



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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August 24, 2022

Via E-mail Only to: mtolley@nsd.org

Mr. Michael Tolley
Interim Superintendent
Northshore School District No. 417
3330 Monte Villa Parkway
Bothell, Washington 98021

Re: Northshore School District No. 417
OCR Reference No. 10221224

Dear Superintendent Tolley:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Northshore School District No. 417 with the Office for Civil Rights (OCR) of the U.S. Department of Education on April 19, 2022. The complaint alleged that the District is discriminating against individuals with disabilities based on disability, by failing to effectively communicate with them during school board public meetings that are live-streamed and posted on-line.

As described 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 the complaint pursuant to OCR's authority under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, and those statutes implementing regulations at 34 C.F.R. Part 104 and 28 C.F.R. Part 35. Section 504 and Title II prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance from the Department and by public entities. The District receives federal financial assistance from this Department and is a public entity, and is therefore, required to comply with Section 504 and Title II.

The Section 504 implementing regulation at 34 C.F.R. § 104.4(a) prohibits a recipient of federal financial assistance from excluding qualified disabled persons from participating in, denying them the benefits of, or otherwise subjecting them to discrimination in any program or activity on the basis of disability.

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

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The Title II implementing regulations at 28 C.F.R. §§ 35.160(a)(1) and (b)(1) require a public entity's communications with members of the public with disabilities to be effective, which includes the following requirements.

- A public entity must take appropriate steps to ensure that communications with members of the public with disabilities are as effective as communications with others.
- A public entity must furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity. Auxiliary aids and services encompass real-time computer-aided transcription services; closed caption decoders; open and closed captioning, including real-time captioning; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard-of-hearing.

OCR's investigation to date found that the District's board policy B-15 titled Board Engagement with the Community, revised on August 25, 2021, states that the School Board would design, promote, and safely participate in engagement opportunities that consciously provide for Americans with Disabilities Act access and opportunities for equitable participation. Records provided by the District appear to indicate that the District has not provided effective real-time captions during School Board meetings as they were live-streamed to the public since about March 21, 2021.

In accordance with Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient of federal financial assistance or public entity expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the issues under investigation with an Agreement during the course of the 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.

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 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 filed a complaint or participated in the complaint resolution process. If this happens, the individual 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 District's implementation of the Agreement and will close the complaint when OCR determines that the terms of the Agreement have been satisfied. The District's first reports required by the Agreement are due to OCR by October 28, 2022.

Thank you for the assistance the District and the District's attorneys extended to OCR in resolving this complaint. If you have any questions, please contact me by telephone at (206) 607-1632, or by e-mail noel.nightingale@ed.gov.

Sincerely,
XXXXXXXXXX
Noel Nightingale
General Attorney (Civil Rights)

Enclosure: Voluntary Resolution Agreement

Courtesy Copies Via E-mail Only to:

Honorable Chris Reykdal
Superintendent of Public Instruction
Washington Office of Superintendent of Public Instruction
superintendent@k12.wa.us

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