



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

April 3, 2017

**VIA MAIL**

Mr. Kenn Franklin, Superintendent  
New Caney Independent School District  
21580 Loop 494  
New Caney, TX 77357

Re: OCR Complaint No. 06-17-1028

Dear Superintendent Franklin:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its processing of the above-referenced complaint for resolution. The complaint was received in our office on October 11, 2016, and filed against the New Caney Independent School District (New Caney or District), in New Caney, Texas. The complainant alleged that New Caney discriminated on the basis of disability on a systematic basis because certain of its web pages are not accessible to students or adults with disabilities.

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

Based on the complainant's allegation, OCR opened for investigation the following legal issue:

Whether the District discriminates against individuals with disabilities on a systemic basis because certain of the recipient's web pages are not accessible to students and adults with disabilities.

During its investigation, OCR reviewed information provided by the Complainant. Prior to the completion of OCR's investigation, the District informed OCR that it was interested in resolving the complaint allegation. Section 302 of OCR's *Case Processing Manual* provides that a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the allegation. The provisions of the resulting

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

voluntary resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation, and will be consistent with applicable regulations. OCR approved the District's request to resolve this complaint prior to the conclusion of the investigation.

The District voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint; the District's representative signed the Agreement on March 27, 2017. OCR has determined the provisions of the Agreement are aligned with the complaint allegations and appropriately resolves them. Further, OCR accepts the Agreement as an assurance the District will fulfill its obligations under Section 504 and Title II with respect to this complaint. The dates for implementation and specific actions are detailed in the enclosed Agreement. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the District's implementation of the Agreement. Please be advised that if the District fails to adhere to the actions outlined in the Agreement, OCR will immediately resume its compliance efforts.

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 be advised the District 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 complainant 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.

Thank you for the cooperation extended to OCR in our efforts to resolve this complaint. If you have any questions regarding this letter, please contact Craig Nydick, the attorney assigned to the matter at (214) 661-9622 or [craig.nydick@ed.gov](mailto:craig.nydick@ed.gov), or me at (214) 661-9600.

Sincerely,

Melissa Huling Malonson  
Attorney Team Leader  
U.S. Department of Education  
Office for Civil Rights, Dallas Office

cc: Pam Kaminsky ([pkaminsky@rmgllp.com](mailto:pkaminsky@rmgllp.com)), Outside Counsel