



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 4, 2017

Ref: 06171070

Dr. Bonita Coleman, Superintendent of Schools
Ocean Springs School District
2300 Government Street
Ocean Springs, MS 39564

Via first class mail

Dear Dr. Coleman:

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 filed against the Ocean Springs School District (OSSD or District), in Ocean Springs, Mississippi. The complainant alleged that the OSSD discriminated against [XXXX XXXX] (Student) and students generally on the basis of 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. 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 OSSD 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.

OCR opened for investigation the following legal issues:

1. Whether the District discriminated on the basis of disability during the 2016–2017 school year when it failed to establish standards and procedures for the evaluation and placement of persons who, because of a disability, need or are believed to need special education related services, in violation of Section 504 and Title II, at 34 C.F.R. § 104.35, and 28 C.F.R. § 35.130, respectively; and
2. Whether the District 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 (e.g., failed to evaluate the Student and failed to provide [XXXX] with consistent accommodations under Section 504 for

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

[XXXX XXXX]), and thereby denied the Student a free appropriate public education during [XXXX XXXX XXXX XXXX XXXX XXXX], in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. § 104.33–104.35 and 28 C.F.R. § 35.130, respectively.

During the course of this investigation, OCR received data provided by the District on January 23, 2017. This data included copies of the recipient's Section 504 and Title II policies and procedures; information regarding staff responsible for carrying out the District's responsibilities under these laws and their implementing regulations; the Student's education files; and communications between the complainant and the recipient.

OCR's review of the Section 504 and Title II policies indicates several eligibility criteria, alone or in combination with others, are required as a threshold for referral or evaluation under Section 504. Specifically, District policy requires that, in order to determine whether a Student will be placed in Special Education, several steps be taken, including the administration of multiple medical tests, the collection of several specific pieces of information, and the convening of multiple groups of individuals to review information. Further, the policy indicates that the District will only evaluate a student pursuant to Section 504 if, after the OSSD completes the aforementioned steps, it determines that a student is ineligible for special education services. With respect to the Student, OCR's review of the data indicates [XXXX to end of sentence].

Prior to the completion of OCR's investigation, on February 6, 2017, the District informed OCR that it was interested in resolving the complaint allegations. 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. 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 Agreement was signed by the District on March 31, 2017. The Agreement requires the District to revise its Section 504 and Title II policies and procedures; to train all District employees on the revised policies and procedures; and to evaluate and determine whether compensatory services are needed by the Student. 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 your cooperation during the investigation and resolution of this complaint. If you have any questions regarding this letter, please contact General Attorney Cristin Hedman, the investigator assigned to the matter, at (214)-661-9647 or cristin.hedman@ed.gov. You may also contact Supervisory General Attorney and Team Leader, Timothy D. Caum, at (214)-661-9648 or at timothy.caum@ed.gov.

Sincerely,

Taylor D. August
Director
Office for Civil Rights
Dallas Office

Enclosure: Signed Resolution Agreement

CC: [XXXX to end of CC line]