



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

May 12, 2017

Ref: 06161157

Dr. Brian T. Woods, Superintendent  
Northside Independent School District  
5900 Evers Road  
San Antonio, TX 78238

Via first class mail and e-mail (XXXX)

Dear Dr. Brian T. Woods:

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 XXXXX XXXXX XXXXX, and filed against the Northside Independent School District (District or NISD), in San Antonio, Texas. The Complainant alleged that the NISD discriminated against her XXXX (Student) on the basis of disability (XXXX, XXXXX XXXXX XXXX XXXX, XXXX, and XXXX). Specifically, OCR determined that the Complainant made the following allegations:

1. On XXXX and thereafter, although the Student's Section 504 plan indicated that she would be provided a XXXX XXXX classroom, the NISD did not provide the student with a XXXX XXXX classroom;
2. On XXXX and thereafter, although the Student's Section 504 plan indicated that she would be sent to the nurse if she has XXXX, XXXX, or XXXX, the Student was not sent to the nurse when she had XXXX, XXXX, or XXXX;
3. Between XXXX and XXXX, although the Student's Section 504 plan indicated that students in her class would be provided with education about the XXXX XXXXX so that they know not to XXXX XXXX with her or XXXX XXXX if they XXXX XXXX XXX that will XXXX XXXX XXXX, the NISD did not provide this education to the Student's classmates;
4. Between XXXX and XXX, the Student was harassed and bullied by other students, including when:
  - (a) One student told other students that the Student was talking about them;
  - (b) Students told the Student not to sit by them in class, that they did not want to be her friend, and that they hated her, and other students said the Student's name in the hall and made faces at her; and
  - (c) On October 28, 2015, one student XXXX XXXX on the Student's XXXX

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

XXXX, and put one or more XXXX into the XXXX XXXX XXXX; and

5. As a result of the Student being bullied and harassed, based upon her disability, by other students during the XXXX school year, the Student had high levels of anxiety, sadness, embarrassment, doubt, and fear, attended therapy with a private therapist, missed two weeks of school in XXXX for therapeutic treatment, had decreased academic performance, and had physical health effects including XXXX, XXXX, XXXX, XXXX XXXX, XXXX, XXXX XXXX, and XXXX XXXX.

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 regulation 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 regulation 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 NISD is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR had personal 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 NISD discriminated against the Student, on the basis of her 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., XXXX-to end of sentence. ) and thereby denied the Student a free appropriate public education during the XXXX school year, 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;
2. Whether the NISD discriminated against the Student on the basis of disability by failing to take prompt and effective responsive action to address disability-based harassment by other students, which was sufficient to constitute a hostile environment, of which it had or should have had notice during 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
3. Whether the NISD discriminated against the Student on the basis of disability by failing to provide the Student with a free appropriate public education (FAPE) when the NISD failed to reevaluate the Student's educational placement after the NISD knew, or should have known, that the effects of bullying/harassment may have affected the Student's receipt of Section 504 services, in violation of Section 504 and Title II, at 34 C.F.R. § 104.35, and 28 C.F.R. § 35.130, respectively.

Prior to OCR making an investigative determination, the NISD 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 XXXX, the NISD 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 NISD to determine whether the Student needs compensatory or remedial services; complete an investigation into the allegations of harassment, reach findings, share those findings with the Student's parents/guardians, and appropriately correct and redress all substantiated harassment; provide training to relevant staff members concerning processing, investigating, and resolving complaints of harassment based on disability; provide training to all students and instructional staff addressing harassment; provide training to relevant staff members concerning Section 504 determinations and provision of a FAPE; and reaffirm in writing to students, staff, and parents the NISD's obligation to address incidence of harassing conduct. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the NISD implementation of the Agreement to ensure compliance with Section 504 and 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 Paul Coxe, Supervisory Attorney/Team Leader, at (214) 661-9608 or [Paul.Coxe@ed.gov](mailto:Paul.Coxe@ed.gov).

Sincerely,

Paul Coxe  
Supervisory Attorney  
Office for Civil Rights

Region VI, Dallas Office

Enclosure

cc: XXXX, XXXX XXXX. XXXX, XXXX (via email at XXXXt)