



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 3, 2017

Via Email and U.S. Mail

Mr. Orlando Riddick, Superintendent
Cedar Hill Independent School District
285 Uptown Blvd., Building 300
Cedar Hill, TX 75104
Email: orlando.riddick@chisd.net

Re: Cedar Hill Independent School District
OCR Docket: 06-17-1424

Dear Superintendent Riddick:

The U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against the Cedar Hill Independent School District (District), Waterford Oaks Elementary School (School), in Cedar Hill, Texas. The complaint alleged discrimination against the Complainant's child (Student) based on disability.

OCR is responsible for enforcing 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 based on disability by recipients of Federal financial assistance from the Department. 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, which prohibit discrimination based on disability by public entities. The District is a recipient of Federal financial assistance from the Department and a public entity. Thus, OCR has jurisdictional authority to resolve this complaint under Section 504 and Title II.

OCR opened the following issue for investigation:

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., XX---to end of phrase redacted---XX), and thereby denied the Student 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 28 C.F.R. § 35.130, respectively.

Legal Standard

Under the Section 504 and Title II implementing regulations, at 34 C.F.R. § 104.33(a) and 28 C.F.R. § 35.130, respectively, a public school district that receives Federal financial assistance from the Department (recipient) must provide a FAPE to each qualified student with a disability in the district's jurisdiction. The Section 504 regulations, at 34 C.F.R. § 104.33(b), define an "appropriate education" as the provision of regular or special education and related aids and services that (i) are designed to meet the individual educational needs of disabled persons as adequately as the needs of nondisabled persons are met, and (ii) are based upon adherence to procedures that satisfy Section 504 requirements. Compliance with this provision is generally determined by assessing whether a district has implemented a student's Section 504 plan, also known as an "individualized education program," or "IEP." When evaluating whether a district has failed to provide the related aids and services deemed necessary to provide the student a FAPE, OCR determines: (1) whether the district evaluated the student in accordance with Section 504 requirements and determined that the student was a qualified individual with a disability as defined by Section 504; (2) whether the student's needs were determined on an individualized basis by a group of persons knowledgeable about the student and the information considered; and (3) whether the placements, aids, and services identified by the district through this process as necessary to meet the student's individual needs were or are being provided. If they have not been provided, OCR will determine the district's reason for failing to do so and the impact of the failure.

OCR interprets the general prohibition against discrimination in the Title II implementing regulations to require the provision of a FAPE to the same extent that the Section 504 implementing regulations specifically require the provision of a FAPE.

Investigative Summary

The Complainant alleged that the Student, XX---phrase redacted---XX and has been identified by the District as a student with a disability. The Student's most recent Admission, Review, Dismissal (ARD) Meeting was held in XXX where an Individual Education Plan (IEP) was adopted for the Student. The Complainant reported the Student's teachers were not implementing the Student's IEP with respect to XX---to end of sentence redacted---XX. The Complainant indicated that the primary concern was with two of the Student's teachers, but that other teachers have failed to XX---to end of sentence redacted---XX.

The District provided a copy of the Student's 504 Plan (the IEP). The IEP indicated that the Student is entitled to, among others, the following academic accommodations: XX---to end of paragraph redacted---XX. The District indicated to OCR that it lacked conclusive documentation of the District's implementation of special education or related services for the Student.

Prior to conducting interviews with District employees responsible for implementing the Student's IEP or obtaining additional data, the District notified OCR of its interest in voluntarily resolving the complaint. OCR's case processing procedures provide that issues under investigation may be resolved at any time when, prior to the conclusion of OCR's investigation,

the recipient expresses an interest in resolving the issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation. On June 2, 2017, OCR approved the District's request to resolve the complaint prior to the conclusion of OCR's investigation. The District submitted the attached Resolution Agreement (Agreement) on June 29, 2017, which OCR has determined addresses the allegations in this complaint and which, when fully implemented, will resolve the complaint. The Agreement requires the District to determine whether compensatory education services are necessary for the Student, to provide documentation evidencing provision of such services and implementation of the Student's IEP, and to provide Section 504 and Title II Training to District faculty regarding the requirements for fully implementing provisions of a student's IEP.

As of the date of this letter, OCR is closing the investigative stage of this complaint; however, OCR will actively monitor the implementation of the Agreement by the District. If the District fails to implement the Agreement, OCR will resume its investigation of the above issue. This letter is not intended nor should it be construed to cover any matters not specifically addressed herein.

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 anyone because they have filed a complaint or participated in the complaint resolution process. If this happens, the person may file a 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, it 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 Seth Phillips, the attorney assigned to this complaint, at (214) 661-9609 or seth.phillips@ed.gov, or me at (214) 661-9648 or timothy.caum@ed.gov.

Sincerely,

Taylor D. August
Director
Dallas Office

Enclosure

cc: XXX