



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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June 8, 2020

Via email only to: mrussell@msd.k12.or.us

Dr. Maryalice Russell
Superintendent
McMinnville School District
800 NE Lafayette Ave.
McMinnville, OR 97218

Re: McMinnville School District
OCR Reference No. 10201073

Dear Dr. Russell:

This letter is to inform you of the disposition of the above-referenced complaint filed against the McMinnville School District (the district) with the U.S. Department of Education (Department), Office for Civil Rights (OCR). The complainant alleged that the district treats students with disabilities differently than students without disabilities when it requires students with disabilities who use specialized transportation to leave school early before general education students are dismissed.

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 allegation.

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. These laws prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance and by public entities, respectively. Because the district is a recipient of federal financial assistance from this Department and is a public entity, it is subject to these federal civil rights laws.

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

The regulation implementing Section 504, at 34 C.F.R. §104.4(a) and §104.4(b), prohibits districts, on the basis of disability, from excluding students from participation in, denying students the benefits of, or otherwise subjecting students to discrimination under any program or activity which receives federal financial assistance. Additionally, districts may not provide a qualified person with a disability with an aid, benefit, or service that is not equal to that afforded to others. The regulation implementing Title II, at 28 C.F.R. § 35.130(a), requires that 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.

Based on the investigation to date, which included information provided by the complainant and the District, OCR has a concern that, during the 2019-2020 school year, the District may have been dismissing early from school some students with disabilities who ride specialized transportation before nondisabled students, resulting in less instructional time for those students with disabilities.

In accordance with Section 302 of the OCR *Case Processing Manual*, a complaint may be resolved at any time when, before OCR issues a final determination, the recipient expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the issues under investigation with an agreement. 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, which when fully implemented, will address the issue raised in this complaint.

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.

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 September 30, 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 Claudette Rushing, Attorney at 206-607-1606 or at claudette.rushing@ed.gov .

Sincerely,

Paul Goodwin, Supervisory Attorney

Enclosure: Voluntary Resolution Agreement