



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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June 12, 2019

Mr. Steve Engebretson
Superintendent
Brockton School District No. 55 & 55F
P.O. Box 198
Brockton, Montana 59213

Re: Brockton School District No. 55 & 55F
OCR Reference No. 10191065

Dear Mr. Engebretson:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is closing its investigation of the referenced complaint against the Brockton School District No. 55 & 55F (district). The complaint alleged that:

1. The district discriminated against a student (student) on the basis of disability by failing to appropriately evaluate the student and develop and implement a plan with respect to XXXXXXXXXX during the 2018-2019 school year;
2. The district discriminated against the student on the basis of disability by failing to appropriately evaluate the student and develop and implement a plan with respect to XXXXXXXXXXXXXXXXXXXX during the 2018-2019 school year.
3. The student was denied an opportunity to participate in district-sponsored athletics or other recreational activities on the basis of disability during the 2018-2019 school year;
4. The elementary school's play areas were inaccessible to people with disabilities; and
5. The elementary school's bathrooms were inaccessible to people with disabilities.

OCR conducted this investigation under Section 504 of the Rehabilitation Act of 1972 (Section 504), which prohibits discrimination on the basis of disability in programs and activities that receive federal financial assistance from the Department, and 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 is a recipient of federal financial assistance from the Department and is a public entity, and therefore, is subject to Section 504 and Title II.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

As discussed below, OCR has determined that allegation nos. 1 and 3 should be dismissed because OCR determined that the evidence did not support a conclusion that the district violated Section 504 or Title II with respect to the issues investigated. OCR determined that allegation no. 2 should be dismissed as the allegation has been resolved and is no longer appropriate for investigation. With respect to allegation no. 4, prior to the completion of OCR's investigation, the district expressed an interest in resolving this allegation and signed the enclosed Voluntary Resolution Agreement (agreement) to address a concern that the district may have violated Section 504 or Title II in this regard. OCR determined that allegation no. 5 should be dismissed because OCR was unable to contact the complainant to obtain necessary information.

(TEXT DELETED FOR ISSUES NOT RESULTING IN COMPLIANCE CONCERNS OR WERE OTHERWISE DISMISSED WITHOUT FURTHER ACTION)

Allegation No. 4 – accessibility of the elementary school's play areas

Prior to the conclusion of OCR's investigation, the district expressed an interest in voluntarily resolving this allegation that the elementary school's play areas are inaccessible to people with disabilities. OCR's investigation to date identified a concern regarding the accessible route between the elementary school's two play areas. Specifically, OCR identified information indicating that a hill connects the district's upper and lower play areas and that there is no ramp or other accessible route between the play areas.

In accordance with Section 302 of the OCR's CPM, a complaint may be resolved at any time when, before OCR issues its final determination, 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. In light of the district's willingness to address the concern 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, which when fully implemented, will resolve the concern identified with respect to allegation no. 4. OCR will monitor the implementation of the agreement until the district fulfills the terms of the agreement.

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.

The complainant has a right to appeal OCR's determination with respect to allegation nos. 1 and 3 within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete, inaccurate, 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 with respect to allegation nos. 1 and 3; 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.

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 investigation of this complaint. We are closing this case as of the date of this letter. If you have any questions, please contact Tina Sohaili, Attorney, at (206) 607-1634 or at tina.sohaili@ed.gov.

Sincerely,

Barbara Wery
Team Leader

Cc: The Honorable Elsie Arntzen, Superintendent of Public Instruction