



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1999 BRYAN STREET, SUITE 1620  
DALLAS, TEXAS 75201-6831

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

March 8, 2019

Dr. Paul Cruz, Superintendent  
Austin Independent School District  
1111 W. Sixth Street  
Austin, Texas 78703

OCR Complaint No: 06-18-1297

Dear Superintendent Cruz:

This 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 against the Austin Independent School District (District), in Austin, Texas. The Complainant alleged that the District discriminated against her client (the Student) based on disability.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability and retaliation in programs and activities that receive federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities and retaliation by public entities, including public education systems and institutions, regardless of whether they receive federal financial assistance from the Department. Because the District receives federal financial assistance from the Department and is a public education system, OCR has jurisdiction over it pursuant to Section 504 and Title II.

OCR opened for investigation the following legal issue:

Whether the District discriminated against the Student on the basis of disability by denying the Student a free appropriate public education (FAPE) during the 2017-2018 school year, when the District failed to implement the Student's Individualized Education Program (IEP) (i.e., XX---to end of sentence redacted ---XX), 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 its investigation to date, OCR requested and received documentation from the District and the Complainant regarding the allegation at issue in this complaint. A preliminary review of the information gathered revealed that the Student was assigned to the District's XX---to end of sentence redacted---XX. At the time the Student entered the XXX, his IEP included a provision that required the XX---to end of sentence redacted---XX. The evidence gathered to date indicates that the Student did not receive this accommodation during the relevant time period because of a policy at the XX---to end of sentence redacted---XX. In XXXXXXXXXXXXXXXX, the Student's IEP Team convened and the accommodation of the XX---to end of sentence redacted---XX. The

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

evidence further indicates that the decision to remove the XX---phrase redacted---XX was based on the XX---phrase redacted---XX instead of the Student's individualized needs.

Prior to the completion of OCR's investigation, the District expressed interest in resolving the complaint allegation 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 allegations. 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. On March 8, 2019, the District submitted the enclosed signed Resolution Agreement (Agreement) to OCR. When fully implemented, the Agreement will resolve the allegation in the complaint.

In light of the commitments the District has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the District's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether the District has fulfilled the terms of the Agreement and is in compliance with Section 504 and Title II with regard to the issue raised.

This concludes OCR's investigation of this complaint. However, if the District fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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 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. The complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

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 Linda Floyd, the attorney assigned to this complaint, at (214) 661-9657, or [linda.floyd@ed.gov](mailto:linda.floyd@ed.gov). You may also contact me at (214) 661-9600.

Sincerely,

A handwritten signature in blue ink that reads "Melissa Malonson". The signature is written in a cursive, flowing style.

Melissa Malonson  
Supervisory Attorney/Team Leader  
Office for Civil Rights  
Dallas Office

Enclosure

XX---phrase redacted---XX