



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

March 28, 2018

VIA MAIL
VIA EMAIL (XXXX)

Jerome Puyau, Superintendent
Vermilion Parish School Board
220 S. Jefferson St.
Abbeville, LA 70510

Re: OCR Complaint No. 06-17-1396

Dear Mr. Puyau:

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. On February 21, 2017, OCR received the complaint, which the complainant filed against the Vermilion Parish School Board (VPSB or Vermilion Parish), in Abbeville, Louisiana. The complainant alleged that the VPSB discriminated against XXXX XXXX (Student) on the basis of disability. The complainant also alleged retaliation.

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, which prohibit 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 certain public entities. The Section 504 implementing regulation at 34 C.F.R. § 104.61 incorporates by reference the provision against retaliation under Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 C.F.R. Part 100. Title II also has a provision prohibiting retaliation at 28 C.F.R. § 35.134. The VPSB is a recipient of Federal financial assistance from the Department and is a covered public entity. Therefore, OCR has jurisdictional authority to process this complaint for resolution under Section 504 and Title II.

Based on the complainant's allegations, OCR opened for investigation the following legal issues:

1. Whether Vermilion Parish discriminated against the Student on the basis of disability and denied the Student a free appropriate public education by:
 - a. failing to timely evaluate the Student's need for regular or special education and related aids and services during the 2016-2017 school year despite having notice

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

that, because of the Student's alleged disabilities, the Student needed or was believed to need such aids and services 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;

- b. failing to provide regular or special education and related aids and services deemed necessary to meet the Student's individual educational needs from XXXX or XXXX XXXX to XXXX XXXX, 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; and
 - c. failing to re-evaluate the Student's need for regular or special education and related aids and services despite having notice that, because of alleged harassment of the Student, his educational needs may have changed 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 Vermilion Parish discriminated against the Student on the basis of disability by failing to take prompt and effective responsive action to address disability-based harassment by other students, 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; and
3. Whether Vermilion Parish retaliated against the complainant by (1) XX—phrase redacted—XX, which separated him from the rest of the class, after the complainant asked that he XX—to end of phrase redacted—XX, and (2) not allowing the complainant's XXXX to attend a meeting by phone and the Superintendent refusing to meet with the complainant, allegedly because the complainant XXXX XXXX XXXX, even though the complainant told the individuals in question that she did not XXXX XXXX XXXX, during the 2016-2017 school year, because the complainant advocated on behalf of the Student, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively.

Prior to the completion of OCR's investigation, the VPSB informed OCR that it was interested in resolving the complaint allegations through a voluntary resolution agreement. 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 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 VPSB's request to resolve the complaint prior to the conclusion of the investigation.

The VPSB voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint; the VPSB signed the Agreement on March 27, 2018. OCR has determined the provisions of the Agreement are aligned with the complaint allegations and appropriately resolve them. Further, OCR accepts the Agreement as an assurance the VPSB 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 VPSB's implementation of the Agreement. Please be advised that if the VPSB 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 the individual OCR cases identified above. 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 VPSB 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 Katherine Fearn, the attorney assigned to the matter, at (214) 661-9653 or katherine.fearn@ed.gov. You may also contact me at (214) 661-9600.

Sincerely,

/s/

Melissa Huling Malonson
Team Leader Attorney
Office for Civil Rights
Dallas Office

Enclosure

cc: XXXX XXXX XXXX, XXXX, XXXX, XXXX XXXX/XXXX XXXX
(XXXX)