



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

April 12, 2016

Ref: OCR Docket # 06161025

Dr. Kimberly Strozier, Superintendent
Gonzales Independent School District
926 St. Lawrence
Gonzales, TX 78629

Dear Dr. Strozier:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against the Gonzales Independent School District (GISD), Georgetown, Texas, which OCR received on October 16, 2015. The Complainant alleged that GISD discriminated against XXXX (Student) on the basis of disability when it failed to provide speech therapy as listed in the Student's individualized educational program (IEP) during the 2013-14, 2014-15, and 2015-16 school years.

OCR is responsible for determining whether 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, 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. 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.

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

OCR opened an investigation of the following legal issue:

Whether the GISD discriminated against the Student on the basis of disability by failing to provide regular or special education and related aids and services deemed necessary to meet the Student's individual educational needs (e.g., failed

to provide speech therapy), and thereby denied the Student a free appropriate public education during the 2013-14, 2014-15, and 2015-16 school years, 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.

During the course of investigation, OCR received information from the GISD regarding the issue under investigation. OCR's review indicated that the Student attended GISD during the X---phrase redacted---X school years. The Complainant maintained that the GISD staff failed to provide speech therapy as listed in the Student's IEP during the 2013-14, 2014-15, and 2015-16 school years. OCR's review of documents provided by the GISD indicates that the Student's IEPs called for X---phrase redacted---X for the 2013-2014 and 2014-2015 school years and X---phrase redacted---X for the 2015-2016 school year. The GISD maintained that its ability to provide speech services to the Student was impacted by the Student's absences during the school years at issue.

Additionally, the GISD provided documentation to OCR reflecting that on XXXX, the Complainant filed a complaint with the Texas Education Agency (TEA) regarding the GISD's alleged failure to provide speech services. On XXXX, the TEA notified the parties that it was investigating whether the GISD implemented the Student's IEP with regard to the provision of speech therapy services from X---phrase redacted---X. On XXXX, the TEA issued its determination. OCR's case processing procedures provide that OCR will close complaint allegations filed with OCR that have been resolved by another state civil rights enforcement agency, and the allegations were investigated, any remedy obtained is the same as the remedy that would be obtained if OCR were to find a violation, and there was a comparable resolution process under comparable legal standards. OCR reviewed the TEA's letter dated XXXX, which indicates that TEA investigated the issue and found that although the GISD failed to implement the Student's IEP with regard to the provision of speech therapy services during the time period investigated (X---phrase redacted---X), it had resolved the noncompliance by convening an IEP meeting in XXXX in which the GISD agreed to provide compensatory services and reevaluate the student in the fall of XXXX. OCR determined that the TEA's investigative process was comparable to that of OCR, comparable legal standards were applied, and the remedy secured by the TEA was the same as the remedy that would be obtained by OCR if OCR were to find a violation. Therefore, OCR is administratively closing the issue with regard to the alleged failure to provide services from XXXX through XXXX.

Furthermore, prior to the conclusion of OCR's investigation, and before OCR had obtained sufficient evidence to support a finding of either compliance or noncompliance with regard to the XXXX school year and from X---phrase redacted---X of the XXXX school year, the GISD expressed an interest in resolving the allegations and issues raised in the complaint. Under Section 302 of OCR's Case Processing Manual, issues under investigation may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation.

OCR determined that it is appropriate to resolve the allegations and issues pursuant to OCR's case processing procedures referenced above. OCR negotiated with the GISD and obtained the enclosed Resolution Agreement (Agreement), dated April 11, 2016. OCR has determined that the Agreement, when fully implemented, will satisfactorily resolve the compliance issues raised by the complaint allegations. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint; however, OCR will actively monitor the GISD's implementation of the Agreement. Please be advised that if the GISD fails to adhere to the actions required under the Agreement, OCR will immediately resume its compliance efforts.

This concludes OCR's investigation of the complaint and should not be interpreted to address the GISD's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The Complainant has been notified of this action.

This letter sets forth OCR's determination in an individual OCR case. 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 Federal court whether or not OCR finds a violation.

Please be advised that the GISD 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 regarding this matter, you may contact Tamara Williams, the investigator assigned to your complaint, at (214) 661-9607 (XXXX@ed.gov), or Lori Bringas, Team Leader Designee, at (214) 661-9638 (XXXX@ed.gov). You may also contact me at (214) 661-9674 (XXXX@ed.gov).

Sincerely,

Gregory McGhee
Program Manager
Office for Civil Rights
Dallas Office

Enclosure