



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 11, 2017

Mr. Steve Murray, Superintendent
Bastrop Independent School District
906 Farm Street
Bastrop, TX 78602

Ref: 06-17-1362

Dear Mr. Murray:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its consideration of the above-referenced complaint filed against the Bastrop Independent School District (BISD), Bastrop, Texas, which was received in our office on February 7, 2017. The complaint was filed on behalf of XX – phrase redacted – XX (the Student), and alleged that the BISD has discriminated against the Student on the basis of his disability (XXXX). Specifically, the complainant alleged that, during the 2016-17 school year, the BISD has failed to provide the Student with oral administration of his tests, an accommodation identified by the BISD as necessary to meet the Student's individual educational needs as specified in his Section 504 accommodation plan (including, but not limited to, failing to orally administer XX – to end of sentence redacted – XX).

This agency 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. § 794, and its implementing regulation at 34 C.F.R. Part 104, which 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. § 12132, and its implementing regulation 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, including public elementary and secondary educational institutions. The BISD is a recipient of Federal financial assistance from the Department and is a public elementary and secondary educational institution. Therefore, OCR has jurisdiction to process this complaint to resolution pursuant to Section 504 and Title II.

Based on the complaint allegation and OCR's jurisdictional authority, OCR opened the following issue for investigation:

1. Whether the BISD 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., oral administration of all tests), and thereby denied the Student a free appropriate public education during the 2016-17 school

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year, 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 accordance with OCR's *Case Processing Manual* (CPM), OCR used its Rapid Resolution Process (RRP) to promptly resolve this complaint. OCR began its investigation of this complaint by requesting a response from the BISD to the complaint allegations. In its written response, the BISD conceded to OCR that there may have been occasions during the 2016-17 school year that the BISD failed to orally administer exams to the Student. The BISD further informed OCR that the Student XX – phrase redacted – XX, but also that its own internal investigation revealed that there may have been times when BISD staff made mistakes in planning for oral administration.

Prior to OCR investigating further and making a compliance determination, the BISD expressed its interest in taking action to voluntarily resolve this complaint. Section 207(b) of OCR's CPM provides that a complaint may be resolved using RRP where a recipient has indicated that it is willing to take action in the future to resolve the complaint, or the recipient has already taken action that requires monitoring, the implementation of which OCR will monitor. OCR approved the BISD's request to voluntarily resolve this complaint pursuant to Section 207(b) of the CPM.

The BISD voluntarily submitted the enclosed Resolution Agreement (Agreement), which was signed by the BISD on April 7, 2017. The provisions of the Agreement are aligned with the complaint allegations and the information obtained during OCR's preliminary investigation, and are consistent with applicable law and regulations. OCR has determined that the Agreement, upon full implementation by the BISD, satisfactorily resolves the allegations presented in 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 BISD's implementation of the Agreement. Please be advised that if BISD 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 BISD 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 individual 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.

OCR would like to thank the BISD for its cooperation in promptly resolving this complaint. If you have any questions regarding this letter, please contact Rachel Caum, Attorney, at (214) 661-9632, or at rachel.caum@ed.gov. You may also contact me, at (214) 661-9638, or at lori.bringas@ed.gov.

Sincerely,

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

cc: *via email only*

XXXX, XXXX XXXX XXXX XXXX