



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

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July 3, 2018

Dr. Joshua Meek
Superintendent
Moses Lake School District No. 161
920 W. Ivy Avenue
Moses Lake, Washington 98837-2047

Re: Moses Lake School District No. 161
OCR Reference No. 10181077

Dear Superintendent Meek:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Moses Lake School District No. 161 (district) with the U.S. Department of Education (Department), Office for Civil Rights (OCR). The complaint alleged that the district discriminated against a student at XXXXXXXX, on the basis of disability, when it:

1. Failed to implement the student's Section 504 plan provision regarding restroom access during the 2017-2018 school year; and
2. Required the student to carry her Section 504 plan with her and present it to teachers if they have questions.

OCR began an investigation of this complaint 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). Section 504 prohibits disability discrimination in programs and activities receiving federal financial assistance. Title II prohibits disability discrimination by public entities. The district receives federal financial assistance from this Department and is a public entity and is, therefore, required to comply with these laws.

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.

The investigation to date indicated that the student just completed the 11th grade at XXXXXXXXXXXXXXXXXXXX and has a Section 504 plan to address her disability-related needs. The plan provides, inter alia, that the student have access to a restroom, on request. According to the complainant, on December 18, 2017, a substitute teacher denied the student's request to use the

restroom and, in response to the parent's stated concern about the incident, a staff member suggested that the student carry her Section 504 plan with her to present to teachers, as needed.

In accordance with Section 302 of the OCR *Case Processing Manual*, 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 the complaint 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. Subsequent discussions with the district resulted in the district signing the enclosed agreement.

Pursuant to the agreement, the district has agreed to review and revise, as necessary, its Section 504 and Title II policies and procedures to ensure that all employees at Moses Lake High School who are responsible for implementing a student's individualized education program (IEP) or Section 504 plan, including substitute teachers, are provided access to a copy of the student's IEP or Section 504 plan and are aware of their obligation to implement all provisions of such plans. The policies and procedures will ensure that if an employee or substitute teacher has a question about how to implement a student's plan, they will be provided with appropriate information about whom to contact, and shall not require a student to carry a copy of their IEP or Section 504 plan to provide to an employee or substitute teacher. The district also agreed to provide notice and training to district employees regarding its revised policies and procedures, and to provide the student's parents with a letter informing them of the actions it has taken pursuant to the agreement.

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.

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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 August 31, 2018.

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 Catherine Fawley, Attorney, by telephone at (206) 607-1609, or by e-mail at catherine.fawley@ed.gov.

Sincerely,

Sukien Luu
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement