



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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March 29, 2023

***Via e-mail only to: [milsandr@cassiaschools.org](mailto:milsandr@cassiaschools.org)***

Sandra Miller  
Superintendent  
Cassia County Joint School District 151  
3650 Overland Avenue  
Burley, Idaho 83318

Re: Cassia County Joint School District 151  
OCR Reference No. 10221388

Dear Superintendent Miller:

This letter is to inform you of the disposition of the above-referenced complaint filed against Cassia County Joint School District 151 with the U.S. Department of Education, Office for Civil Rights (OCR). OCR investigated whether the district discriminated against a student based on disability by revoking the open enrollment agreement that allowed the student to attend XXXXXX.

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), 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, which prohibit discrimination on the basis of disability in programs and activities receiving federal financial assistance and by public entities, respectively. As a recipient of federal financial assistance from this Department and a public entity, the district is subject to these federal civil rights laws.

The regulation implementing Section 504, at 34 C.F.R. §§ 104.4(a)-(b)(1)(i), states that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. A recipient, in providing any aid, benefit, or service, may not, on the basis of handicap, deny a qualified

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handicapped person the opportunity to participate in or benefit from the aid, benefit, or service. The Title II regulation, at 28 C.F.R § 35.130, provides similar protections.

OCR's investigation to date reflects that for the 2020-2021 school year, the student was accepted for open enrollment at XXXXXXXX for kindergarten. District records indicate that, during that school year, the district developed a Section 504 plan for the student. In 2021-2022, the student attended school in her home district for first grade. In summer 2022, the district accepted the student for open enrollment a second time, this time as a second-grade student at XXXXXXXXXXXX for the 2022-2023 school year. The school was aware that the student had a Section 504 plan in place at the time the decision was made to accept her. District records show that, by the first day of school, August 22, 2022, the district was aware that second-grade classrooms at the school were over-capacity. At the time, there were two out-of-district second grade students attending the school through open enrollment, one of whom was the student at issue in this complaint, and both were students with disabilities.

District records further indicate that, immediately upon enrollment, the student began exhibiting disability-related behaviors in the classroom and on the school playground that required the student's classroom teacher to focus his full attention on the student or led to disruptions that required the intervention of the school principal, assistant principal, and student's parents. On or about September 1, 2022, in consultation with the district superintendent, the principal made the decision to rescind all the open enrollment agreements for students in second grade who were not the children of district employees. This decision led to the revocation of open enrollment agreements for the student and the other second-grade student who was on an IEP.

OCR's review of the district's open enrollment policy reflects that the district's decision to revoke the student's open enrollment was inconsistent with the district's written policy, which does not appear to provide for revocation in this case. Further, OCR notes that the district's on-line application form for open enrollment is inconsistent with the district's written policy, in part because it includes a fine print notice stating that "...the transfer can be revoked at any time if there are attendance or discipline issues or if there is no longer space within the grade level, class or program."

Based on the foregoing, OCR has a concern that the student's disability may have played a role in the district's decision to revoke the open enrollment agreement that allowed the student to attend XXXXXXXXXXXX. OCR also has a concern that the district's open enrollment policy and application form are inconsistent and may have been applied in a manner that does not comply with Section 504 and Title II.

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 allegation and OCR determines that it is appropriate to resolve the issue 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.

The actions the district will take under the agreement include providing notice and training of the district's open enrollment process to relevant employees, revising the district's open enrollment application, and notifying the student's parent of the actions the district is taking under the agreement and an offer to allow the student to reapply for open enrollment for the following school year.

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 individual 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 May 1, 2023.

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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 Mark Farr, Senior Equal Opportunity Specialist, at (206) 607-1607 or [mark.farr@ed.gov](mailto:mark.farr@ed.gov).

Sincerely,

David Kauffman  
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement

cc: Debbie Critchfield, Superintendent of Public Instruction  
(via email only to [nhui@sde.idaho.gov](mailto:nhui@sde.idaho.gov))