



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, 2018

Re: OCR Complaint #06181475

Dr. Mark Henry, Superintendent
Cypress-Fairbanks Independent School District
10300 Jones Road, P.O. Box 692003
Houston, Texas 77269

Via first class mail and email (Mark.Henry@cfisd.net)

Dear Dr. Henry:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its investigation of the above-referenced complaint, which was received in our office on March 26, 2018, and filed against the Cypress-Fairbanks Independent School District (CFISD or District), in Houston, Texas. The Complainant alleged that the CFISD discriminated against XXXX XXXX (Student) on the basis of disability, and retaliated against the Complainant and the Student.

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 this Department, are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulations at 34 C.F.R. Part 104. Section 504 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. §§ 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 public entities. The CFISD is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR has personal jurisdictional authority to process this complaint for resolution.

OCR opened the allegations for investigation, and investigated the following issues:

1. Whether the CFISD discriminated against the Student on the basis of disability by failing to 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 XXXX 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; and

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

2. Whether the CFISD retaliated against the Complainant and/or the Student when the XXXX XXXX XXXX made weekly threats to call XXXX XXXX XXXX against the Complainant; called the Complainant at work numerous times, almost causing the Complainant to get fired from her job; called the Student a problem during class and stated that XXXX is not fit for her classes; and called the Student into XXXX office every week, making XXXX arrive late at class on numerous occasions between XXXX XXX and XXXX XXXX of the XXXX school year, because the Complainant requested that the Student be evaluated for special education-related services in or around XXXX XXX, 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 OCR issuing a final investigative determination, the CFISD requested to resolve the complaint by voluntarily entering into a Resolution Agreement (Agreement). Under OCR's procedures, a complaint may be resolved at any time when, prior to the point when the OCR Regional Office issues a final determination under Section 303 of OCR's Case Processing Manual, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them with an agreement.

On July 2, 2018, the CFISD voluntarily entered into the enclosed Agreement, which, when fully implemented, resolves the complaint. The Agreement is aligned with the complaint allegations and the information obtained during the investigation, and is consistent with applicable law and regulations. Specifically, the Agreement requires the CFISD to provide the Student's parent(s)/guardians with notice that the CFISD will complete an evaluation of the Student, assess the appropriateness of compensatory and or remedial services due to the CFISD's alleged failure to evaluate the Student and/or due to lost class time due to retaliation, provide training regarding the CFISD requirements under Section 504 and Title II to provide a free appropriate public education, and to provide training regarding the prohibitions against retaliation pursuant to Section 504 and Title II. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the CFISD implementation of the Agreement to ensure compliance with Section 504 and Title II with regard to the issue investigated.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. 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 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 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, complainants 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, 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, you may contact Michael J. Pillera, Civil Rights Attorney, at 214-661-9614 or by email at Michael.Pillera@ed.gov, or Paul Edward Coxe, Supervisory Attorney/Team Leader at 214-661-9608 or by email at Paul.Coxe@ed.gov.

Sincerely,

Paul Edward Coxe
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

Enclosure

cc: XXXX XXXX XXXX XXXX Esq., XXXX XXXX for the CFISD (via email at XXXX)