



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Ref: 06171010

Mr. Andy Barker, Superintendent
804 E. Pine Street,
Edgewood, Texas 75117

Via first class mail and e-mail (abaker@edgewood-isd.net)

Dear Mr. Baker:

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 October 3, 2016, and filed against the Edgewood Independent School District (District or EISD), in Edgewood, Texas. In the complaint filed with OCR, the Complainant alleged that the EISD discriminated against her son, the Student, on the basis of disability (XX---phrases redacted---XX) when:

1. From September 2016 to present, EISD staff failed to provide the Complainant with the paperwork necessary to obtain Section 504 protection for the Student despite the Complainant's request for such information; and
2. In September 2016, EISD staff teased the Student about XX---to end 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. § 704 (amended 1992), 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. § 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 EISD is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR has jurisdictional authority to process this complaint for resolution under Section 504 and Title II.

OCR opened the following issues for investigation:

1. Whether the EISD discriminated against the Student on the basis of disability by failing

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to evaluate the Student's need for regular or special education and related aids and services despite having notice that, because of the Student's alleged disabilities, the Student needed or was believed to need such aids and services during the 2016-2017 school year, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. §§ 104.33 and 104.35, and 28 C.F.R. § 35.130, respectively.

2. Whether the EISD discriminated against the Student on the basis of disability by failing to take prompt and effective responsive action to address disability-based harassment by EISD staff members, which was sufficient to constitute a hostile environment, of which it had or should have had notice during the 2016-2017 school year, in violation of Section 504 and Title II, and its implementing regulations, at 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130, respectively.
3. Whether the EISD discriminated against the Student on the basis of disability by failing to provide the Student with a free appropriate public education (FAPE) when the EISD failed to evaluate the Student's educational placement after the EISD knew, or should have known, that the effects of bullying/harassment may have triggered the Student's need for 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 EISD requested to resolve the complaint by voluntarily entering into a Resolution 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 April 11, 2017, OCR approved the EISD's request to resolve the complaint prior to the conclusion of OCR's investigation.

On May 19, 2017, the EISD voluntarily entered into the enclosed Agreement, which OCR has determined addresses the allegations in the complaint and, when fully implemented, will resolve 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 EISD to review and revise its policies and procedures to ensure that the EISD's use of intervention strategies does not delay or deny the EISD's evaluation of a student in accordance with Section 504; provide the Complainant with notice that XX---phrase redacted---XX the EISD will conduct a Section 504 evaluation of the Student (including consideration of whether the Student is in need of compensatory related aids and services); complete an investigation concerning disability-based harassment alleged by the Complainant, consistent with the EISD's FFH (Local) and FFI (Local) policies and provide written findings to the Complainant concerning the investigation, and if the harassment is substantiated, offer appropriate services to the Student; provide training to relevant EISD staff members concerning the EISD's obligations under Section 504 and Title II; and provide training to relevant EISD staff members concerning bullying and harassment and the EISD's obligations under Section 504 and Title II as it relates to such matters. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the EISD 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 the recipient may not harass, coerce, intimidate, discriminate or otherwise retaliate against any individual because he or she asserted a right or privilege under a law enforced by OCR or filed a complaint, testified, or participated in the complaint resolution process. If this happens, the individual may file another complaint with OCR.

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, please contact Najwa-Monique Sharpe, Lead Investigative Attorney, at 214-661-9642 or by e-mail at najwa-monique.sharpe@ed.gov, or Lori Bringas, Supervisory Attorney, at 214-661-9638 or by e-mail at lori.bringas@ed.gov.

Sincerely,

/s/

Taylor D. August
Director
Office for Civil Rights
Dallas Office

Enclosure: Resolution Agreement