

financial assistance from this Department and is therefore subject to Title VI and Section 504. The district is a public school district and is therefore subject to Title II.

Regarding allegation no. 1, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. With respect to allegation no. 2(a), as explained below, prior to completion of OCR’s investigation, the district expressed an interest in voluntarily resolving allegation no. 2(a) and signed the enclosed Voluntary Resolution Agreement (agreement). With regard to allegation nos. 2(b), 3, and 4, XXXXXXXXXXXXXXXXXXXXXXXXXXXX. OCR considered information and documents provided by the complainant (hereinafter referred to as “the parent”) and the district in reaching these determinations discussed below.

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Allegation No. 2: FAPE

During the 2015-2016 school year, the student was a student with a disability who received services pursuant to a Section 504 plan (504 plan), which was signed on XXXXXXXXXXXX. The student was eligible for services relating to his encopresis as well as other disabilities. The student was a student at XXXXXXXXXXXX from the start of the XXXXXXXXXXXX school year until XXXXXXXXXXXX. After that date until the end of the school year, the student was enrolled in XXXXXXXXXXXX.

Allegation 2(a) failing to provide anticipatory guidance or updates to the student’s parents

It is the position of the student’s parent that she was not given anticipatory guidance on activities and that the student’s Section 504 plan required that the district provide this anticipatory guidance with respect to the student’s activities, including, but not limited to, field trips. Regarding field trips, the parent told OCR that she was not provided with anticipatory guidance regarding bathroom availability so that she could take the student to the field trip location early and identify restrooms. The parent told OCR that there was one field trip in XXXXXXXX for which she did not receive prior information about bathroom availability, so a preliminary visit with the student did not occur and the parent instead had to accompany the student on the field trip.

OCR’s review of the student’s 504 plan reflects that, in pertinent part, the plan stated that the student’s teacher will provide anticipatory guidance to the student’s family for field trips so that parents can take the student to the location to identify where the restrooms are and allow the student to become familiar with the location prior to the school trip.

OCR identified one field trip in XXXXXXXXXXXX to the Boise Art Museum for which it appears anticipatory guidance was not provided to the student’s parent prior to the event. Specifically, the district told OCR that the student’s general education teacher was absent on

the day of that field trip and a substitute teacher attended the field trip. OCR interviewed the substitute teacher, who stated that she was not aware that the student had a disability, and was not aware that the student had a plan that required that the parents be provided anticipatory guidance prior to field trips so the student would know where bathrooms were located. The substitute teacher told OCR that the student did not appear to have any bathroom-related issues during the field trip.

Section 302 of OCR’s CPM states that a complaint allegation may be resolved at any time when, prior to OCR issuing a final determination, a recipient expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the allegation with a voluntary resolution agreement. In this case, prior to the conclusion of OCR’s investigation, the district expressed interest in voluntarily resolving allegation no. 2(a) and OCR has determined that it is appropriate to resolve allegation 2(a) with an agreement. Further conversations with the district resulted in the district signing the enclosed agreement.

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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 court regardless of OCR’s determination.

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.

The complainant has a right to appeal OCR’s determination regarding allegation nos. 1, 2(b), 3, and 4 within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR’s determination, OCR will forward a copy of the appeal form or written statement to the district. The district has the option to submit to OCR a response to the appeal. The district must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the district.

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.

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 December 21, 2020.

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 Tina Sohaili, Attorney, at (206) 607-1634 or at tina.sohaili@ed.gov.

Sincerely,

Barbara Wery
Team Leader

Enclosure: Voluntary Resolution Agreement