

February 17, 2016

Ref: 06151551

XXXXXXXXXXXXXXXXXXXX

Spring Independent School District
16717 Ella Blvd.
Houston, Texas 77090

Dear XXXXXXX:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its investigation of the above-referenced complaint, which was filed against the Spring Independent School District (SISD) in Houston, Texas, and was received by OCR on June 15, 2015. The complainant alleged that the SISD discriminated against her daughter (the Student) based on her disability when: during a fifth-grade graduation ceremony on June 2, 2015, the Student's name was skipped from alphabetical order; she was not recognized until the ceremony was ending; she was left sitting alone in her wheelchair; and she was not provided any opportunity to cross the stage as other students due to her wheelchair (Allegation 1); during approximately the week of May 24, 2015, the Student was not provided a field day event to practice for and participate in regarding the fifth-grade field day on June 3, 2015 (Allegation 2); and during the Spring 2015 semester and summer school 2015 term, the SISD failed to adequately implement a related service for the Student's disability (special transportation: intermittently failed to drop the Student off at home and/or left her at school during the spring 2015 semester and summer school 2015 term) (Allegation 3).

OCR is responsible for determining whether organizations or 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, are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulation, 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. § 12132, and its implementing regulation, at 28 C.F.R. Part 35, which prohibit disability discrimination by public entities. Because the SISD is both a recipient of Federal financial assistance from the Department and a public entity, OCR had jurisdiction to investigate this complaint pursuant to Section 504 and Title II.

Based on the complainant's allegations, OCR began investigating the following legal issues: 1) whether the SISD discriminated against the Student on the basis of disability during the June 2, 2015 fifth grade graduation ceremony by treating her differently than one or more similarly-situated students without a disability (i.e., when it skipped the Student's name from alphabetical order; did not recognize the Student until the ceremony was ending; left the Student sitting alone in her wheelchair; and did not provide any opportunity for the Student to cross the stage as other students due to her wheelchair), in violation of Section 504 at 34 C.F.R. § 104.4(a) and Title II at 28 C.F.R. § 35.130(a); 2) whether the SISD discriminated against the Student on the basis of her disability by failing to provide the Student with opportunities to participate in non-academic services, including extracurricular activities (i.e., practice for and participation in a field day event on June 3, 2015) during the Spring 2015 semester, in violation of Section 504 and its implementing regulation at 34 C.F.R. § 104.37(a)(1), (2), and Title II and its implementing regulation at 28 C.F.R. § 35.130(a); and 3) whether the SISD discriminated against the Student on the basis of disability by failing to provide regular or special education and related aids and services deemed necessary to meet the Student's individual educational needs (i.e., problems in providing special transportation for wheelchair during the Spring 2015 semester and the 2015 summer school term); thereby, denying the Student a free appropriate public education during the 2014-2015 school year, in violation of Section 504 at 34 C.F.R. § 104.33 (a),(b) and Title II at 28 C.F.R. § 35.130(a).

During its investigation, OCR obtained copies of the SISD policies and procedures prohibiting disability discrimination and providing for a free, appropriate public education for students with disabilities. OCR also conducted interviews with the complainant and reviewed the Student's school records. In addition, OCR reviewed other information provided by the District regarding the above fifth-grade graduation ceremony and field day.

Prior to the completion of OCR's investigation, the SISD informed OCR that it was interested in resolving the complaint allegations. 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. The provisions of the resulting voluntary resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation, and will be consistent with applicable regulations. OCR approved the SISD's request to resolve this complaint prior to the conclusion of the investigation.

The SISD voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint; the Agreement was signed by the SISD on December XX, 2015. OCR has determined that the provisions of the Agreement are aligned with the complaint allegations and appropriately resolve them. Further, OCR accepts the Agreement as an assurance that the SISD 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 Agreement. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the SISD's implementation of the Agreement. Please be advised that if the SISD 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 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.

Please be advised that the SISD 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.

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 Ms. Page Baird, the assigned investigator, at (214) 661-9604 or page.baird@ed.gov, or me at (214) 661-9687 or at terri.gonzales@ed.gov.

Sincerely,

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

cc: XXXXX
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