



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 XX)

Mark Kolwe, Superintendent
Tangipahoa Parish School Board
59656 Puleston Rd.
Amite, LA 70433

RE: OCR Case No. 06161403
Tangipahoa Parish School Board

Dear Superintendent Kolwe:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint, which OCR received on March 30, 2016, and which the complainant filed against the Tangipahoa Parish School Board (TPSB), in Amite, Louisiana. The complainant alleged that the TPSB discriminated against XXXX (Student) based on disability.

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 TPSB is a recipient of Federal financial assistance from the Department and is a covered public entity. Therefore, OCR has jurisdictional authority to process this complaint for resolution under Section 504 and Title II.

OCR opened for investigation the following issues:

1. Whether the TPSB 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 individualized educational needs (e.g., XXXX XXXX XXXX), and thereby denied the Student a free appropriate public education (FAPE) 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 TPSB discriminated against the Student on the basis of disability by failing to re-evaluate the Student's need for regular or special education and related aids and

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services despite having determined that the Student was in need of regular or special education and related aids and services prior to initiating a significant change in the Student’s educational placement (e.g., XXXX XXXX), and thereby denied the Student a FAPE during the 2015-16 school year, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. § 104.35 and 28 C.F.R. § 35.130, respectively.

3. Whether the TPSB discriminated against the Student on the basis of disability by failing to appropriately evaluate the Student’s need for regular or special education and related aids and services in a manner which satisfies the procedural requirements of Section 504, and thereby denied the Student a FAPE during the 2015-16 school year (e.g., XXXX XXXX XXXX), in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. § 104.35 and 28 C.F.R. § 35.130, respectively.
4. Whether the TPSB treated the Student differently on the basis of disability in the context of an educational program or activity without a legitimate, nondiscriminatory reason, and thereby interfered with or limited the ability of the Student to participate in or benefit from the services, activities, or privileges provided by the TPSB during the XXXX school year by failing to provide the Student with equivalent access to educational instruction and communication as is provided nondisabled students, in violation of Section 504, at 34 C.F.R. § 104.4, and Title II, at 28 C.F.R. § 35.130, respectively.
5. Whether the TPSB retaliated against the complainant and the Student because the complainant raised concerns regarding the TPSB’s implementation of the Student’s approved Section 504 accommodations, in violation of Section 504, at 34 C.F.R. § 104.61, and Title II, at 28 C.F.R. § 35.134, respectively, when:
 - a. In XXXX XXXX, the TPSB removed accommodations requested by the complainant from the Student’s IAP (e.g., XXXX XXXX XXXX);
 - b. On or around XXXX XXXX, TPSB staff XXXX XXXX XXXX and, even after it was determined that XXXX the Student was XXXX XXXX XXXX;
 - c. On XXXX, XXXX, the TPSB XXXX XXXX XXXX without following the TPSB policy and state law regarding the provision of a hearing prior XXXX XXXX XXXX;
 - d. In XXXX XXXX, one of the Student’s teachers XXXX XXXX XXXX; and
 - e. Beginning in XXXX XXXX, after the Student began XXXX XXXX XXXX the Student’s teachers stopped communicating with the complainant despite the complainant’s attempts to contact them.

During this investigation, OCR reviewed information that the complainant and the TPSB submitted. OCR also conducted interviews with some TPSB personnel and the complainant.

During the course of investigation, OCR interviewed the complainant and received information from the complainant and TPSB regarding the issues under investigation. OCR’s review indicated that the Student was XXXX XXXX during the XXXX school year. The complainant asserted that during the school year, the TPSB discriminated against the Student on the basis of disability by failing to provide the Student with accommodations as specified in his Section 504 Individual Accommodation Plan. She also asserted that the TPSB failed to appropriately re-

evaluate the Student prior to a significant change in the Student's placement (XXXX) and that a reevaluation of the Student failed to satisfy the procedural requirements of Section 504. She also alleged that the TPSB discriminated against the Student on the basis of his disability status XXXX XXXX XXXX the TPSB by failing to provide the Student with instruction and communication that was equal to the instruction and communication provided XXXX XXXX. Finally, she alleged that TPSB retaliated against her and the Student XXXX XXXX because of her advocacy on behalf of the Student. Prior to the conclusion of OCR's investigation, and before OCR had obtained sufficient evidence to support a finding of either compliance or noncompliance with regard to the issues above, the TPSB expressed an interest in resolving the allegations and issues raised in the complaint.¹ Under Section 302 of OCR's *Case Processing Manual*, issues under investigation may be resolved at any time when, prior to the conclusion of the investigation the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation.

OCR determined that it is appropriate to resolve the allegations and issues pursuant to OCR's case processing procedures referenced above. OCR negotiated with the TPSB and obtained the enclosed Resolution Agreement (Agreement), dated April 12, 2018. OCR has determined that the Agreement, when fully implemented, will satisfactorily resolve the compliance issues raised by the complaint allegations. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint; however, OCR will actively monitor the TPSB's implementation of the Agreement.

This concludes OCR's investigation of the complaint and should not be interpreted to address the TPSB's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The Complainant has been notified of this action.

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. 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 the TPSB 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 individual 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.

¹ The recipient expressed an interest in resolving this complaint and another OCR complaint filed by the complainant against the recipient (OCR # 06141652) by entering one agreement. The enclosed resolution agreement addresses both complaints.

If you have any questions or concerns regarding this matter, you may contact the civil rights attorney assigned to this case, Camille Lacey, by telephone at (214)-661-9683 or by email at camille.lacey@ed.gov. You may also contact me at (214)-661-9638 or by email lori.bringas@ed.gov.

Sincerely,

Lori H. Bringas
Supervisory Attorney/Team Leader
Office for Civil Rights-Dallas Office
Dallas Office

Enclosure

cc: XXXX XXXX (XXXX)