



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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February 14, 2023

Via E-mail Only to: jcrews@alberton.k12.mt.us

Mr. Jeff Crews
Superintendent
Alberton School District
P.O. Box 330
Alberton, Montana 59820

Re: Alberton School District
OCR Reference No. 10221358

Dear Superintendent Crews:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Alberton School District with the U.S. Department of Education, Office for Civil Rights (OCR). The complaint alleged that the District discriminates against individuals with mobility impairments, on the basis of disability, by:

1. having inaccessible routes from the accessible parking spaces to the accessible entrance, the classrooms, and bathrooms at Alberton Elementary School (school);
2. having an inaccessible bathroom doorway; and
3. failing to maintain the elevator at the school in operable, working condition.

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.

OCR investigated this case under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II) 42 U.S.C. § 12131 et seq., and its implementing regulation, at 28 C.F.R. Part 35. These statutes

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

prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance from the U.S. Department of Education 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. § 104.21 provides that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by disabled persons, be denied the benefits of, excluded from participation in, or otherwise be subjected to discrimination under any program, service, or activity of the recipient. The regulation implementing Title II at 28 C.F.R. § 35.149 provides that no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, 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 certain elements of the District's facilities identified in the allegations may be inaccessible to or unusable by individuals with disabilities. OCR reviewed information provided by the complainant and the District regarding the identified facilities and elements of concern, including descriptions and photographs, which reflect that individuals with mobility impairments may be unable to access certain areas of the school due to inaccessible routes and an inaccessible doorway to the bathroom. The District also provided information reflecting that the school elevator was not in operable working condition for a period of 90 days during the summer 2022.

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.

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 February 28, 2023.

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 Charlotte Cunningham, Attorney, at (206) 607-1610 or at charlotte.cunningham@ed.gov.

Sincerely,

Paul Goodwin
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement