



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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April 12, 2022

Dr. Brad Meeks, Superintendent
Steamboat Springs School District Re-2
325 7th Street
Steamboat Springs, Colorado 80487

via email only to XXXX@XXXX

Re: **Steamboat Springs School District Re-2**
OCR Case 08-22-1175

Dear Superintendent Meeks:

We write to inform you of the resolution of the above-referenced complaint, filed on January 25, 2022, against Steamboat Springs School District Re-2 ("District"), alleging discrimination based on disability. Specifically, the Complainant alleged that the District, at Steamboat Springs High School ("School"), failed to implement her son's individualized education program (IEP) during the 2021-2022 school year (SY), thereby denying him a free appropriate public education (FAPE).

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 ("Section 504"), and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination based on disability in any program or activity operated by recipients of federal funds from the Department; and Title II of the Americans with Disabilities Act of 1990 ("Title II"), and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination based on disability by public entities, regardless of whether they receive federal financial assistance. As a recipient of federal financial assistance from the Department and a public entity, the District is subject to these laws and regulations.

We determined that OCR has the authority to investigate the allegation consistent with our complaint procedures and applicable laws. On March 11, 2022, we notified the District that OCR was opening an investigation of the allegation and we sent the District a data request. Prior to the data response deadline, the District expressed an interest in taking voluntary action to resolve the allegation in the complaint.

Section 302 of OCR's *Case Processing Manual* (CPM) reads, "Allegations under investigation may be resolved at any time when, prior to the point when OCR issues a draft letter of findings under CPM Section 303(b), the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement." OCR determined that, pursuant to CPM Section 302, resolving the allegation with an Agreement, without conducting any further investigation, was appropriate.

Investigation to Date

OCR reviewed records, communications, and other information provided by the District, Complainant, and other parents. Additionally, OCR interviewed the District's Director of Exceptional Student Services ("Director"), the School's principal ("Principal"), and the Complainant. Finally, at the suggestion of the Complainant, OCR communicated with seven other parents of students with disabilities in the District.¹

The School

The School has a "significant needs" classroom ("Classroom"), which, according to the Principal, currently has ten students with disabilities. The Principal told OCR that the Classroom would need two full-time special education teachers and nine full-time paraprofessionals to be fully staffed. According to the Director, the Classroom would need two special education teachers and the School would need eight paraprofessionals, including some for the Classroom, to be fully staffed.

The District employed two full-time special education teachers for the classroom throughout the 2021-2022 SY. Specifically, one special education teacher has worked full-time in the Classroom since the beginning of the 2021-2022 SY; another special education teacher worked full-time in the Classroom during fall 2021, but then left the District; and a third special education teacher has worked full-time in the Classroom since the beginning of spring 2022. Notably, during the week before Thanksgiving break (November 15-19, 2021), the Classroom's two special education teachers were absent. The available paraprofessionals, one of whom is a certified teacher, led the Classroom that week.

The School has had a paraprofessional shortage throughout the 2021-2022 SY. According to the Director, the District attempted to hire more paraprofessionals by running advertisements in a regional newspaper, posting positions on the District's website and outside job websites, attending career/job fairs, and posting paraprofessional substitute positions on the online platform that the District uses, "Aesop."² According to the Complainant, the District did not post substitute paraprofessional opportunities on Aesop until mid-November.

During the 2021-2022 SY, according to the Director and Principal, the lowest paraprofessional full-time equivalent (FTE) staffing at the School has been three or four, and the highest has been six. According to the Complainant, the School was down to 1.5 FTE paraprofessionals for the Classroom at one point in October 2021. According to the Director and Principal, the School has had: (a) a full-time paraprofessional since the beginning of the 2021-2022 SY; (b) a half-time paraprofessional for the first

¹ Three parents of elementary school students told OCR that they had no concerns about implementation of their child's IEP. Another parent of an elementary school student said that her child was not in general education for the amount of time required in the child's IEP due to staffing shortages. She wrote that staff at her child's school are "doing everything they can to accommodate [her] son and his IEP, but without additional staffing resources there aren't always options for them." A parent of a middle school student said she believes that her child's IEP is being fully implemented but she expressed concerns about the impacts on middle school students with disabilities if their paraprofessionals continue providing coverage for the high school. Another parent said she was "somewhat happy with [her children's] IEPs," but she expressed concern about the District's paraprofessional shortage, the District's efforts to fill paraprofessional vacancies, and the toll the shortage was taking on staff at the School. Finally, the parent of a child at the School said she has concerns about implementation of her child's IEP and may file a complaint with OCR; however, she did not provide additional details.

² The Director told OCR that new paraprofessional hiring incentives (e.g., signing bonuses) were not yet attempted but are being discussed as part of the District's collective bargaining negotiations.

few months of the 2021-2022 SY; (c) a full-time paraprofessional from the beginning of the 2021-2022 SY until the first week of March 2022; (d) a full-time paraprofessional since September 2021; (e) two full-time paraprofessionals since December 2021; (f) a full-time paraprofessional since January 2022; and (g) a full-time paraprofessional from January to March 2022.

According to the Director and Principal, to alleviate the paraprofessional shortage in the Classroom, the District: (a) had paraprofessionals at Steamboat Springs Middle School provide coverage when students who the paraprofessionals typically served at were absent; (b) paid special education teachers at the School to provide coverage in the Classroom during their planning periods; (c) had general education teachers voluntarily provide coverage in the Classroom during their planning periods; and (d) had a paraprofessional substitute on specific school days. Additionally, the Principal told OCR that he occasionally provides support in the Classroom.

The Complainant alleged that the District has used inadequately trained peer aides to provide paraprofessional services to students at the School. Peer aides are students who support students in the Classroom in exchange for course credit. According to the Principal, peer aides go on walks with students and provide other supports; however, they do not provide paraprofessional service minutes.

The Complainant, Principal, and Director expressed concerns about the consistency of staffing in the Classroom. However, according to the Principal and Director, no parents of students with disabilities at the School, other than the Complainant, have complained to them about the staffing situation. Additionally, the Principal and Director believe that, despite staffing challenges, a FAPE has been made available to all students with disabilities at the School.

The Student

The Student is in XXXX grade at the School. He has autism and an IEP that calls for one-on-one paraprofessional support throughout the school day for academics and social skills. He spends part of the school day in the Classroom. Additionally, the Student participates in extracurricular activities – specifically, XXXX – with paraprofessional support.

The Complainant alleged that the Student's IEP could not have been fully implemented, including one-on-one paraprofessional support, given the staffing shortages at the School. According to the Director, to her knowledge, the Student's IEP was fully implemented.

Conclusion

OCR is concerned about whether the District was able to provide a FAPE to all students in the Classroom, including the Student, given the stated paraprofessional staffing needs for the Classroom relative to the actual paraprofessional staffing levels for the Classroom during the 2021-2022 SY.

On April 5, 2022, we sent the District a proposed Agreement with terms that are tied to the allegation and evidence OCR obtained to date, and that are consistent with applicable regulations. The District sent OCR a fully executed Agreement on April 12, 2022. Attached is a copy of the signed Agreement.

When the Agreement is fully implemented, the allegation will be resolved consistent with the requirements of Section 504 and Title II, and their implementing regulations. OCR will monitor implementation of the Agreement through reports from the District demonstrating that the terms of the

Agreement have been fulfilled. OCR will promptly provide written notice of any deficiencies with respect to the implementation of the Agreement terms and will promptly require actions to address such deficiencies. The Complainant will receive a copy of OCR's monitoring letters. If the District fails to implement the Agreement, OCR will take appropriate action, which may include enforcement actions.

This concludes OCR's investigation of the allegation and should not be interpreted to address the District's compliance with any law or regulatory provision, or to address any issues other than those addressed in this letter.

The Complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

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 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 prompt attention to this matter and cooperation. If you have any questions or concerns, you may contact me, the attorney assigned to this case, at XXX-XXX-XXXX or XXXX@XXXX.XXX.

Sincerely,

/s/

XXXXXX

Designated Team Leader

Attachment: Resolution Agreement

cc (via email): XXXXX, Principal
XXXXX, Director of Exceptional Student Services
XXXXX, Attorney for the District
Katy Anthes, Colorado Commissioner of Education