



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

October 16, 2018

VIA MAIL
VIA EMAIL (XXXX)

Jason Fountain, Superintendent
Central Community School System
P.O. Box 78094
Baton Rouge, LA 70837

Re: OCR Complaint No. 06-18-1642

Dear Superintendent Fountain:

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 April 25, 2018, OCR received the complaint, which the complainant filed against the Central Community School System (System), in Baton Rouge, Louisiana. The complainant alleged that the System discriminated against XXXX XXX (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 System 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 investigated the following legal issues:

1. Whether the System discriminated against the Student on the basis of disability by
 - a. causing a significant change in placement (i.e., more than 10 school days of exclusionary discipline that created a pattern of removal) without first reevaluating the Student to determine whether the Student's misconduct was

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caused by or related to the Student’s disability and, if so, to determine if the Student’s current placement was appropriate; and

- b. failing to reevaluate 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 (i.e., the behavior modification plan),

and thereby denied the Student a free appropriate public education during the 2017-2018 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 the System 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., XXXX XXXX XXXX XXXX XXXX) in XXXX XXXX, and thereby denied the Student a free appropriate public education, 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
3. Whether the System retaliated against the complainant when (a) XX—phrase redacted—XX, and (b) XX—phrase redacted—XX, because the complainant advocated on behalf of the Student (i.e., XX—to end of parenthetical redacted—XX), 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 an investigation, the System 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 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. OCR approved the System’s request to resolve the complaint prior to the conclusion of an investigation.

The System voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint; the System’s representative signed the Agreement on October 16, 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 that the System 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 System’s implementation of the Agreement. Please be advised that if the System 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 case 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 that the System 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.

Thank you for the cooperation extended to OCR in our efforts to resolve this complaint. 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/

Paul Coxe
Team Leader Attorney
Office for Civil Rights
Dallas Office

Enclosure

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