



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

July 26, 2018

Thomas Wallis, Superintendent
Kirbyville CISD
206 E Main Street
Kirbyville, TX 75956

RE: OCR Complaint #06-17-1271
Kirbyville CISD

Dear Superintendent Wallis,

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, filed on January 5, 2017, against the Kirbyville Consolidated Independent School District (the District). The Complainant alleged that the District discriminated against [XXXX XXXX] (the Student) on the bases of disability and sex, discriminated against other students on the basis of disability, and retaliated against the Student, [X---redacted to end of sentence---X].

OCR is responsible for determining whether entities that receive or benefit from Federal financial assistance, either from the Department or from 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 *et seq.*, and its implementing regulations, at 34 C.F.R. Part 104, and Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the bases of disability and sex, respectively. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132 *et seq.*, and its implementing regulations, at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging disability discrimination against public entities. Section 504, Title II, and Title IX also prohibit retaliation.

The District is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR has jurisdictional authority to process allegations of discrimination and retaliation against the District under Section 504, Title II, and Title IX.

On February 28, 2017, OCR opened the following issues for investigation:

1. Whether the District discriminated against students at the School on the basis of disability by failing to evaluate the students' need for regular or special education and related aids and services (i.e., the District failed to evaluate students reading approximately three or more years below grade level) despite having notice that,

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

- because of the students' alleged disabilities, the students' needed or were believed to need such aids and services, and thereby denied the students a free appropriate public education (FAPE) 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 District discriminated against individuals with disabilities on a systemic basis because certain of the District's web pages are not accessible to students and adults with disabilities including, but not limited to, vision impairments, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. § 104.4 and 28 C.F.R. §§ 35.130 and 35.160, respectively.
 3. Whether the District discriminated against the Student on the basis of disability ([XXXX XXXX]) by failing to evaluate the Student's need for Section 504 regular or special education and related aids and services despite having notice that, because of the Student's disability, the Student needed or was believed to need such aids and services, and thereby denied the Student a free appropriate public education 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.
 4. Whether the District discriminated against the Student based on disability, during the 2016-2017 school year, by failing to reevaluate the Student's need for regular or special education and related aids and services, before taking any action with respect to a subsequent significant change in placement, in violation of the Section 504 and Title II implementing regulations, at 34 C.F.R. § 104.35, and 28 C.F.R. § 35.130, respectively.
 5. Whether the District discriminated against the Student on the basis of disability ([XXXX XXXX]) by failing to take prompt and effective responsive action to address disability-based harassment by other students or District 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, at 34 C.F.R. § 104.4, and 28 C.F.R. § 35.130, respectively.
 6. Whether the District discriminated against the Student on the basis of sex ([XXXX]) by failing to take prompt and effective responsive action to address gender-based harassment by other students or District 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 Title IX, at 34 C.F.R. § 106.31.
 7. Whether the District retaliated against the Student, the Complainant, the Complainant's [XXXX], and the Complainant's [XXXX] (i.e., the District created or refused to correct false information, teachers and principals would not communicate with Complainant or [XXXX XXXX], office staff identified the Student to a campus visitor as a being at the building for "bad kids", the District barred Complainant's

[XXXX] from entering District buildings or attending District functions without prior permission of the superintendent, the District blocked Complainant's [XXXX] induction [X---phrase redacted---X], and a principal threatened the Complainant's [XXXX]) during the 2016 - 2017 school year, because the Complainant filed complaints with the District regarding sex and disability discrimination and requested a due process hearing, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively, and Title IX, at 34 C.F.R. § 106.71.

On May 8, 2018, OCR notified the parties by letter that it closed issues 1, 2, 3, 4, and 5 pursuant to the provisions of OCR's *Case Processing Manual* (CPM). OCR continued investigating issues 6 and 7 above.

Prior to the conclusion of OCR's investigation, on May 16, 2018, the District informed OCR that it was interested in resolving the complaint. Section 302 of OCR's CPM provides that a complaint may be resolved at any time when, prior to the point when the Regional Office issues a final determination, 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. On May 17, 2018, OCR determined that a resolution under Section 302 of the CPM was appropriate.

On July 25, 2018, the District voluntarily signed and submitted to OCR a Resolution Agreement (Agreement) to resolve complaint allegations 6 and 7. A copy of the Agreement is enclosed. OCR determined that the provisions of the Agreement are aligned with the complaint allegations and appropriately resolve them. Further, OCR accepts the Agreement as an assurance that the District will fulfill its obligations under Title IX, Section 504, and Title II with respect to the complaint allegations. The dates for implementation and specific actions are detailed in the Agreement. OCR will monitor the District'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 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. 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 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.

If you have any questions regarding this letter, please contact Kyle Gruber, the attorney assigned to investigate this complaint, at (214) 661-9613 or Kyle.Gruber@ed.gov, or me at (214) 661-9638 or Lori.Bringas@ed.gov.

Sincerely,

Lori Bringas
Supervisory Attorney/Team Leader
Dallas Office