



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

**VIA MAIL**  
**VIA EMAIL (XXXX)**

XXXX XXXX XXXX, Executive Director  
Ft. Worth Academy of Fine Arts  
3901 South Hulen Street  
Ft. Worth, TX 76109

Re: OCR Complaint Nos. 06-16-1100 and 06-16-1548

Dear XXXX XXXX:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its processing of the above-referenced complaints for resolution. The complaints were received in our office on November 19, 2015, and May 10, 2016, and filed against the Fort Worth Academy of Fine Arts (FWAFA), in Fort Worth, Texas. The complainant filed both of the above referenced complaints and alleged that FWAFA discriminated against XXXX XXXX (Student) on the basis of disability. The complainant also alleged retaliation.

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), as amended, 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 also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, 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 certain public entities. The Section 504 implementing regulation at 34 C.F.R. § 104.61 incorporates by reference the provision against retaliation under Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 C.F.R. Part 100. Title II also has a provision prohibiting retaliation at 28 C.F.R. § 35.134. FWAFA is a recipient of Federal financial assistance from the Department and is a covered public entity. Therefore, OCR has jurisdictional authority to process these complaints for resolution under Section 504 and Title II.

Based on the complainant's allegations, OCR opened for investigation the following legal issues in connection with complaint number 06-16-1100:

1. Whether on or about XXXX XXXX, the FWAFA discriminated against the Student on the basis of disability by failing to take prompt and effective responsive action to address

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

disability-based harassment (e.g., yelling, XXXX XXXX XXXX XXXX XXXX XXXX XXXX, and XXXX XXXX XXXX XXXX XXXX, etc.) by a FWAFa staff member, which was sufficient to constitute a hostile environment, of which it had or should have had notice during XXXX of the 2015-2016 school year, 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 FWAFa 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 (e.g., XX—phrase redacted—XX), and thereby denied the Student a free appropriate public education during XXXX of the 2015-2016 school year period, 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.

OCR opened for investigation the following legal issues in connection with complaint number 06-16-1548:

1. Whether FWAFa 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 (e.g., XX—phrase redacted—XX), and thereby denied the Student a free appropriate public education during the 2015-2016 school year, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. §§ 104.33–104.36 and 28 C.F.R. § 35.130, respectively;
2. Whether FWAFa discriminated against the Student on the basis of disability by failing to evaluate the Student's need for regular or special education and related aids and services despite having notice that, because of the Student's alleged disabilities, the Student needed or was believed to need such aids and services, and thereby denied the Student a free appropriate public education during the 2015-2016 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; and
3. Whether FWAFa retaliated against the Student when it XXXX XXXX XXXX XXXX XXXX on XXXX XXXX, XXXX, because the complainant had complained to FWAFa, OCR, and TEA regarding the disability-related discrimination that the Student had allegedly experienced, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively.

During its investigation, OCR reviewed information provided by FWAFa. Prior to the completion of OCR's investigations, FWAFa informed OCR that it was interested in resolving the complaint allegations for complaints 06-16-1100 and 06-16-1548 through a single voluntary resolution agreement. Section 302 of OCR's *Case Processing Manual* provides that a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the allegation. 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 FWAFA's request to resolve these complaints prior to the conclusion of the investigations.

FWAFA voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve these complaints; FWAFA signed the Agreement on August 9, 2017. OCR has determined the provisions of the Agreement are aligned with the complaint allegations and appropriately resolves them. Further, OCR accepts the Agreement as an assurance FWAFA will fulfill its obligations under Section 504 and Title II with respect to these complaints. The dates for implementation and specific actions are detailed in the enclosed Agreement. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding these complaints. However, OCR will actively monitor FWAFA's implementation of the Agreement. Please be advised that if FWAFA 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 the individual OCR cases identified above. 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 FWAFA 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 these complaints. If you have any questions regarding this letter, please contact Gerardo Rojas or Katherine Fearn, the attorneys assigned to the matter, at (214) 661-9612 or [gerardo.rojas@ed.gov](mailto:gerardo.rojas@ed.gov) and (214) 661-9654 or [katherine.fearn@ed.gov](mailto:katherine.fearn@ed.gov), respectively. You may also contact the Team Leader, Melissa Huling Malonson, at (214) 661-9600 or at [melissa.malonson@ed.gov](mailto:melissa.malonson@ed.gov).

Sincerely,

/s/

Taylor D. August  
Director  
Office for Civil Rights  
Dallas Office