



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

August 19, 2019

OCR Ref. No. 06-14-1367

[XXXX to end of address line]

Dear [XXXX XXXX]:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed on April 23, 2014, against [XXXX XXXX], the Tangipahoa Parish School Board (TPSB, District or recipient) in Amite, Louisiana. The complainant alleged that the District discriminated against students on the bases of disability, race, and color. Specifically, the complainant made the following allegations.

1. The individualized education plans (IEPs) and Section 504 individual accommodation plans (IAPs) are not being distributed to the teachers of students with disabilities and, as a result, students with disabilities are not provided their necessary disability-related services at Hammond Westside Montessori School (HWMS), Amite Westside Middle Magnet (AWMM), Independence Magnet School (IMS), Loranger Middle School (LMS), and Hammond High Magnet School (HHMS);
2. The IEPs and IAPs are not being sent to the Tangipahoa Alternative Solutions Program (TASP) for students with disabilities who are assigned to TASP and, as a result, students with disabilities are not provided their necessary disability-related services; and
3. White students with disabilities are provided the services required by their IEPs and IAPs, while African-American students with disabilities are not provided the services required by their IEPs and IAPs at HHMS, Independence High Magnet School (IHMS), and Ponchatoula High School (PHS).

OCR is responsible for determining whether entities that receive or benefit from Federal financial assistance from the Department or an agency that has delegated investigative authority to this Department are in compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulations at 34 C.F.R. Part 100; and Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulations at 34 C.F.R. Part 104. Title VI prohibits discrimination on the basis of race, color, or national origin; and Section 504 prohibits discrimination on the basis of disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulations at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against public

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

entities, including public elementary and secondary educational institutions. Because the District is a recipient of Federal financial assistance from the Department and is a public entity, OCR has jurisdiction to process this complaint for resolution.

OCR investigated the following legal issues:

1. Whether, at HWMS, AWMM, IMS, LMS, HHMS, and TASP (collectively, with those campuses identified in Issue 2, the “Selected Campuses”), the TPSB denied students with a disability a free appropriate public education (FAPE) during the 2013–2014 school year by failing to provide them the related aids and services determined necessary to meet their individual educational needs, in violation of Section 504, at 34 C.F.R. § 104.33, and Title II, at 28 C.F.R. § 35.130; and
2. Whether, at HHMS, IHMS, and PHS, the TPSB discriminated against African-American students with disabilities on the basis of race or color by failing to provide the services required by their IEPs and IAPs, while providing to white students with disabilities the services required by their IEPs and IAPs, in violation of Title VI, at 34 C.F.R. § 100.3.

Evidence Obtained:

Issue 1 – Alleged Denial of a FAPE:

Regarding the first issue in this investigation, the complainant reported that, at certain campuses within the District, individualized education plans (IEPs) and Section 504 individual accommodation plans (IAPs) were not being distributed to the teachers of students with disabilities and, as a result, students with disabilities were not provided their necessary disability-related services. The complainant alleged that this practice occurred or was occurring at several District campuses, including HWMS, AWMM, IMS, LMS, and HHMS. Further, the complainant reported that IEPs and IAPs were not being sent to the Tangipahoa Alternative Solutions Program (TASP) for students with disabilities who are assigned to TASP and, as a result, students with disabilities were not provided their necessary disability-related services.

In support of their allegations, the complainant provided OCR with documentation and information, which included the name and contact information for a third-party witness (Witness), who reportedly had information concerning the allegations of this complaint based on the Witness’s prior employment with the District and based on the Witness’s role as an advocate for District parents. OCR spoke with the Witness, who provided the following information. First, the Witness relayed that, in some situations, the individual “in charge of” the IEP or IAP for a given student receiving special education would not transfer the IEP or IAP to the student’s teacher once the District has determined the student’s needs. Second, the Witness indicated that, when students who the District has identified for special education and related services move from a feeder school to a higher-level school, or when such students transfer from one District campus to another, District staff do not always ensure that all the documentation pertaining to such students accompanies them to their new campuses. The Witness explained that this reported discrepancy has resulted in a lack of awareness among campus administrators as to whether students on their campuses have IEPs or IAPs, and a failure to provide requisite services for the applicable students.

Third, the Witness reported that in one instance, the District sent a student in need of special education and related aids or services to TASP, the District's alternative school, but failed to appropriately transfer his related IEP. According to the Witness, the District's alleged oversight contributed to the student's academic regression.

In its initial data response, the District provided a large volume of information to OCR, including its Section 504 and Title II policies and procedures, as well as individual student information. This initial documentation showed that the District maintained the following policy regarding the distribution and transmission of Section 504 Plans and related documentation:

[A]t the beginning of each school year, the Section 504 Chairpersons at each school distribute the students' IAPs to all teachers and staff responsible for providing aids and services. The teachers and all others sign the 'Teacher Verification Form' . . . indicating that they have received a copy of the IAPs and agree to follow the plans. Copies are forwarded to the 504 District Coordinator and filed in each student's folder. . . . The principal and 504 Chairperson also sign the form 'Dissemination Verification of Section 504 IAPs' form This ensures that teachers, service providers and other concerned persons have copies of and agree to follow the IAPs. It also ensures that principals are aware of this distribution. . . . Anytime a new IAP is completed during the school year, the same procedures as listed above are followed.

Regarding the distribution and transmission of special education records such as IEPs, IAPs, and related documentation, the District reported to OCR that its procedures require the IEP team to "[m]ake copies of the final IEP document" and provide such copies "to all necessary participants within the IEP committee (i.e., parent, regular education teacher, related service providers.)." The District provided OCR with copies of its forms and policies related to the above procedures.

In its first supplemental data response, the District submitted to OCR copies of an email disseminated by a new District Section 504 Coordinator that contained updates to the District's policies and procedures regarding the distribution and transmission of Section 504 student records. In general, the changes to the procedure consisted of requiring the Section 504 Chair at a given campus, rather than the IEP team, to ensure that copies of all IAPs were disseminated to teachers, and to obtain and submit to the Section 504 Coordinator completed copies of the updated version of the Teacher Verification Form and the Dissemination Verification of Section 504 Individual Accommodation Plans form.

Via a second supplemental data request and response from the District, OCR also obtained sample individual student files from the Selected Campuses within the District for 54 students (hereinafter "Sample Group") randomly selected by OCR. In general, this data appeared to contain discrepancies regarding the transmission of student files to the requisite instructional staff and deviations from the aforementioned District procedures. For example, the District's individual student files within the Sample Group contained one or more signed Teacher Verification Forms for only 13 students, or approximately 24 percent of the total group. Further, the District's data reflects that, for nearly a quarter of students within the Sample Group, the District apparently did not create any IEP Progress Reports, which were required by the IEPs themselves, and wherein

District staff would have recorded progress reflecting implementation of such IEPs. Additionally, the Sample Group files included IEP Progress Reports for 5 students who were placed at the TASP. For 4 of these students, such IEP Progress Reports appeared to indicate that the students' IEP progress was not assessed while the student was at the TASP. For instance, in one such report, District staff recorded that, "[d]ue to [the student's] placement in the alternative school, no data [was] able to be collected or assessed."

Issue 2 – Alleged Different Treatment on the Basis of Race and Color:

Regarding the second issue in this investigation, the complainant reported that White students with disabilities are provided the services required by their IEPs and IAPs, while African-American students with disabilities are not provided the services required by their IEPs and IAPs at HHMS, IHMS, and PHS.

As with the first issue, OCR spoke with the complainant's Witness, a former District employee, who provided information regarding Issue 2. Namely, the Witness relayed [XXXX] observation that, in majority-White District schools, the parent of an African-American student "has to be assertive about needs" because the transfer of the student's IEP/IAP, which should have accompanied the student from one school to the next, was "not happening." The Witness also reported one incident in which an African-American student transferred from a majority-White school to a majority-African-American school, and in which District staff allegedly failed to transfer the student's IAP to the new school until the Witness intervened on the parent's behalf.

In addition to the factual findings for Issue 1, which are also relevant to the second issue of the investigation, the District's data included relevant information regarding differences in IEP implementation among students of different racial groups. For example, the District's individual student files within the Sample Group, which included 30 African-American students and 24 White students, reflected that, whereas approximately 17 percent of White students within the group were missing an IEP Progress Report, approximately 27 percent of African-American students within the group were lacking such reports. Additionally, OCR's analysis of this data revealed individual instances of such apparent discrepancies. For example, the District created an IEP Progress Report for one White HHMS student, consistent with that student's IEP, but did not do so for one African-American HHMS student whose records contained the same requirement.

Preliminary Analysis:

In this matter, OCR reviewed documentation and information from the complainant and the recipient and did not receive sufficient information to make a compliance determination. Specifically, OCR did not receive sufficient information to determine that the District discriminated against students on the basis of disability by denying such students a FAPE. Similarly, OCR did not receive sufficient information to determine that the District discriminated against African-American students with disabilities on the basis of race or color by failing to provide the services required by their IEPs and IAPs, while providing to White students with disabilities the services required by their IEPs and IAPs.

However, OCR's review of the information obtained revealed concerns relevant to the allegations raised. First, regarding Issue 1, the Sample Group records lacking signed Teacher Verification Forms for a majority of the selected students suggests that the District may not have appropriately delivered the disability-related records for such students to the requisite instructional staff. Similarly, the lack of IEP Progress reports for nearly a quarter of students within the Sample Group suggests that District staff may not have implemented the IEPs of such students. Further, the number of students within the Sample Group for whom the District did not maintain executed Teacher Verification Forms, compared with the much larger percentage of students for whom the District created IEP Progress Reports, raises a question as to the validity of the IEP Progress Reports that District staff actually did complete. Additionally, the Sample Group data indicates that District staff may not have implemented accommodations within students' IEPs or IAPs when the District placed such students at the TASP. Finally, relevant to Issue 2, the higher percentage of missing IEP Progress Reports among African-American students within the Sample Group as compared to their White peers calls into question whether the District provided required services to African-American students with disabilities in a manner consistent with the District's treatment of White students.

Prior to OCR collecting additional documentation, conducting interviews, and making a determination as to the issues investigated, the District expressed an interest in resolving the related allegations.

Resolution Summary:

In addition to collecting the above-referenced information, OCR received the District's expressed interest in resolving the complaint allegations. Section 302 of OCR's *Case Processing Manual* provides that complaint allegations may be resolved at any time when, prior to the point when the Regional Office issues a final determination under CPM Section 303, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them with an agreement. OCR approved the District's request to resolve this complaint prior to the conclusion of the investigation.

The District signed the enclosed Resolution Agreement (Agreement) on August 19, 2019. OCR has determined that, when fully implemented, the Agreement will address all of the complaint allegations. Further, OCR accepts the Agreement as an assurance the District will fulfill its obligations under Section 504, Title II, and Title VI with respect to this complaint. The dates for implementation and specific actions are detailed in the enclosed Agreement. As of the date of this letter, OCR's investigation of this complaint is closed. OCR will monitor the District's implementation of the Agreement. Please be advised that if the District fails to adhere to the actions outlined in the Agreement, OCR will resume its compliance efforts.

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 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.

OCR appreciates you and the District for your cooperation during the investigation and resolution of this complaint. If you have any questions regarding this letter, please contact General Attorney Cristin Hedman, the investigator assigned to the matter, at (214)-661-9647 or cristin.hedman@ed.gov. You may also contact me at (214)-661-9638 or lori.bringas@ed.gov.

Sincerely,

Lori Howard Bringas
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

Enclosure: Signed Resolution Agreement