



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

April 15, 2019

Ms. Debbie Smith, Superintendent
Paragould School District
1501 West Court Street.
Paragould, AR 72450

RE: OCR Complaint #06-18-1694
Paragould School District

Dear Superintendent Smith,

This letter 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 on May 30, 2018, against the Paragould School District (the District). The Complainant's agency alleged that the District discriminated against their client's son (the Student) on the basis of disability and discriminated against persons on the basis of disability.

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 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, which prohibit discrimination based on disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulations, at 28 C.F.R. Part 35, which prohibit public entities from discriminating on the basis of disability.

The District is a recipient of Federal financial assistance from the Department and is a public educational institution. Therefore, OCR has jurisdictional authority to process complaints of discrimination filed against the District under Section 504 and Title II.

OCR opened the following issues for investigation:

1. Whether persons with disabilities are denied the benefits of, excluded from participation in, or otherwise subjected to discrimination by the District because the restrooms and parking lots at Paragould High School (the School) are inaccessible to or unusable by persons with disabilities, in violation of Section 504 and Title II, at 34 C.F.R. §§ 104.21-104.23, and 28 C.F.R. §§ 35.149-35.151, respectively.
2. Whether the District discriminated against the Student on the basis of disability by failing to provide regular or special education and related aids

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and services deemed necessary to meet the Student’s individual educational needs (e.g., Student’s assigned aide failed to provide adequate supports per Student’s IEP), 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 28 C.F.R. § 35.130, respectively.

3. Whether the District treated the Student differently on the basis of disability in the context of an educational program or activity without a legitimate, nondiscriminatory reason (e.g., a) did not include the Student’s name in the [XXXX XXXX XXXX], b) placed the Student in an obstructed area on stage during band performances, c) did not permit the Student to meaningfully participate in physical education), and thereby, interfered with or limited the ability of the Student to participate in or benefit from the services, activities or privileges provided by the District during the 2017-2018 school year, in violation of Section 504, at 34 C.F.R. § 104.4, and Title II, at 28 C.F.R. § 35.130.
4. Whether the District discriminated against the Student on the basis of disability by failing to take prompt and effective responsive action to address disability-based harassment by District staff members (e.g., a) disclosing the Student’s disability as reason for reducing available slots for a [XXXX XXXX XXXX] field trip in or around [XXXX XXXX], b) School administrator(s) mocking the Student’s disability, c) School aides referring to the Student as an “eye sore”) which was sufficient to constitute a hostile environment, of which it had or should have had notice during the 2017-2018 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.

Concerns for Issue 1

During investigation, OCR conducted an on-site inspection to further its investigation into Issue 1 and allegations of accessibility issues with the restrooms and parking lots on the School campus. OCR’s on-site inspection revealed a number of concerns, including, but not limited to:

Restrooms

1. Safety rails in accessible restroom stalls of improper length, height, and placement;
2. Doors to accessible restrooms, without automated entrance features, that require too much physical force (measured in pounds of force) to operate and open;
3. Restrooms without proper Braille signage next to the door;
4. Accessible restroom stalls with broken or malfunctioning doors; and
5. Sinks, towel dispensers, and/or soap dispensers positioned at improper heights.

Parking Lots

1. Ramps on sidewalks or leading into doors of School campus buildings of an improper length and/or an unsafe gradient;
2. Ramps lacking non-slip material for safe usage;
3. Accessible parking spaces with improperly placed and/or missing signage;
4. Accessible parking spaces with unsafe passageways, due to obstructions or debris, from the space to the nearest entrance into a School campus building; and
5. School campus buildings without any available accessible parking spaces to access the building (i.e., campus buildings with an adjacent gravel parking lot lacking accessible spaces and without accessible pathways to other parking lots with accessible spaces).

Concerns for Issues 2 through 4

During investigation, but prior to conclusion thereof, OCR learned the Student was in the [XXXX] Grade in the 2017-2018 school year. The Student was a qualified individual with disabilities who received services listed in an IEP. OCR's initial review of data and preliminary interviews revealed potential concerns about the treatment of the Student, the provision of certain services to the Student, specifically pertaining to the physical inability of aides available to the Student to assist with mobility matters at times in the 2017-2018 school year, and public statements made about [X---phrase redacted---X] and the possibility of references made, whether direct or indirect, to the Student's disability in relation to a reduction in the number of available slots for students.

Resolution

Prior to the conclusion of OCR's investigation, on January 20, 2019, the District informed OCR that it was interested in resolving all complaint allegations. Although OCR had identified concerns regarding issues 1, 2, 3, or 4, OCR had not yet reached a full compliance determination regarding issue 1 or the remaining issues in this complaint. Section 302 of OCR's Case Processing Manual (CPM) provides that a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint and OCR determines that such a resolution is appropriate. The provisions of the 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 20, 2019, OCR determined that a resolution under Section 302 of the CPM was appropriate.

On April 12, 2019, the District voluntarily signed and submitted to OCR a Resolution Agreement (Agreement) to resolve the complaint allegation. A copy of the Agreement is enclosed. OCR determined that the provisions of the Agreement are aligned with the complaint allegations and appropriately resolves them. Further, OCR accepts the Agreement as an assurance that the District will fulfill its obligations under Section 504 and Title II with respect to the complaint allegations. The dates for implementation and specific actions are detailed in the Agreement. OCR will monitor the District's implementation of the Agreement.

Effective the date of this letter, OCR is closing the investigation of this complaint. This letter 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. An individual 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 any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, an individual 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 about this letter, please contact Kyle Gruber, the attorney assigned to investigate this complaint, at (214) 661-9613 or Kyle.Gruber@ed.gov. You may also contact me at (214) 661-9638 or Lori.Bringas@ed.gov.

Sincerely,

Lori Bringas
Supervisory Attorney/Team Leader
Dallas Office

Enclosure:
Resolution Agreement