2019, we received a complaint alleging that Davis School District (District) discriminates on the basis of disability. Specifically, the complaint alleges that the District denies students with mobility disabilities access to programs and activities at the District by failing to provide:

- 1) A ramp leading to the entrances for portable classroom buildings (portables) at Columbia Elementary, Kaysville Junior High, Centennial Junior High and Davis High School.
- 2) For Columbia Elementary:
 - a. A wheelchair ramp and doors that are not too heavy to open at emergency exit(s);
 - b. Accessible toilet stalls in restrooms for girls; and
 - c. Doors leading to the faculty restroom that are not too heavy to open.

We initiated an investigation of this complaint pursuant to 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 or 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 in programs or activities of a public entity. As a public entity that receives Federal financial assistance, the District is subject to these legal requirements.

Investigation Summary

In our efforts to reach a compliance determination, we first requested documentation from the District concerning the allegations. Following a review of the information submitted in response to our request, OCR conducted a site visit to the District on June 6, 2019.

The District has a large number of portable classrooms that it repositions to various campuses across the District based on student population projections and overall need from school year to school year at each school. For those portables that do have aluminum ramps, the ramps are moved with the portable buildings. The District reported that there are two portable classrooms with recently added ramps leading to the classroom entrances at Columbia Elementary; there are six portable classrooms located at Kaysville

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Junior High School that do not have ramps (steps only), but are due to have ramps installed by August 2019; there are 12 portable classrooms that are staged at Centennial Junior High School but that are not being used and there is no intention to use them at Centennial because there is no need based on a recently constructed junior high school nearby; and finally, there are no portables located on the Davis High School campus.

As it relates to Columbia Elementary School, the elementary school was built in 1982. The District acknowledged that the wheelchair ramp that was previously in place at the southwest exit of the school, which serves as an emergency exit within the School's emergency evacuation procedures, had been removed and replaced with a step in 2018. The District explained that since receiving notice of the complaint, the School had taken actions to rebuild a ramp at the exit. Construction of the new ramp was completed just prior to OCR's site visit in June 2019. Regarding the girls restrooms, District staff reported that alterations were made to the accessible toilet stalls "within the past 10 years." The District explained that it altered the stalls by removing an adjacent standard stall, and then widening the stall at the end of the series of stalls such that it is accessible to persons who use wheelchairs.

As noted, OCR conducted a site visit at the District on June 6, 2019. At Columbia Elementary, OCR assessed (1) the two ramps leading to the entrances of the portable classrooms; the recently installed ramp at the southwest exit; opening force of the doors at each emergency exit (4 total) and the door leading to the faculty restroom¹; and the accessibility of the accessible toilet stalls in the girls restrooms. Regarding the remaining schools identified in the complaint, OCR confirmed the status of the portable classrooms, or lack thereof, at each of the remaining campuses (Kaysville Junior High, Centennial Junior High, and Davis High School).

On June 19, 2019, before OCR had completed a comprehensive analysis of the data gathered during our June 6th site visit to the District, the District expressed to OCR that it is willing to take future actions for concerns raised at Columbia Elementary (portable ramps, emergency exit ramp, door force, and toilet stalls), and at Kaysville Junior High (no ramps at six portable classroom buildings), and as such, expressed an interest in voluntarily entering into an agreement to resolve the allegations and ensure compliance with Section 504 and Title II.² Pursuant to Section 302 of OCR's Case Processing Manual, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations.

On June 27, 2019, we received the District's signed Resolution Agreement (enclosed). OCR is closing the investigative phase of this case effective the date of this letter. The case is now in the monitoring phase. OCR will closely monitor the recipient's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the recipient's policies and practices are administered in a nondiscriminatory manner. When the Agreement is fully implemented, the allegation will have been resolved consistent with the requirements of Section 504 and Title II, and their implementing regulations. If the District fails to implement the Agreement, we will take appropriate action, which may include enforcement actions, as described in the Agreement.

Please also note that the complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

¹ As a means of providing greater access to the faculty restroom, the District removed the first two doors of the three doors leading to the faculty restroom. We therefore only assessed opening force of the one remaining door to the faculty restroom.

² As noted, our site visit confirmed there are no portable buildings at Davis High School and the portables at Centennial Junior High are not in use. We therefore limited the scope of the Resolution Agreement.

Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law.

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, we will seek to protect, to the extent provided by law, personal information, which if released, could constitute an unwarranted invasion of privacy.

We are committed to prompt and effective service. If you have any questions, please contact XXXX, the Equal Opportunity Specialist assigned to this case at XXXX or by email at XXXX@ed.gov or me at XXXX or by email at XXXX.

Sincerely,

Thomas M. Rock
Supervising General Attorney

Enclosure – Resolution Agreement

cc w/ enclosure (via email): Dr. Bernardo Silvar
District Designated Contact

cc w/out enclosure (via email): Honorable Sydnee Dickson
Utah Superintendent of Public Instruction