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Reference No. 06151635

Mr. Juan I. Martinez, Superintendent
Clint Independent School District
14521 Horizon Blvd.
El Paso, TX 79928

Dear Mr. Martinez:

This letter is to notify you of the determination made by the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, regarding the above-referenced complaint filed against the Clint Independent School District (CISD), El Paso, Texas. OCR received the complaint on XXX. The complainant alleged that CISD discriminated against her son (student) on the basis of disability. Specifically, the complainant alleged that during the 2014-2015 school year, the CISD: 1) failed to provide the necessary and required Homebound services to the Student, in order for him to demonstrate sufficient mastery to be promoted to the next grade-level; and 2) failed to provide the student with an appropriate education by failing to provide him the necessary related aids and services, (i.e., XXX), listed in his Section 504 Plan.

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 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. § 12132, and its implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The CISD is a recipient of Federal financial assistance from the Department and is also a public entity. Therefore, OCR had jurisdiction to investigate this complaint pursuant to Section 504 and Title II.

On XXX, OCR opened the following legal issues for investigation:

1. Whether the CISD's provision of homebound services during the 2014-2015 school year discriminated against the student on the basis of his disability due to the absence of regular or special education and related aids and services that were designed to meet the student's individual educational needs as adequately as the needs of non-disabled students (e.g., classroom teachers' failure to provide student with sufficient course material, through his homebound teacher, in order to allow him to receive credit for his courses), in violation of Section 504 (34 C.F.R. §104.33) and Title II (28 C.F.R. §35.130).

2. Whether during the 2014-2015 school year, the CISD discriminated against the student by denying him an appropriate public education by failing to provide him with certain related aids and services (i.e.: XXX) determined necessary by a group of knowledgeable people, to meet the student's individual needs, in violation of Section 504 (34 C.F.R. § 104.33(b)) and Title II (28 C.F.R. §35.130(a)).

After the investigation began, but before OCR reached an investigative compliance determination, the CISD expressed a desire to voluntarily resolve the complaint. The CISD submitted the enclosed Resolution Agreement (Agreement) dated January 29, 2016, to memorialize the steps that it will take to resolve the identified compliance issues raised by the complaint investigation. OCR has determined that the Agreement, when fully implemented, will satisfactorily resolve the compliance concerns. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint; however, OCR will actively monitor the CISD's efforts to implement the Agreement. Please be advised that if the CISD fails to adhere to the actions outlined in the Agreement, OCR will immediately resume its compliance investigation. The complainant has been notified of this action.

This letter sets forth OCR's determination in an individual OCR case. This letter is not intended, nor should it be construed, to cover any matters that are not specifically discussed herein. 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.

Under OCR procedures, we are obligated to advise the complainant and the institution against which the complaint is filed that intimidation or retaliation against a complainant is prohibited by regulations enforced by this agency. Specifically, the regulations enforced by OCR, directly or by reference, state that no recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by regulations enforced by OCR or because one has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing held in connection with a complaint.

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 you and your staff extended to OCR in our efforts to resolve this complaint. If you have any questions regarding this letter, please contact Jeff Coleman, OCR Attorney, at (214) 661-9686; Jeffrey.coleman@ed.gov.

Sincerely,

Paul E. Coxe
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

Enclosure