



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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SEATTLE, WA 98174-1099

February 24, 2016

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Mr. Jeff Rose
Superintendent
Beaverton School District
16550 SW Merlo Road
Beaverton, OR 97006-9008

Re: Beaverton School District
OCR Reference No. 10151271

Dear Superintendent Rose:

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 the Beaverton School District (the district). As explained below, prior to 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 allegation.

The complaint alleged that a student had been discriminated against, on the basis of disability, when the district treated him differently than non-disabled students and denied him a free appropriate public education (FAPE) due to the district's bus schedules. Specifically, the complaint alleged that because the student was released early to load on school busses with the self-contained classroom, the student was denied instructional time along with time related to his Individualized Education Program (IEP) goals and objectives. Additionally, the complaint alleged that other similarly disabled students at district schools were also denied FAPE and being treated differently from non-disabled students as a result of daily early dismissals for self-contained classroom students, so that these students could board the busses before the general education students were dismissed.

OCR accepted this complaint for resolution under the authority of section 504 and title II of the Americans with Disabilities Act of 1990 and their implementing regulations. These statutes prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance from the U.S. Department of Education and by public entities, respectively. The district is a recipient of federal financial assistance from this Department and is a public entity.

The regulation implementing Section 504 at 34 C.F.R. § 104.4(a), states that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives financial assistance from the Department. The regulation implementing the ADA, at 28 C.F.R. § 35.130(a), contains a similar provision. The regulations implementing Section 504, at 34 C.F.R. § 104.4(b)(1)(ii)-(iv), and the ADA, at 28 C.F.R. § 35.130(b)(ii)-(iv), provide that a recipient may not, on the basis of a person's disability, [a]fford a qualified disabled person an opportunity to participate in or benefit from [an] aid, service or benefit that is not equal to that afforded others; [or] provide different or separate aid[s], benefits or services to disabled persons or to any class of disabled persons unless such action is necessary to provide qualified disabled persons with aid[s], benefits, or services that are as effective as those provided to others. Transportation of a student with a disability should not be provided in a manner that results in the student having a shorter school day than nondisabled students, unless necessary to meet the student's individualized needs pursuant to his or her IEP or Section 504 plan. Administrative convenience is not a permissible reason to shorten the instructional time for students with disabilities.

The investigation data viewed to date indicated that several of the district's special education bus routes were leaving school concurrent to the school's dismissal time or prior to the official dismissal time, during the 2014-2015 school year. The investigation to date also indicated that disabled students in some district high schools were released prior to their general education peers during the 2015-2016 school year.

In accordance with Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the institution 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: a review of district policies and procedures related to nondiscriminatory practices for transportation and length of school day for students with disabilities; a review of district policies and procedures to ensure that 504 and IEP plans for all students are implemented fully; notice and training to all district teachers who work with self-contained classrooms regarding the aforementioned policies and procedures and the changes made to district policies and procedures; and 15 hours of compensatory education services for each student currently attending the district who was in a self-contained classroom and utilizing special transportation services during the 2014-2015 school year or into the 2015-2016 school year.

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 was due by February 19, 2016 and has been received by OCR.

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 Claudette Rushing, attorney, by telephone at 206-607-1606 or by e-mail at claudette.rushing@ed.gov.

Sincerely,

/ s /

Paul Goodwin
Team Leader

Enclosure: Voluntary Resolution Agreement

cc: Hon. Salam Noor, Deputy Superintendent of Public Instruction