



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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September 28, 2020

**Via E-mail Only to: [hobsonj@estacada.k12.or.us](mailto:hobsonj@estacada.k12.or.us)**

Mr. Ryan Carpenter  
Superintendent  
Estacada School District 108  
255 NE 6<sup>th</sup> Avenue  
Estacada, Oregon 97023

Re: Estacada School District 108  
OCR Reference No. 10181008

Dear Superintendent Carpenter:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Estacada School District 108 (the district) with the U.S. Department of Education (Department), Office for Civil Rights (OCR). The complaint alleged that the district discriminated against a student (hereinafter, “the student”) and the student’s parent (hereinafter, “the parent”), based on disability. Specifically, it is alleged that the district:

1. failed to implement the student’s Individual Education Program (IEP) by not providing a female education assistant, who is able to lift and transfer the student during the school day and for school activities, such as the 2017 Homecoming Parade, and who is able to assist the student with toileting, since April 14, 2017;
2. required the parent to be the primary person responsible for lifting and transferring the student at school from April 14, 2017, through the end of the 2016-2017 school year, and required the parent to lift and transfer the student when district staff were not available or undergoing training during the 2017-2018 school year;
3. required the parent to assist the student with toileting at school since April 14, 2017;

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4. required the parent to pay for an aide to lift and transfer the student on-and-off a parade float so that she could participate in the 2017 Homecoming Parade;
5. required the parent to transport the student to and from a physical therapist's (PT's) office to conduct training for the student's aides since April 14, 2017;
6. failed to provide the student, who receives instruction both at the high school and at an online school under her IEP, with an online teacher for her online school classes;
7. failed to implement the student's IEP by not reducing her workload in the student's American-Sign Language class from September to November 2017;
8. failed to provide the parent with an accessible restroom, where she could assist the student with her toileting needs, that has (a) accessible grab bars, and (b) an accessible turning space;
9. failed to provide an accessible public sidewalk on the west side of Estacada Middle School, along Northeast Main Street, because it has a "beaten and pitted" surface;
10. failed to provide accessible crosswalk signals at Estacada High School; and
11. graded the student's online schoolwork differently than other students resulting in lower grades at the online school for doing comparable work;

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 complaint allegations 1-10.

OCR investigated this case under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II), and their implementing regulations. Section 504 and Title II prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance and in public entities, respectively. The district receives federal financial assistance from the Department, is a public entity, and is required to comply with Section 504 and Title II.

Regarding allegation nos. 1–7, the regulation implementing Section 504 at 34 C.F.R. § 104.33(b) requires a recipient to provide an appropriate education to disabled students by providing regular or special education and disability-related aids and services designed to meet the educational needs of disabled students as adequately as the need of non-disabled students.

The investigation to date indicated that the student received special education-related aids and services through an Individualized Education Program (IEP). The student's IEP, dated May 23, 2017, stated that the student received the majority of her education from XXXXXXXXXXXXXXXX1, including a class on XXXXXXXX. The IEP stated that the student would receive a reduced

workload to show proficiency and to reduce fatigue at the school site, and that the physical therapist would provide at least 30 minutes of consultation at a community site on staff training, a XXXXXXXXXX. The IEP also stated that the district would provide XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Regarding allegation nos. 8–10, the regulation implementing Section 504 at 34 C.F.R. §104.21 and Title II at 28 C.F.R. § 35.149 states that recipients and public entities may not exclude or deny the benefits of its programs, services, and activities to individuals with disabilities because its facilities are inaccessible or unusable by individuals with disabilities.

The investigation to date indicated that there were ongoing concerns regarding the accessibility of the high school accessible bathroom, as well as the exterior sidewalks at the high school and middle school, and the District has begun taking steps to address the accessibility concerns.

In accordance with Section 302 of the OCR *Case Processing Manual* (CPM), a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint allegations and OCR determines that it is appropriate to resolve the issues under investigation with an agreement during the course of an investigation. In this case, the district requested to resolve allegation nos. 1–10 prior to the conclusion of OCR’s investigation. In light of the district’s willingness to address the concerns identified by OCR comprehensively without further investigation, OCR determined that entering into a voluntary resolution agreement was appropriate regarding allegation nos. 1–10. Subsequent discussions with the district resulted in district signing the enclosed agreement.

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 1, 2020.

Regarding allegation no. 11, the parent alleged that the district used a different grading system for its online program than the grading system used for its regular in-person educational program. Specifically, the parent stated that the online program used a number system for grades that did not align with the letter grades assigned by teachers in the in-person program. The parent provided information to OCR that the student received a majority of instruction via online learning, through the Summit Learning Charter (the Program). From the Program website, it indicates that it is a virtual K-12 academy, which is sponsored by the district, but available to students regardless of disability, in over 30 nearby districts. The parent also told OCR that the online program serves both disabled and non-disabled students. There was no indication from publicly available information on the website, or from the complainant, which indicated that disabled and non-disabled students received a different grading system in the Program based on disability. Thus, the information does not suggest that the student was treated differently based on disability, but rather that all students in the Program receive grades using a different system than students attending in-person classes.

The CPM states that OCR will dismiss an allegation when, based on all of the facts and information provided by the complainant, OCR cannot reasonably conclude that the recipient has violated a law OCR enforces. Based on OCR's review of the documents, information provided on publicly available websites, and information the complainant provided in support of this allegation, which does not demonstrate that the district graded the student differently than other, non-disabled students in the Program, OCR is not able to conclude that this allegation establishes a violation of Section 504 or Title II. Accordingly, OCR is dismissing allegation no. 11.

The complainant has a right to appeal OCR's determination regarding the allegation of different treatment 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 recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

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 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.

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 me by telephone at (206) 607-1668 or by e-mail at [alexa.polaski@ed.gov](mailto:alexa.polaski@ed.gov).

Sincerely,

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Alexa Polaski  
Attorney

Enclosure: Voluntary Resolution Agreement