



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

Date

***VIA EMAIL & U.S. Mail***

Rebecca McCarver  
19708 E. FM 1188  
Bluff Dale, TX 76433  
[rmcarver1@gmail.com](mailto:rmcarver1@gmail.com)

OCR Complaint No. 06-15-1337

Dear Ms. McCarver:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its processing of the above-referenced complaint filed against the Bluff Dale Independent School District (BDISD or District), in which you (Complainant) alleged that:

1. The BDISD discriminated against the Student, on the basis of disability, by failing to provide the Student with an appropriate public education at Bluff Dale School (BDS) (e.g. failing to provide dyslexia services, preferential seating, frequent reminders of school rules, private redirection) during the 2014-2015 school year; and
2. The BDISD discriminated against the Student, on the basis of his disability, by failing to provide the Student with educational services and nonacademic services by seating the Student from the teacher during classroom instruction and isolating the Student from his peers during recess at BDS, during the 2014-2015 school year.

OCR enforces Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131, *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. BDISD is a recipient of Federal financial assistance from the Department, and is a public entity. Therefore, OCR has jurisdictional authority to resolve this complaint pursuant to Section 504 and Title II.

Based on the Complainant's allegations, OCR investigated the following legal issues:

1. Whether the BDISD discriminated against the Student on the basis of his disability by failing to provide the Student with an appropriate public education (e.g., by failing to provide dyslexia services, preferential seating, frequent reminders of school rules, and private redirection), in violation of Section 504 and its implementing regulation at 34 C.F.R. § 104.33, and Title II and its implementing regulation at 28 C.F.R. § 35.130; and
2. Whether the BDISD discriminated against the Student on the basis of his disability by failing to provide the Student with educational services and nonacademic services in the most integrated setting appropriate to the Student, in violation of Section 504 and its implementing regulation at 34 C.F.R. § 104.4 (a) and (b)(2) and Title II and its implementing regulation at 28 C.F.R. § 35.130(a).

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

During the investigation, OCR collected and analyzed relevant evidence from the Complainant, the District, and other sources as appropriate. OCR determined that, during the 2014-2015 school year, the Student was enrolled in the 4<sup>th</sup> grade at BDS. The Student had previously been identified as a Student with a disability (dyslexia) who also displayed behavior that “interferes with his ability to learn or the ability of other students to learn”. To address his disability and behavior, the Student had a 504 Accommodation Plan and Behavior Intervention Plan, both of which were updated by the District in September 2014. The District’s 504 Accommodation Plan for the Student included the provision of “pull-out dyslexia services” and the following related aids and services:

- Oral testing in all courses;
- Other testing accommodations for all courses (e.g., small group, extra time);
- Shortened assignments and reduced paper/pencil tasks in spelling and writing;
- Speech-to-text for writing compositions whenever possible;
- Frequently misspelled word lists in writing.

The District’s Behavior Intervention Plan for the Student provided the following interventions:

- Clearly defined limits;
- Frequent reminder of rules;
- Reduction of distracting stimuli;
- Consistent routine;
- Reinforcement of appropriate behavior;
- Supervised unstructured time;
- Proximity seating;
- Private redirection.

Notwithstanding the above-referenced Plans, the evidence shows that, on or about April 3, 2015, the complainant reported to the District Superintendent that the Student “was denied dyslexia services [and] his desk was placed in a corner of the classroom on [at least] two occasions... the first time... facing a filing cabinet... the second time... against a wall, behind another wall.” On April 17, 2015 the District Superintendent responded to the Complainant’s report “in an effort to resolve [her] concerns.” According to the record, the District promptly sought to correct and prevent such incidents, by transferring the Student to a different classroom, where he worked with a new teacher for the remainder of the school year in a “one-on-one setting.” In addition, the Student was provided compensatory dyslexia services, and was assured to spend P.E. classes, lunch, and recess with his classmates. Although noting these District’s efforts on behalf of the Student, OCR’s investigation continued due to outstanding concerns over the status of the District’s compliance with Section 504 implementing regulation at 34 C.F.R. § 104.4(b)(2), which requires that a student with a disability be afforded aids, benefits, and services in the most integrated setting appropriate to his/her needs.

Prior to the conclusion of OCR’s investigation, the District expressed interest in resolving OCR’s outstanding compliance concerns through a voluntary resolution agreement. Pertinent thereto, Section 302 of OCR’s *Case Processing Manual* provides that a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the allegations. Pursuant to Section 302, the provisions of a resulting voluntary resolution agreement must be aligned with the complaint allegations or the information obtained during the investigation, and must be consistent with applicable regulations.

Accordingly, on \_\_\_\_\_, 2017 the District voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint. OCR has determined that the provisions of the Agreement are aligned with the complaint allegations and information obtained during the investigation, and that the Agreement fully resolves the complaint in compliance with applicable regulations. Further, OCR accepts the Agreement as an assurance the BDISD 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 enclosed Agreement. Therefore, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively 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 immediately resume its compliance efforts.

This letter sets forth OCR's determination in the individual OCR case identified above. 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.

Please be advised the BDISD 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, you 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.

Thank you for the cooperation extended to OCR in our efforts to resolve this complaint. If you have any questions regarding this letter, please contact Maria Carnevale, the attorney assigned to the matter, at (214) 661-9658 or [maria.carnevale@ed.gov](mailto:maria.carnevale@ed.gov). You may also contact me at (214) 661-9687 or [terri.gonzales@ed.gov](mailto:terri.gonzales@ed.gov).

Sincerely,

Terri Gonzales  
Supervisory Attorney/ Team Leader  
Office for Civil Rights  
Dallas Office

Enclosure: 1