



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Ref: OCR Docket #06151368

Dr. George Kazanas, Superintendent
Midway Independent School District
13885 Woodway Drive
Woodway, Texas 76712

Dear Dr. Kazanas:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against the Midway Independent School District (MISD), Woodway, Texas, which OCR received on April 7, 2015. The Complainant alleged that the MISD discriminated against XXXX XXXX (Student) on the basis of disability. Specifically, the Complainant alleged that:

1. During the 2014-15 school year, the MISD discriminated against the Student based on disability by failing to provide all of the accommodations listed in the Student's individualized education program (IEP); and
2. During the 2014-15 school year, the MISD discriminated against the Student based on disability by failing to properly evaluate him to determine his specific needs but instead provided accommodations on a "one size fits all" basis.

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 (recipients), 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. § 12131, and its implementing regulations, at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The MISD is both a recipient of Federal financial assistance from the Department and a public entity. Therefore, OCR has jurisdiction to resolve this complaint under Section 504 and Title II.

OCR opened an investigation of the following legal issues:

1. Whether the MISD discriminated against the Student based on disability by denying the Student a free appropriate public education during the 2014-2015 school year, when the MISD failed to provide regular or special education and related aids and services deemed necessary to meet the Student's individual

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educational needs (i.e., failed to provide timely reminders of missing work), 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, and

2. Whether the MISD discriminated against the Student based on disability by denying the Student a free appropriate public education during the 2014-15 school year, when the MISD failed to properly evaluate whether the Student needed regular or special education and related aids and services, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. §§ 104.33 and 104.35, and 28 C.F.R. § 35.130, respectively.

During the course of investigation, OCR interviewed the Complainant and received information from the MISD regarding the issues under investigation. OCR's review indicated that the Student was a XXXX grade student at Midway High School (MHS) at the beginning of the 2014-15 school year. The Complainant maintained that while the MISD staff evaluated the Student during his XXXX grade year, the MISD failed to address her continuous concerns with the Student's IEP and continued to provide unnecessary accommodations to the Student while ignoring accommodations the Student actually needed. OCR's review also indicates that the Complainant withdrew the Student from the MISD, and the Student is currently X---phrase redacted---X.

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 issues above, the MISD 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 MISD and obtained the enclosed Resolution Agreement (Agreement), dated January 7, 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 MISD's implementation of the Agreement. Please be advised that if the MISD 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 MISD'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 MISD 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 letter, you may contact Mrs. Williams at (214) 661-9607 or by email at Tamara.Williams@ed.gov. You may also contact Timothy D. Caum, Supervisory Attorney/Team Leader, at (214) 661-9648, or by email at Timothy.Caum@ed.gov.

Sincerely,

Taylor D. August, Director
Office for Civil Rights
Dallas Office

Enclosure