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Dr. Charlene Williams
Director of the Department of Education

October 31, 2023

BY EMAIL

REDACTED

Superintendent Bill Rhodes
North Marion School District
20256 Grim Road NE
Aurora, OR 97002
Ginger.Redlinger@nmarion.k12.or.us

Re: Case#2023-17

Dear REDACTED and Superintendent Ginger Redlinger:

REDACTED (Complainant) filed an appeal with the Oregon Department of Education alleging that North Marion School District violated ORS 659.850 and OAR 581-021-0045 by discriminating against persons with disabilities. Complainant specifically alleged that the district fails to ensure that disability parking is accessible. Complainant alleged that during student pick-up time, people without disabilities illegally park in parking spaces reserved for people with disabilities. Complainant alleged that the district fails to prevent or mitigate these acts of illegal parking.

Under OAR 581-002-0009(3)(a)(C), the department may issue notice that it is closing an appeal if the department determines that a district is not in violation of a law or rule described in OAR 581-002-0003. This letter constitutes notice that the department finds that North Marion School District is currently in compliance with ORS 659.850 and OAR 581-021-0045.

On June 15, 2023, the department issued notice that it was accepting Complainant's appeal. Complainant first filed their complaint with the district on March 1, 2023. The department accepted Complainant's appeal on the basis that 90 days had passed since Complainant filed their complaint with the district without receiving a final written response.¹

¹ OAR 581-002-0005(1)(a)(C).

Oregon Department of Education

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Analyzing Complainant's allegations first requires an analysis of the law pertaining to disability parking. If the law applies to the circumstances at issue in this case, the department must then analyze the district's response to the alleged acts of illegal parking.

The Americans with Disabilities Act (ADA) requires states to provide disability parking for persons who have a disability that limits or impairs their ability to walk. Under the ADA,

(a) Each State shall establish design, construction, and designation standards for parking spaces reserved for persons with disabilities, under criteria to be determined by the State. These standards shall:

(1) Ensure that parking spaces are accessible to, and usable by, persons with disabilities which limit or impair the ability to walk;

(2) Ensure the safety of persons with disabilities which limit or impair the ability to walk who use these spaces and their accompanying accessible routes; and

(3) Ensure uniform sign standards which comply with those prescribed by the "Manual on Uniform Traffic Control Devices for Streets and Highways" . . . to designate parking spaces reserved for persons with disabilities which limit or impair the ability to walk.

(b) The design, construction, and alteration of parking spaces reserved for persons with disabilities for which Federal funds participate must meet the Uniform Federal Accessibility Standards.²

Under Oregon law, the Director of the Department of Consumer and Business Services has the duty to establish design, construction, and designation standards for disability parking.³ The director is instructed to include such standards in the State Building Code.⁴ The director also is instructed to inspect compliance with these standards.⁵ Municipalities and counties also may inspect compliance with these standards in accordance with certain procedures.⁶ School districts do not have this authority.

Under Oregon law, the Oregon Department of Transportation has the duty to issue placards and decals for vehicles that are operated by a person with a disability that limits or impairs the ability

² 23 C.F.R. §1235.7

³ ORS 477.233(1) and (2).

⁴ ORS 477.233(1).

⁵ ORS 477.233(5).

⁶ See ORS 447.233(5) (authorizing municipalities and counties to inspect the design, construction, and designation of disability parking) and ORS 455.148 and 455.150 (setting forth procedures by which municipalities and counties inspect the design, construction, and designation of disability parking).

to walk.⁷ If a person parks in a space designated for such persons without a placard or decal, the person may be convicted of a traffic violation and their vehicle may be removed.⁸ In Oregon, law enforcement agencies are authorized to write citations for traffic violations and handle the removal of vehicles. School districts are not.

There also is nothing in state law that imposes upon school districts a duty to assist law enforcement in ensuring compliance with those laws that regulate disability parking. However, even if there is an implied duty to do so under the ADA, the department would find that North Marion School District fulfilled that duty.

On June 29, 2023, the department received a response from the district to Complainant's allegations. In that response, the district provided evidence that it took the following steps to ensure that disability parking is accessible:

- On November 6, 2022, the principal wrote a newsletter to the community communicating how to pick-up your child from school and the legal requirements for using disability parking.
- On or about November 6, 2022, the principal instructed district staff to closely monitor disability parking spaces.
- On multiple occasions following November 6, 2022, the principal monitored disability parking spaces during student pick-up time.
- On March 1, 2023, the principal wrote another newsletter to the community communicating how to pick-up your child from school and the legal requirements for using disability parking.
- On or about March 1, 2023, the principal again instructed district staff to closely monitor disability parking spaces.
- Following March 1, 2023, the principal requested the District Safety Committee to review the process for picking-up students from school and determine whether the school could change that process to mitigate the illegal use of disability parking.
- During March and April, 2023, the District Safety Committee analyzed traffic patterns and determined ways in which the school could change the process for picking-up students.
- On May 12, 2023, the principal wrote a newsletter to the community informing them of the changes to the process for picking-up students.

In short, the principal communicated with the community on three occasions, instructed district staff about the problem on two occasions, personally observed whether people were illegally occupying disability parking on multiple occasions, directed the District Safety Committee to determine whether the school could change the process for picking-up students, and implemented the committee's suggestions.

⁷ ORS 811.162.

⁸ ORS 811.615 and 811.620.

In consideration of the law and North Marion School District's response to Complainant's allegations, the Oregon Department of Education finds that the district is not in violation of a law or rule described in OAR 581-002-0003.

Case #2023-17 is closed.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Mayer', is centered within a light gray rectangular box.

Mark Mayer, Complaint and Appeals Coordinator
Office of the Director
Oregon Department of Education

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