



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

915 2ND AVE., SUITE 3310
SEATTLE, WA 98174-1099

January 21, 2015

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Ms. Candy Lubansky
Superintendent
Belgrade School District No. 44
P.O. Box 166
Belgrade, Montana 59714

Re: Belgrade School District No. 44
OCR Reference No. 10141410

Dear Superintendent Lubansky:

This is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR) is discontinuing its investigation of the above-referenced discrimination complaint against Belgrade School District No. 44. As explained below, prior to the completion of OCR's investigation, the district expressed an interest in voluntarily resolving the complaint and signed the enclosed Voluntary Resolution Agreement (agreement) to address the complaint allegations.

The complaint alleged that the district discriminated against a student, on the basis of disability, by denying him a free appropriate public education by failing to implement his Section 504 education plan during the 2013-2014 school year. Specifically, the complaint alleged that the district failed to (1) monitor the student's progress during tests and work times; (2) prompt him to maintain focus; and (3) email the student's parents regarding missing work, upcoming projects, and exams.

The student has moved out-of-state, and is completing his high school graduation requirements through a distance-learning program provided by the district at no cost to the student's parents.

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. The regulations that implement Section 504 at 34 C.F.R. Part 104 prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance from the U.S. Department of Education. The regulations implementing Title II at 28 C.F.R. Part 35 prohibit discrimination on the basis of disability by public entities. The district receives federal financial assistance from the Department and is a public entity, and, therefore, is subject to these federal civil rights laws.

The regulations implementing Section 504 at 34 C.F.R. 104.33 require a public school district to provide a free appropriate public education to each qualified student with a disability within its jurisdiction. An appropriate education is defined as regular or special education and related aids and services that are designed to meet individual educational needs of the individual with a disability as adequately as the needs of nondisabled persons are met, and that are based upon adherence to the procedures identified in 34 C.F.R. 104.34-104.36. The Section 504 regulations at 34 C.F.R. 104.35 require the district to conduct an evaluation of any student who, because of disability, needs or is believed to need special education or related services. The applicable Title II regulatory provision is set forth at 28 C.F.R. 35.130 and is interpreted consistently with the provisions of Section 504 mentioned above.

In accordance with Section 302 of the OCR *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and 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 agreement.

The actions the district will take under the agreement include: (1) reviewing and revising, as necessary, its current disability-related policies, procedures and practices; (2) providing written notice to district administrators and staff of the district's disability-related policies, procedures and practices; and (3) providing training to identified administrators and staff on their obligation to provide disabled students with regular and special education and related services as approved by the district.

OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied. The first report under the agreement is due by March 1, 2015.

Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions, please feel free to contact Steve Riley, equal opportunity specialist, at (206) 607-1635, or at steven.m.riley@ed.gov.

Sincerely,

/ s /

Barbara Wery
Team Leader

Enclosure