



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Dr. Michael Hinojosa, Superintendent
Dallas Independent School District
3700 Ross Avenue, Box 69
Dallas, TX 75204

Re: OCR# 06161327

Dear Dr. Hinojosa:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against the Dallas Independent School District (DISD), Dallas, Texas, which OCR received on March 4, 2016. The Complainant alleged that DISD discriminated against her daughter (the Student) on the basis of disability when it failed to provide positive reinforcement, redirection as needed, and repeated instructions as listed in the Student's Section 504 plan during the 2014-2015 school year.

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. Under Title II, OCR has jurisdiction over complaints alleging disability discrimination against public entities, such as public preschools, elementary and secondary education systems and institutions, public institutions of higher education and vocational education (other than schools of medicine, dentistry, nursing, and other health-related schools), and public libraries.

The DISD is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR has jurisdiction to process this complaint under Section 504 and Title II.

OCR opened an investigation of the following legal issue:

Whether the DISD 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 (i.e., positive reinforcement, redirection as needed and opportunity for repeated directions), and thereby denied the Student a free appropriate public education

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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 28 C.F.R. §35.130, respectively.

During the course of the investigation, OCR received information from the DISD as well as the Complainant regarding the issue under investigation. OCR's review of the evidence indicated that the Student transferred to DISD at the beginning of the 2014-2015 school year. The Complainant alleged that the Student's 504 plan from her previous school was submitted to DISD at the time of registration and again at the beginning of the school year; however, that paperwork was lost or misplaced by DISD until September 30, 2015, when it was resubmitted by the Complainant. The Complainant also maintained that DISD staff failed to provide positive reinforcement, redirection as needed, and opportunity for repeated directions as required by the Student's Section 504 plan. Documentation from the DISD reflects that the Student's Section 504 plan was shared with teachers during a meeting on October 5, 2015, six weeks into the school year. The DISD maintained that it implemented the plan during the first few weeks of the school year, and each of the Student's teachers explained the subject accommodations and provided examples of how they were provided for the Student. The DISD also maintained the subject accommodations are "best practices" and would have been provided to the Student regardless of whether she had a 504 plan or not.

On August 29, 2016, the DISD expressed interest in voluntarily resolving the complaint allegations prior to OCR's completion of its investigation. Section 302 of OCR's *Case Processing Manual* (CPM) provides that a complaint may be resolved when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint and OCR determines that it is appropriate to resolve the complaint with an agreement during the course of an investigation. Upon consideration of the evidence gained thus far during the investigation, OCR entered into negotiations with the District to resolve the compliance concerns raised. Consistent with Section 302 of the CPM, the DISD agreed to the enclosed Resolution Agreement (the Agreement) on April 20, 2017, which OCR has determined addresses the compliance issues alleged in the complaint and which, when fully implemented, will resolve this complaint.

Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the DISD's implementation of the Agreement to determine whether the commitments made therein have been implemented consistently with the terms of the Agreement. Please be advised that if the DISD fails to adhere to the actions outlined in the Agreement, OCR will immediately resume its compliance efforts.

Effective the date of this letter, OCR is closing the investigative portion of this case. This concludes OCR's investigation of the complaint and should not be interpreted to address the recipient'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 threaten, coerce, intimidate, or discriminate against any individual for the purpose of interfering with any right or privilege secured by regulations enforced by OCR, or because the individual made a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing held in connection with an OCR 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.

If you have any questions, you may contact the attorney investigator assigned to this case, Samire K. Elhouty at (214) 661-9689 (samire.elhouty@ed.gov), or Lori Bringas, Team Leader, at (214) 661-9638 or (lori.bringas@ed.gov).

Sincerely,

Taylor D. August
Director
Office for Civil Rights
Dallas Office

Enclosure