



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

April 5, 2016

XXXXXXX

Heber Springs School District
Central Office of Administration
1100 W. Pine St.
Heber Springs, AR 72543

Re: OCR Docket #06161085

Dear XXXXXXXX:

This letter is to notify you of the resolution of a complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, received against the Heber Springs School District (HSSD or the District), Heber Springs, Arkansas, on November 13, 2015. The complainant alleged that, during the 2015-2016 school year, the HSSD discriminated against her son (the Student) on the basis of disability when the District failed to provide the Student an appropriate public education by not providing him the regular or special education and related aids and services described in his Section 504 plan (*i.e.*, doing only odd or even numbered items on large tasks) (Allegation 1). The complainant further alleged that the District inappropriately punished the Student for conduct related to his disability during the 2015-2016 school year (Allegation 2).

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. This agency 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 disability discrimination by public entities. The HSSD is a recipient of Federal financial assistance from the Department and a public entity. Therefore, OCR has jurisdiction to investigate this complaint under Section 504 and Title II.

Section 207 of OCR's *Case Processing Manual* allows OCR to resolve complaints using the Rapid Resolution Process (RRP). The RRP provides an expedited resolution for certain OCR complaints if a recipient expresses an interest in immediately resolving the complaint allegations or has taken action to resolve the complaint allegations. OCR determined that it was appropriate to attempt to resolve this complaint through the RRP. Accordingly, OCR contacted the District on January 14, 2016, to provide notice of the complaint allegations, as well as the opportunity to resolve the allegations through the RRP. OCR and the District engaged in the RRP process to resolve this complaint. As a result, the District expressed an interest in voluntarily resolving the above-referenced allegations. Subsequently, the District submitted the enclosed Resolution

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

Agreement (Agreement) dated March 29, 2016, to memorialize the steps that it will take to resolve the complaint allegations. Under the Resolution Agreement, the District will:

- Offer the Student the opportunity to return to Heber Springs Middle School (the School) for the remainder of the 2015-2016 school year.
- Convene a Section 504 Plan team meeting to evaluate the Student's individual education needs and determine whether compensatory education and/or remedial services are appropriate as a result of any denial of educational benefit(s) that may have occurred during the Student's enrollment in the District from August 17, 2015, through October 28, 2015, if the Student accepts the District's offer to return.
- Develop a plan for providing timely compensatory and/or remedial services, if the Section 504 planning team determines that compensatory and/or remedial services are needed for the Student.
- Review its policies and procedures governing the discipline of students with disabilities to ensure that they are consistent with and contain appropriate and current citations to the regulations implementing Section 504, Title II, and the Individuals with Disabilities Education Act (IDEA).
- Identify the need for revising its policies and procedures with regard to the following areas:
 - a. With respect to students with disabilities, reducing the use of the following:
 - i. referrals for discipline;
 - ii. in-school suspension;
 - iii. out-of-school suspension; and
 - iv. expulsion;
 - b. the use of alternative exclusionary forms of student discipline and behavioral interventions to minimize the loss of instructional time; and
 - c. implementation of effective interventions, preventative strategies, and early identification of struggling students.
- Develop training materials for administrative staff and teachers at the School on the District's policies and procedures related to discipline of students with disabilities.
- Conduct training of all instructional and administrative staff involved in disciplining students at the School on the District's discipline policies and procedures.

During the RRP negotiation period, the District provided OCR with documentation demonstrating that it had taken specific actions to address the complainant's concerns. Specifically, the District provided a copy of a letter to the complainant, dated March 10, 2016, offering the Student the opportunity to return to the School for the remainder of the 2015-2016 school year. On March 15, 2016, the complainant declined the District's offer by expressly

stating that the Student would not return to the District for the remainder of the 2015-2016 school year. Based on the information provided by the District, OCR determined that the District has fulfilled its obligation under Action Item I of the Agreement. No further reporting is required by the District regarding Action Item I.

OCR has determined that the Agreement, when fully implemented, will satisfactorily resolve Allegation 2. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this issue; however, OCR will actively monitor the District's efforts to implement 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 related to this issue.

Please be advised that the District 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 about this letter, please contact Mr. Kenyatta Braggs, the OCR attorney/investigator assigned to this case, at (214) 661-9659, or by e-mail at Kenyatta.Braggs@ed.gov. You may also contact me at (214) 661-9687, or by e-mail at Terri.Gonzales@ed.gov.

Sincerely,

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

Enclosures