



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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August 16, 2021

Via E-mail Only to: bub.derek@westada.org

Dr. Derek Bub
Superintendent
West Ada School District
1303 East Central Drive
Meridian, Idaho 83642

Re: West Ada School District
OCR Reference No. 10211065

Dear Superintendent Bub:

This is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is discontinuing its investigation of the above-referenced complaint against the West Ada School District (the district). 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 issue in the complaint. The complainant alleged that the district discriminated against a student with a disability (hereinafter, "the Student"), on the basis of disability, by failing to provide the Student with a free appropriate public education by failing to evaluate the Student for eligibility for disability-related services after he transferred into the District from a private school at the beginning of the 2020-2021 school year.

OCR is authorized to review this matter under the authority of Section 504 of the Rehabilitation Act of 1972 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II), and their implementing regulations. These statutes prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance and by public entities, respectively. The district is a recipient of federal financial assistance from this Department and is a public entity.

The regulation implementing Section 504 at 34 C.F.R. §104.5(a) states that a district shall conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education.

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.

The investigation to date indicated that the Student xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx at the beginning of the 2020-2021 school year. The Student identified that he had a disability and received accommodations from his former school. The Student received a documented evaluation from the district in January 2021.

In accordance with Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, prior to OCR issuing a final determination, the institution expresses an interest in resolving the complaint. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and must be consistent with applicable regulations. In this case, the district requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the district resulted in the district signing the enclosed 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 this matter. 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, compliance review, or monitoring process. If this happens, the complainant may file a 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 to OCR on **October 1, 2021**.

Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions regarding this letter, please feel free to contact Alexa Polaski, Attorney, by telephone at (206) 607-1668, or by e-mail at alexa.polaski@ed.gov.

Sincerely,

Paul Goodwin
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement

cc: Honorable Sherri Ybarra, Superintendent of Public Instruction
infosuperintendent@sde.idaho.gov

Chris Hansen, Attorney
Anderson, Julian & Hull LLP
www.ajhlaw.com/our-attorneys/chris-h-hansen/