



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN STREET, SUITE 1620
DALLAS, TEXAS 75201-6831

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

September 11, 2018

Superintendent Eldon Franco
Cherokee Independent School District
305 South Indian Avenue
Box 100
Cherokee, TX 76832

RE: OCR Complaint 06-16-1841
Cherokee Independent School District

Dear Superintendent Franco:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint against the Cherokee Independent School District (CISD or the District). The Complaint alleged that the CISD discriminated against xxx xxxxxxxxxxx xxx xxx xxxxxxxxxxx xxxxxxxxxxx on the basis of disability by failing to provide play areas at the Cherokee Elementary School that are accessible to individuals with mobility impairments.

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 this 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 prohibit discrimination based on 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, which prohibit public entities from discriminating on the basis of disability.

The CISD is a recipient of Federal financial assistance from the Department and is a public educational institution. Therefore, OCR has jurisdiction over this complaint under Section 504 and Title II.

OCR opened the following issue for investigation:

Whether individuals with disabilities are denied the benefits of, excluded from participation in, or otherwise subjected to discrimination by the CISD because the play areas at the Cherokee Elementary School are inaccessible to or useable by

individuals with disabilities (e.g., play areas have perimeter barriers and/or unstable surfaces) in violation of Section 504 and Title II implementing regulations, at 34 C.F.R. §§ 104.21-104.23, and 28 C.F.R. §§ 35.149-35.151, respectively.

Prior to the conclusion of OCR's investigation, CISD notified OCR that it was interested in resolving the complaint. Section 302 of OCR's Case Processing Manual (CPM) provides that a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint and OCR determines that such a resolution is appropriate. The provisions of the resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation and will be consistent with applicable regulations. OCR determined that a resolution under Section 302 of the CPM was appropriate.

On September 6, 2018, CISD voluntarily signed and submitted to OCR a Resolution agreement (Agreement) to resolve the complaint allegation. A copy of the Agreement is enclosed.

OCR determined that the provisions of the Agreement are aligned with the complaint allegation and appropriately resolve it. Further, OCR accepts the Agreement as an assurance that CISD will fulfill its obligations under Section 504 and Title II with respect to the complaint allegation. The dates for implementation and specific actions are detailed in the Agreement. OCR will monitor CISD's implementation of the Agreement.

Effective the date of this letter, OCR is closing the investigation of this complaint.

This letter should not be interpreted to address CISD'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. 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 CISD 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.

If you have questions concerning this letter, please contact Mr. Marvin Macicek, the investigator assigned to your complaint, at (214) 661-9636, or by email at marvin.macicek@ed.gov. You may also contact me at (214) 661-9648, or by email at timothy.caum@ed.gov.

Sincerely,

Timothy D. Caum
Supervisory Attorney/Team Leader
Dallas Office