



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Dr. Michael Hinojosa, Superintendent
Dallas Independent School District
3700 Ross Avenue
Dallas, TX 75204

Re: OCR# 06161006 & #06171336

Dear Dr. Hinojosa:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaints (the Complaints) filed against the Dallas Independent School District (DISD), Dallas, Texas, which OCR received on October 4, 2016, and January 26, 2017, respectively. The complainant alleged in the first complaint (OCR # 06161006) that DISD discriminated against his son (the Student) on the basis of his disability (dyslexia and reading and writing disorder). In his second complaint (OCR # 06171336), the complainant alleged the DISD retaliated against his son because he filed the first OCR complaint. Specifically, the complainant alleged the following in the Complaints:

1. During the 2015-2016 school year, the DISD failed to conduct a timely evaluation of the Student to determine whether, because of disability, the Student was in need of regular or special education and related aids and services (i.e., school took over 180 days to convene a Section 504 committee meeting after the complainant's request);
2. During the 2015-2016 and 2016-2017 school year(s), the DISD discriminated against the Student on the basis of his disability by failing to implement a Section 504 accommodation plan for the Student or to provide the Student with the accommodations identified as necessary to meet the Student's individualized educational needs (e.g., extra time on tests, check for understanding, editing assistance, no penalty for spelling/punctuation/grammar errors); and
3. The DISD retaliated against the Student when his history teacher lowered his grade from an A to a C during the 2016-2017 school year.

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, and its implementing regulations at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability. OCR is also responsible for enforcing 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.

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

Under Title II, OCR has jurisdiction over complaints alleging disability discrimination against public entities, such as public preschools, elementary and secondary education systems and institutions, public institutions of higher education and vocational education (other than schools of medicine, dentistry, nursing, and other health-related schools), and public libraries. The Title VI regulations, at 34 C.F.R. §100.7(e), adopted and incorporated into Section 504 at § 104.61, and Title II and its implementing regulations at 28 C.F.R. §35.134, all prohibit school districts from intimidating, coercing, or retaliating against individuals because they engage in activities protected by these regulations.

The DISD is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR has jurisdiction to process the Complaints under Section 504 and Title II.

In complaint # 06161006, OCR opened an investigation of the following legal issues:

1. Whether the DISD discriminated against the Student on the basis of disability by failing to timely 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, and thereby denied the Student a free appropriate public education during the 2015-2016 and 2016-2017 school years, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. §§ 104.33 and 104.25, and 28 C.F.R. §35.130, respectively; and
2. Whether the DISD 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 (i.e., extra time on tests, check for understanding, editing assistance, no penalty for spelling/punctuation/grammar errors), and thereby denied the Student a free appropriate public education during the 2015-2016 and 2016-2017 school years in violation of Section 504 and Title II and their implementing regulations at 34 C.F.R. §104.33 and 28 C.F.R. §35.130, respectively.

In complaint # 06171336, OCR opened for investigation the following legal issue:

3. Whether the District retaliated against the Student (i.e., by lowering his history class grade from an A to a C during the 2016-2017 school year) because the complainant filed a complaint with OCR, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. §35.134, respectively.

During the course of OCR's investigation of the Complaints, OCR received information from the DISD as well as the complainant regarding the issues under investigation. OCR's review of the evidence indicated that the Student enrolled at A. Maceo Smith New Tech High School as a freshman during the 2015-2016 school year. The complainant alleged that the Student was diagnosed with a reading and writing disorder that same year and a Section 504 meeting took place on March 24, 2016, which resulted

in a plan that was to be implemented beginning on August 22, 2016. Since March 24, 2016, a total of four Section 504 meetings have been held, and the complainant alleges that the plan is still not being correctly implemented. According to a narrative statement provided to OCR by the DISD, the initial plan was either lost or forgotten about at the start of the 2016-2017 school year. Another Section 504 meeting took place on October 5, 2016, and the plan that was agreed upon at that meeting was distributed to the Student's teachers and parents. However, according to an audio recording of that meeting provided by the complainant, there appears to be a disagreement in the interpretation of the plan, which is why the complainant alleges that the plan is not being correctly implemented, while the DISD asserts that it is in full compliance with the plan. Since the last 504 meeting was held, the Student's grade in his History class dropped from an A to a C, which the complainant points to in support of his allegation of retaliation.

On February 14, 2017, the DISD expressed interest in voluntarily resolving the allegations in the Complaints prior to OCR's completion of its investigation. Section 302 of OCR's *Case Processing Manual* (CPM) provides that a complaint may be resolved when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint and OCR determines it is appropriate to resolve the allegations with an agreement during the course of an investigation. Consistent with Section 302 of the CPM, the DISD agreed to the enclosed Resolution Agreement (the Agreement) on August 18, 2017, which OCR has determined addresses the compliance issues alleged in the Complaints and which, when fully implemented, will resolve the Complaints.

Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding the Complaints. However, OCR will actively monitor the DISD's implementation of the Agreement to determine whether the commitments made therein have been implemented consistently with the terms of the Agreement. Please be advised that if the DISD fails to adhere to the actions outlined in the Agreement, OCR will immediately resume its compliance efforts.

Effective the date of this letter, OCR is closing the investigative portion of the Complaints. This concludes OCR's investigation of the Complaints and should not be interpreted to address the recipient's compliance with any other regulator provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in OCR complaints 06161006 and 06171336. 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 a recipient may not threaten, coerce, intimidate, or discriminate against any individual for the purpose of interfering with any right or privilege secured by regulations enforced by OCR, or because the individual made a complaint, testified,

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assisted or participated in any manner in any investigation, proceeding or hearing held in connection with an OCR complaint.

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, you may contact the attorney investigator assigned to this case, Samire K. Elhouty at (214) 661-9689 (samire.elhouty@ed.gov), or you can contact me, at (214) 661-9638 or (lori.bringas@ed.gov).

Sincerely,

Lori Bringas
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office