



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

915 2nd AVENUE, ROOM 3310  
SEATTLE, WA 98174-1009

June 26, 2023

REGION X

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Dr. Scott Woolstenhulme  
Superintendent  
Bonneville Joint School District 93  
woolstes@d93.k12.id.us

Re: Bonneville Joint School District 93  
OCR Reference No. 10231109

Dear Superintendent Woolstenhulme:

The U.S. Department of Education, Office for Civil Rights (OCR) has resolved the referenced complaint against Bonneville Joint School District 93. OCR investigated whether the District discriminates against students in the special education program's self-contained classrooms at XXXXXXXXXXXX, on the basis of disability, by: (1) having the students perform janitorial duties at the School; (2) requiring the students to perform dental hygiene tasks upon arrival at the School every morning; and (3) failing to provide the students with the least restrictive learning environment.

As explained below, prior to OCR completing its investigation, the District requested to voluntarily resolve the complaint allegations and signed the attached Resolution Agreement to address the complaint allegations.

OCR enforces Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.* The regulation that implements Section 504, at 34 C.F.R. Part 104, prohibits discrimination on the basis of disability in programs and activities that receive federal financial assistance. The regulation that implements Title II, at 28 C.F.R. Part 35, prohibits discrimination on the basis of disability by designated public entities. The District receives federal financial assistance from this Department, is a designated public entity and, therefore, is required to comply with these federal laws.

The regulation implementing Section 504, at 34 C.F.R. § 104.4(b), prohibits a recipient from denying a qualified disabled person the opportunity to participate in or benefit from the recipient's aids, benefits, or services, and prohibits a recipient from affording a qualified disabled person an opportunity to participate in or benefit from aids, benefits, or services that is not equal to that afforded to others. The regulation, at 34 C.F.R. § 104.33(b), requires a recipient to provide an appropriate education to disabled students by providing regular or special education and disability-related aids and services designed to meet the educational needs of disabled students as adequately as the need of non-disabled students.

*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. § 104.34(a), provides in relevant part that a recipient shall educate each student with a disability with students who are not disabled to the maximum extent appropriate to the needs of the disabled student. A recipient shall place a student with a disability in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the disabled student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

The regulation implementing Title II, at 28 C.F.R. § 35.130, states 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 District is comprised of 24 schools, serves over 13,300 students, and is Idaho's fourth largest school district. RMM School is one of three middle schools within the District and has a student population of approximately 532 students.

Based on its investigation to date, during an interview with the complainant, the complainant told OCR that XXXXX School has two self-contained classrooms that serve students with disabilities. The complainant also told OCR that the complainant observed students from the self-contained classrooms performing janitorial duties to include cleaning door handles, washing, and folding cleaning rags, and wiping off tables in the cafeteria. The complainant further stated to OCR that students in one self-contained classroom are required to brush their teeth on arrival in the classroom and have very limited, if at any, participation in the general education setting.

During OCR's interview with the Superintendent, the Superintendent indicated that disabled students should not be performing janitorial duties as part of their occupational therapy. OCR reviewed the Individualized Education Programs (IEP) for the eight students in one of the self-contained classrooms and found that the IEPs for four of the eight students did not require those students to receive assistance and instruction in personal hygiene routines. The IEPs also indicated the students would receive some classroom instruction in a general education (least restrictive) setting.

Based on the foregoing, OCR has a concern that the District may be treating disabled students in the School's self-contained classrooms differently by requiring the students to perform janitorial duties and brush their teeth. OCR also has a concern that the District may not be educating disabled students in the self-contained classrooms with their non-disabled peers to the maximum extent as required in their IEPs.

Pursuant to Section 302 of the *OCR Case Processing Manual*,<sup>1</sup> a complaint may be resolved at any time when, prior to the conclusion of the 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 a Resolution Agreement. Prior to OCR concluding its

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<sup>1</sup> The *OCR Case Processing Manual* can be found at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>

investigation, the District expressed an interest in voluntarily resolving the complaint. In light of the District's willingness to address the complaint allegation comprehensively, OCR determined it was appropriate to enter into an agreement to resolve the issue under investigation. Subsequent discussions with the District resulted in the District Superintendent signing the enclosed agreement, which when fully implemented, will address the issues raised in this complaint.

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. As noted in the agreement, the District's first monitoring report to OCR is due by July 31, 2023.

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. The complainant may have the right to file a private suit in court whether or not OCR finds a violation.

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 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.

Thank you for your assistance in resolving this matter. If you have any questions, please contact me at (206) 607-1635 or at [steven.m.riley@ed.gov](mailto:steven.m.riley@ed.gov).

Sincerely,

Steven M. Riley  
Equal Opportunity Specialist - Investigator

Enclosure: Resolution Agreement