



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Mr. Tylor Chaplin, Superintendent
416 Glendale Street
Burkburnett, TX 76354

Re: OCR Complaint #06-16-1578
Burkburnett ISD

Dear Superintendent Chaplin,

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its consideration of the above-referenced complaint against the Burkburnett Independent School District (BISD or the District), [X---phrase redacted---X] (School) in Burkburnett, Texas, which was received on May 18, 2016. The Complainant alleged that BISD discriminated against [XXXX XXXX] (the Student) on the basis of disability.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 *et seq.*, and its implementing regulation, at 34 C.F.R. Part 104, which prohibit discrimination by recipients of Federal financial assistance from the Department based on disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination based on disability by public entities.

BISD 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.

OCR opened the following issues for investigation:

1. Whether the District discriminated against the Student based on [XXXX] disabilities when the District failed to follow appropriate procedures in evaluating [XXXX] before taking any action (e.g., assigned [X---phrase redacted---X] and assigned [XXXX XXXX] suspensions) with respect to a subsequent significant change in placement, and thereby denied [XXXX] a free appropriate public education during the 2015-2016 school year, in violation of the Section 504 and Title II implementing regulations, at 34 C.F.R. §§ 104.33, 104.35 and 104.36, and 28 C.F.R. § 35.130, respectively.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

2. Whether District treated the Student differently based on [XXXX] disabilities in the context of an educational program or activity (e.g., failed to document [XXXX XXXX XXXX] suspensions or other disciplinary removals from class and failed to prepare [XXXX] for the STAAR exam [X--phrase redacted---X]), without a legitimate, nondiscriminatory reason, and thereby, interfered with or limited [XXXX] ability to participate in or benefit from the services, activities or privileges provided by the District during the 2015-16 school year in violation of the Section 504 and Title II implementing regulations, at 34 C.F.R. § 104.4, and 28 C.F.R. § 35.130, respectively.

OCR received data from the BISD regarding the above-referenced issues. The BISD's relevant suspension logs and disciplinary records, plus BISD's own admission, indicate that BISD did not hold a manifestation determination review (MDR) for the Student for [XXXX XXXX XXXX] suspensions. The documentation further indicated that the BISD failed to appropriately log the Student's suspensions. Prior to completing OCR's review of the data or conducting any interviews of BISD personnel, on August 31, 2016, BISD informed OCR that it was interested in resolving the complaint. Section 302 of OCR's Case Processing Manual (CPM) 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 and OCR determines that such a resolution is appropriate. The provisions of the resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation and will be consistent with applicable regulations. On September 19, 2016, OCR determined that a resolution under Section 302 of the CPM was appropriate.

On March 20, 2017, BISD voluntarily signed and submitted to OCR a Resolution Agreement (Agreement) to resolve the complaint allegation. A copy of the Resolution Agreement is enclosed. The Agreement includes training district-wide for staff on documenting discipline for students with disabilities and for identifying the need for a MDR, revising BISD's discipline referral form, reviewing the adequacy of the BISD's curriculum provided to the Student for the [XXXX XXXX] STAAR examination, convening an Admission, Review, and Dismissal meeting to determine if compensatory and/or remedial services are necessary for the Student, and removal of all disciplinary actions (e.g., suspensions) from the Student's record where an MDR was not previously held.

OCR determined that the provisions of the Resolution Agreement are aligned with the complaint allegation and appropriately resolve it. Further, OCR accepts the Resolution Agreement as an assurance that BISD will fulfill its obligations under Section 504 and Title II with respect to the complaint allegation. The dates for implementation and specific actions are detailed in the Resolution Agreement. OCR will monitor BISD's implementation of the Resolution Agreement and will not conclude monitoring of the BISD until all terms of the Agreement have been satisfied.

Effective the date of this letter, OCR is closing the investigative stage of this complaint. This concludes OCR's investigation of the complaint and should not be interpreted to address BISD's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

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 BISD 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 letter, please contact Kyle Gruber, the attorney assigned to investigate this complaint, at (214) 661-9613 or Kyle.Gruber@ed.gov. You may also contact me at (214) 661-9648 or Timothy.Caum@ed.gov.

Sincerely,

Timothy D. Caum
Supervisory Attorney/Team Leader
Dallas Office

Enclosure