

April 15, 2014

Reference: 06141025

Dr. Robert Etheridge II, Superintendent
Zoe Learning Academy
6701 Cullen Blvd.
Houston, TX 77021

Dear Dr. Etheridge:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its investigation of a complaint against Zoe Learning Academy (ZLA), Duncanville, Texas, which was received in our office on October 17, 2013. The complainant alleged that ZLA discriminated against her son (the Student) on the basis of disability. Specifically, the complainant alleged that ZLA failed to evaluate the Student to determine the related aids and services necessary to meet the Student's individual educational needs.

This agency is responsible for determining whether organizations or entities that receive or benefit from Federal financial assistance, either from the Department or from an agency that has delegated investigative authority to the Department, are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulations, at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability.

OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulations, at 28 C.F.R. Part 35, which also prohibit discrimination on the basis of disability. Under Title II, OCR has jurisdiction over complaints alleging disability discrimination against public entities, such as public preschools, elementary and secondary education systems and institutions, public institutions of higher education and vocational education (other than schools of medicine, dentistry, nursing, and other health-related schools), and public libraries.

ZLA is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR has jurisdiction to investigate this complaint under Section 504 and Title II.

The complainant alleged that on August 23, 2013, a ZLA administrator informed her that ZLA would not XXXXXXXXXXXXXXXX accommodate the Student's disability (XXXXXX) and that if she chose to enroll him, she would do so, "at [her] own risk." She stated that

ZLA did not evaluate the Student to determine whether XXXXXXXX related aids and services were necessary to accommodate his disability.

Based upon this allegation, OCR investigated the following legal issue:

Whether ZLA discriminated against the Student on the basis of disability on XXXXXX, by failing to evaluate him to determine the related aids and services necessary to meet his individual educational needs prior to making a placement determination, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. § 104.33 and 28 C.F.R. § 35.130, respectively.

Prior to the completion of OCR's investigation, ZLA informed OCR that it was interested in resolving this allegation and other compliance concerns identified by OCR. Section 302 of OCR's *Case Processing Manual* provides that a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. The provisions of the resulting voluntary resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation, and will be consistent with applicable regulations. OCR approved ZLA's request to resolve this complaint prior to the conclusion of the investigation.

ZLA voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint; the Agreement was signed by ZLA on April 15, 2014. OCR has determined that the provisions of the Agreement are aligned with the complaint allegations and identified compliance concerns, and appropriately resolve them. Further, OCR accepts the Agreement as an assurance that ZLA will fulfill its obligations under Section 504 and Title II with respect to this complaint. The dates for implementation and specific actions are detailed in the Agreement. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor ZLA's implementation of the Agreement. Please be advised that if ZLA fails to adhere to the actions outlined in the Agreement, OCR will immediately resume its compliance efforts.

Please be advised that ZLA 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.

If you have any questions about this matter, please contact Eve Shatteen Bell, the OCR attorney who will oversee ZLA's implementation of the Agreement, at (214) 661-9682.

Sincerely,

Taylor D. August
Director, Dallas Office
Office for Civil Rights

Enclosure