



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

September 9, 2019

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Ms. Connie A. Newman
Superintendent
Iditarod School District
P.O. Box 90
McGrath, Alaska 99627

Re: Iditarod Area School District
OCR Reference No. 10171009

Dear Superintendent Newman:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) has resolved the referenced complaint against the Iditarod Area School District (district). The complainant alleged that the district discriminated against students with disabilities when the Individual Education Programs (IEPs) in effect for students with disabilities in the district were not implemented from July 2016 to October 7, 2016. The complainant also alleged that the district discriminated against students with disabilities by changing students' IEPs in the fall of 2016 without having the team first meet and discuss student needs.

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 allegations.

OCR investigated this case under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) which prohibits discrimination on the basis of disability in programs and activities receiving federal financial assistance. OCR also investigated this case under the authority of Title II of the Americans with Disabilities Act of 1990 (Title II), which prohibits discrimination on the basis of disability by public entities. The district receives federal financial assistance from this Department and is a public entity. Therefore, it is required to comply with these laws.

The regulation implementing Section 504, at 34 C.F.R. §104.33(b)(1), defines an appropriate education as the provision of regular 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 procedures that satisfy the requirements of 34 C.F.R. §104.34, 104.35, and 104.36. The regulation implementing Title II, at 28 C.F.R. §35.130, places requirements on public entities, such as the school, which are comparable to the Section 504 requirements. 28 C.F.R. §35.130 states, “... (a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. (b)(1) A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability ... (ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others.”

Based on the investigation to date, which included information provided by the complainant and the recipient, OCR has a concern that (a) the district may have failed to fully implement the IEPs of certain students with disabilities from July 2016 to October 2016; and (b) the IEPs of certain students may have been changed without following the regulatory requirements of Section 504 and Title II.

In accordance with Section 302 of the *OCR Case Processing Manual*, a complaint may be resolved at any time when, prior to the point a final determination is issued, the recipient expresses an interest in resolving the complaint allegations with an agreement and OCR determines that it is appropriate to resolve the issues under investigation with such an agreement. Prior to OCR making a final determination regarding the issues investigated in the referenced complaint, the district expressed an interest in voluntarily resolving the complaint. In light of the district’s willingness to address the complaint allegations comprehensively, OCR determined it was appropriate to enter into an agreement to resolve the issues under investigation. Subsequent discussions with the district resulted in the district superintendent signing the enclosed agreement, which when fully, implemented will address the issues raised in this complaint.

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 October 25, 2019.

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 whether or not OCR finds a violation.

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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 and your staff for your cooperation during the resolution of this complaint. If you have any questions, please feel free to contact Tania Lopez, senior attorney, by telephone at (206) 607-1623, or by e-mail at tania.lopez@ed.gov.

Sincerely,

Barbara Wery
Team Leader

cc: Honorable Michael Johnson, Commissioner, State Department of Education and Early Development

Sedor Wendlandt Evans & Filippi, LLC