



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

September 18, 2018

Re: OCR Docket #06181724

Dr. Greg Smith, Superintendent  
Clear Creek Independent School District  
2425 East Main Street  
League City, Texas 77573

Via first class mail and e-mail (grsmith@ccisd.net)

Dear Dr. Smith,

The U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint which was received in our office on June 11, 2018, and filed against the Clear Creek Independent School District (Recipient or CISD), in League City, Texas. The Complainant alleged that the CISD discriminated against her son (Student) on the basis of disability, and retaliated against him.

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), 29 U.S.C. § 704 (amended 1992), 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. § 12132, 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. Section 504 and Title II also prohibit retaliation. The CISD is a recipient of Federal financial assistance from the Department and is a public entity. Therefore, OCR has jurisdiction to process this complaint for resolution under Section 504 and Title II.

OCR opened the following legal issues for investigation:

1. Whether the CISD discriminated against the Student on the basis of disability by treating the Student differently than one or more students without disabilities (e.g., when the District “dragged” the Student to the seclusion room and left him in the room on multiple occasions during the 2017-2018 school year) 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 CISD during the 2017-2018 school year, in violation of, 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130.

*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 CISD’s use of physical restraint or seclusion (e.g., when the District “dragged” the Student to the seclusion room and left him in the room on multiple occasions during the 2017-2018 school year) denied the Student an opportunity to receive a free appropriate education (FAPE) during the 2017-2018 school year, in violation of, 34 C.F.R. § 104.33 and 28 C.F.R. § 35.130(a)-(b).
3. Whether the CISD retaliated against the Student by:  
XX---paragraph redacted---XX  
because the Complainant reported injuries the Student suffered while being restrained by CISD staff to CISD administrators during the spring 2018 semester, 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 OCR’s investigation, the CISD informed OCR that it was interested in resolving the complaint allegation. 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 allegation. The provisions of the resulting 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 CISD’s request to resolve this complaint prior to conclusion of the investigation.

The CISD voluntarily signed the enclosed Resolution Agreement (Agreement) on September 14, 2018. OCR has determined 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 CISD 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.

This concludes OCR’s investigation of this complaint. However, OCR will monitor the CISD’s implementation of the Agreement. Please be advised that if the CISD fails to adhere to the terms of the Agreement, OCR will immediately resume its compliance efforts.

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

Please be advised that the recipient may not harass, coerce, intimidate, discriminate or otherwise retaliate against any individual because he or she asserted a right or privilege under a law enforced by OCR or filed a complaint, testified, or participated in the complaint resolution process. If this happens, the individual may file a retaliation complaint with OCR.

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 about this letter, you may contact Najwa-Monique Sharpe, the attorney assigned to investigate this complaint, at (214) 661-9642, or by e-mail at [najwa-monique.sharpe@ed.gov](mailto:najwa-monique.sharpe@ed.gov). You may also contact me at 214-661-9648 or by e-mail at [timothy.caum@ed.gov](mailto:timothy.caum@ed.gov).

Sincerely,

/s/

Timothy D. Caum  
Supervisory Attorney/Team Leader  
OCR, Dallas Office