



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

February 24, 2016

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Dr. Glen A. Johnson
Superintendent
Dillon School District No. 10
22 North Cottom Drive
Dillon, Montana 59725

Re: Dillon School District No. 10
OCR Reference No. 10161030

Dear Superintendent Johnson:

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 Dillon School District No. 10 (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 Settlement Agreement (agreement) to address the complaint allegation.

The complaint was filed by the complainant (hereinafter, the parent), and alleged that the district discriminated against the parent's child (hereinafter, the student) and other students with dyslexia, on the basis of disability, when the principal at the student's elementary school and the district's superintendent said that dyslexia was not a learning disability and that no accommodations specifically for dyslexia or dysgraphia could be provided to the student.

OCR accepted this complaint for resolution under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulations and title II of the Americans with Disabilities Act of 1990 (Title II). 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 regulations implementing Section 504 at 34 CFR 104.4(b) and Title II at 28 CFR 35.103 prohibit discrimination on the basis of disability. Section 504 requires that districts provide a free appropriate public education (FAPE) to qualified students with disabilities. The Section 504 regulation at 104.33(b)(1) defines FAPE as the provision

of general education or special education and related aids and services that: (i) are designed to meet individual educational needs of disabled persons as adequately as the needs of non-disabled persons are met; and (ii) are based upon adherence to the Section 504 procedures. The district must provide a FAPE to all disabled students, as defined in 34 CFR 104.3, within their jurisdiction, regardless of the nature or severity of the disability. See 34 CFR 104.33(a). Title II FAPE requirements are interpreted consistently with the Section 504 requirements. See 28 CFR 35.103.

The investigation to date indicated that the district met with the parent to create a Section 504 plan that would address the student's dyslexia and dysgraphia and which would provide the student with appropriate aids and services designed to meet the individual needs of the student. The investigation to date also indicated that both parties are interested in resolving the matter by having more dyslexia awareness training in the district.

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: review and revision of the district's policies and procedures related to special education which will specifically require that the district may not categorically exclude any disabled student from special education or evaluations due to the type of disability such as dyslexia, or dysgraphia, and the district is required to notify all impacted staff of these changes to policies and procedures. The district will also provide training to all district teachers, administrators, and other applicable staff on dyslexia and dysgraphia and information related to the educational needs of students with dyslexia and dysgraphia.

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 April 1, 2016.

This letter sets forth OCR's determination in an individual OCR case and should not be interpreted to address the district's compliance with any other regulatory provisions or to address any issues other than those addressed in this letter. 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.

This concludes OCR's investigation of the complaint. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

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, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

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 /

Linda Mangel
Director
Seattle Office

Enclosure: Settlement Agreement

cc: Honorable Denise Juneau, Superintendent of Public Instruction