

Ref: 06141493

XXXXXX, Superintendent
Lowndes County School District
1053 Highway 45 South
Columbus, Mississippi 39701

Dear XXXX:

This letter is to notify you of the determination of the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, with regard to the above-referenced complaint, which was received in our office on June 19, 2014. In the complaint, the complainant alleged that the Lowndes County School District (LCSD), Columbus, Mississippi, retaliated against him, in violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 and its implementing regulation at 34 C.F.R. Part 104 (2014), as it incorporates by reference Title VI of the Civil Rights of 1964 (Title VI), 42 U.S.C. §§ 2000d et seq., and its implementing regulation at 34 C.F.R. § 100.7(e) (2014), which specifically prohibits retaliation, and Title II of the Americans with Disabilities Act of 1990 (Title II), 29 U.S.C. § 12132, and its implementing regulation found at 28 C.F.R. Part 35 (2014). Specifically, the complainant alleged that the LCSD retaliated against him, because he sought to secure rights on behalf of a Student, when an agent of the LCSD subjected the complainant to adverse actions during a placement meeting in February 2014.

OCR is responsible for determining whether organizations that receive or benefit from Federal financial assistance from the Department, or an agency that has delegated investigative authority to the Department, are in compliance with Section 504. Under Title II, OCR has jurisdiction over complaints alleging discrimination and retaliation on the basis of disability that are filed against public entities. OCR has determined that the LCSD is a recipient of Federal financial assistance from the Department and is a public elementary and secondary educational system. Therefore, OCR has jurisdictional authority to process this complaint for resolution under Section 504 and Title II.

Because OCR determined that the complaint allegation is complete and timely and that OCR had jurisdiction over the allegation, OCR opened for investigation the issue of whether the LCSD retaliated against the complainant, because the complainant sought to secure the Student's rights in February 2014, in violation of Section 504 and its implementing regulation at 34 C.F.R. § 104.61 as it incorporates by reference Title VI and its implementing regulation at 34 C.F.R. § 100.7(e), and Title II and its implementing regulation at 28 C.F.R. § 35.134.

During the investigation of the complaint, OCR reviewed information provided by the complainant, including information about the convening of a placement meeting to determine services for the complainant's daughter in July 2014. Both the complainant and LCSD officials attended the placement meeting. The information revealed that the complainant was informed that LCSD officials and its legal representation would not continue with the placement meeting because the complainant intended to tape record the meeting. The information provided by the complainant revealed that the LCSD's representative stated that the complainant was "a headache" and indicated that "somebody puts a stop to that man filing these complaints." The information provided by the complainant revealed that the placement meeting did not continue after the comments were made by the LCSD legal representative, but was reconvened at a later date.

Prior to the completion of OCR's investigation, in a letter dated September 19, 2014, the LCSD informed OCR that it was interested in resolving the complaint issues. Section 302 of OCR's Case Processing Manual (CPM) provides that the complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. Such a request to resolve the complaint during the course of the investigation must be approved by the OCR Office Director. 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.

Based on the voluntary Resolution Agreement (RA) submitted to OCR by the LCSD on December 5, 2014, OCR has determined that, when fully implemented, the concerns identified in this investigation will be fully resolved, and the LCSD will be in compliance with Section 504 and Title II. OCR will monitor the implementation of the RA submitted by the LCSD on December 5, 2014, to determine whether the actions outlined in the RA have been implemented under the specific terms of the RA. Although verification of the remedial actions taken by the LCSD may be accomplished by a review of reports and other documentation provided by the LCSD, as required by the reporting requirements, in some instances, a future monitoring site visit may be required to verify actions taken by the LCSD. If the LCSD fails to implement the RA, as specified, OCR will resume its compliance process. If the LCSD determines a need to modify any portion of the terms and conditions of the RA, the LCSD may submit to OCR, for consideration, the specific proposed modifications. A copy of the RA is enclosed.

In light of the foregoing, and because there are no further complaint issues appropriate for resolution, OCR is closing this complaint as of the date of this letter. The complainant has been notified of this action. This concludes OCR's investigation of the complaint and should not be interpreted to address the LCSD'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 the LCSD 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, 5 U.S.C. § 552, it may be necessary to release this document 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, please feel free to contact XXXXX, Compliance Team Leader, at (214) 661-9600, or Lisa Y. Thierry, Senior Equal Opportunity Specialist, at (214) 661-9654.

Sincerely,

/s/

Taylor D. August
Director
Dallas Office

Enclosure