



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

March 8, 2017

Ref: 06161446

Mr. Rey Madrigal, Superintendent
Harlandale Independent School District
102 Genevieve
San Antonio, TX 78214

Via first class mail

Dear Superintendent Madrigal:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has reached its determination in the above-referenced complaint which was received in our office on March 24, 2015 and filed against the Harlandale Independent School District (HISD, the Recipient), in San Antonio, Texas. The Complainant alleged that the HISD discriminated against XXXXX (hereinafter referred to as "the Student") during the 2015-2016 school year on the basis of his disability (XXXX) in violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 (2015); and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35 (2015), which prohibit discrimination based on disability. Specifically, the Complainant alleged that XXXXXXXX belittled the Student when XX [remainder of sentence redacted] XX.

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 regulations 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 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 public entities. The HISD is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR had 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:

Whether HISD discriminated against the Student on the basis of disability by failing to take prompt and effective responsive action to address disability-based harassment by XXXXXXX, which was sufficient to constitute a hostile

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

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.

Whether HISD 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 required during the Student's XXXXXXXX, 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 28 C.F.R. § 35.130, respectively.

Prior to OCR making an investigative determination, the HISD 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 March 7, 2017, the HISD 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 District to conduct an evaluation by a group of knowledgeable persons to determine whether the Student needs any compensatory or remedial services as a result of any failure to provide the student with a free, appropriate public education and to provide any compensatory services that are determined necessary through the evaluation. The Agreement also requires HISD to review and, if appropriate, revise its policies and procedures concerning discrimination and harassment on the basis of disability to ensure that they provide for prompt and effective investigation, and to ensure that its employee handbook contains rules of behavior, offense categories, and disciplinary procedures that appropriately address violations of HISD's anti-discrimination and harassment policies applicable to staff. In addition, the Agreement requires that HISD create and provide training to all relevant school staff concerning their obligations under Section 504 and Title II to provide a free, appropriate public education to qualified students with disabilities, and the applicability of this requirement in the bullying and harassment context. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the HISD's implementation of the Agreement to ensure compliance with Section 504/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 regarding this letter please contact attorney-investigator Kulsoom Naqvi at XXXXXXXXXX or XXXXXXXXXX. You may also contact the Supervisory Attorney/Team Leader at XXXXXXXXXX or at XXXXXXXXXX.

Sincerely,

Taylor D. August
Regional Director
Office for Civil Rights
Region VI, Dallas Office

Enclosure

cc: XXXXXXX, counsel for the HISD (via email XXXXXXXXXX)