



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

Sep 13, 2016

Ref: 06151598

Scott Smith, Superintendent  
Bossier Parish School Board  
P.O. Box 2000  
Benton, Louisiana 71006

Via first class mail

Dear Dr. Smith:

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 received in our office on July 6, 2015, and filed against the Bossier Parish School Board (District or BPSB), in Bossier, Louisiana. The Complainant alleged that the BPSB discriminated against XXXXXXXXXXXX (Student) on the basis of disability (ADHD). Specifically, OCR determined that the Complainant made the following allegations:

1. During the 2014-2015 school year, the BPSB discriminated against the Student on the basis of disability by failing to take prompt and effective responsive action to address disability-based harassment directed at her by BPSB staff, as follows:
  - (a) In October 2014, one of the Student's teachers told the XXXXX teacher that the Student was not ready for choir;
  - (b) In October 2014, Teacher 1 stated that the Student was bossy, impulsive, and intimidating;
  - (c) In November 2014, Teacher 1 asked the Student, "did you take your medicine today" in front of the whole class, in response to the Student talking in class or doing something else she was not supposed to do in class;
  - (d) Between January and March 2015, Teacher 1 told the Student two or three times that she needed to take her medicine because she did not write well when she did not take her medicine;
  - (e) In February or March 2015, Teacher 1 asked the Student, "did you take your medicine today" in front of the whole class, in response to the Student talking in class or doing something else she was not supposed to do in class;
  - (f) At the end of April or early May 2015, Teacher 1 told the Student that she only had four weeks left with her and then she would be some XXX grade teacher's problem;
  - (g) In May 2015, Teacher 1 asked the Student, "did you take your medicine today" in front of the whole class, in response to the Student talking in class or doing something else she was not supposed to do in class;

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

- (h) On May 7, 2015, Teacher 1 told the Student that she was mean, obnoxious, and did not take responsibility;
  - (i) On May 7, 2015, Teacher 1 told the Student that she was just like the people in the children’s book, *The Twits*;
  - (j) On May 7, 2015, Teacher 1 stated that mean, disobedient kids do not do anything with their lives, and told the Student that she was the type of person that Teacher 1 was referring to;
  - (k) On May 13, 2015, and on other occasions in May 2015, Teacher 1 called the Student obnoxious;
  - (l) On May 13, 2015, Teacher 1 asked the Student about who decided when she takes her medicine and stated “does your mom decide when you take it or do you decide when to take it yourself when you want to little girl;” and
  - (m) On May 13, 2015, Teacher 1 stated that kids who take medicine are mentally challenged and may end up in jail, pointed at the Student and asked what the Student thought about that, and three other students expressed to the Student that Teacher 1 had called her mentally challenged; and
2. During the 2014-2015 school year, the BPSD discriminated against the Student on the basis of disability by failing to evaluate her need for regular or special education and related aids and services despite having notice that, because of her alleged disability, she needed or was believed to need such aids and services, and thereby denied the Student a free appropriate education (FAPE).

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 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 regulations at 34 C.F.R. Part 104, which 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. § 12132, 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 entities. The BPSB is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR had jurisdictional authority to process this complaint for resolution under Section 504 and Title II.

OCR opened the allegations for investigation, and investigated the following issues:

- 1. Whether the BPSB discriminated against the Student, when she was regarded her as a student with a disability (ADHD) during the 2014-2015 school year, by failing to take prompt and effective action to address disability-based harassment by BPSB staff, (including but not limited to: Teacher 1 calling the Student mean and obnoxious; telling the Student that she needed to take her medicine because she did not write well when she did not take her medicine, that she only had four weeks left with her and then she would be some XXX grade teacher’s problem, that the Student did not take responsibility, and that the Student was just like the people in the children’s book, *The Twits*; Teacher 1 stated that kids who take medicine are mentally challenged, pointed at the Student, and asked what she thought; and Teacher 1 stated that mean, disobedient kids do not do

anything with their lives) which was sufficient to create a hostile environment, of which the BPSB had or should have had notice, in violation of Section 504 and Title II, at 34 C.F.R. § 104.4, and 28 C.F.R. § 35.130, respectively; and

2. Whether the BPSB discriminated against the Student on the basis of disability by failing to evaluate her need for regular or special education and related aids and services, despite having notice that she needed or was believed to need such related aids and services, and thereby denied the Student a free appropriate education during the 2014-2015 school year, 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.

Prior to OCR making an investigative determination, the BPSB requested to resolve the complaint by voluntarily entering into a Resolution Agreement (Agreement). Under OCR's procedures, a complaint may be resolved at any time when, prior to the conclusion of the investigation, a recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to do so.

On September 8, 2016, the BPSB voluntarily entered into the enclosed Agreement, which, when fully implemented, resolves the complaint. The Agreement is aligned with the complaint allegations and the information obtained during the investigation, and is consistent with applicable law and regulations. Specifically, the Agreement requires the District to complete an investigation concerning disability-based harassment alleged by the Complainant, provide written findings to the Complainant concerning the investigation, take steps to remedy the recurrence of harassment, and offer to remedy the effects of all disability-based harassment faced by the Student; provide the Student the opportunity for reevaluation concerning the Student's disabilities; provide the Student the opportunity for a determination by a group of knowledgeable persons concerning the Student's needs on an individualized basis; evaluate the Student's needs for compensatory and/or remedial services; review and if necessary, revise BPSB policies to specifically identify prohibitions against disability-based harassment, BPSB reporting procedures, and BPSB investigative processes; provide training to relevant BPSB staff members concerning evaluations, Section 504 determinations, implementation of Section 504 plans, and prohibitions against disability-based harassment and retaliation; provide training to all students at the XXXXXXXX XXXXX School (XXXX) addressing harassment; and reaffirm in writing to all students, staff, and parents the District's obligation to address disability-based harassment and reporting procedures for harassment. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the BPSB's implementation of the Agreement to ensure compliance with Section 504/Title II with regard to the issues investigated.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District'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. Please also note that 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 a recipient 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, complainants 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, it 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, you may contact the attorney investigator assigned to this case, Michael J. Pillera, at (214) 661-9614 or [michael.pillera@ed.gov](mailto:michael.pillera@ed.gov), or you may contact Adriane P. Martin, Supervisory Attorney/Team Leader, at (214) 661-9678 or [adriane.martin@ed.gov](mailto:adriane.martin@ed.gov).

Sincerely,

Taylor D. August  
Regional Director  
Office for Civil Rights  
Region VI, Dallas Office

Enclosure

cc: Wayne Stewart, Esquire, counsel for the BPSB (via email at [wstewart@hamsil.com](mailto:wstewart@hamsil.com))