



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

November 29, 2018

VIA MAIL AND EMAIL

Dr. Bret Jimerson, Superintendent
Burleson Independent School District
1160 SW Wilshire Blvd
Burleson TX 76028
bjimerson@bisdmail.net

Re: OCR Complaint No. 06-18-1829

Dear Dr. Jimerson:

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. The complaint was received in our office on August 10, 2018, and filed against the Burleson Independent School District (District) in Roma, Texas. The complainant alleged that the District discriminated against her son (Student) on the basis of disability. The complainant also alleged retaliation.

OCR is responsible for ensuring that organizations that receive or benefit from Federal financial assistance from the Department are in compliance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, 34 C.F.R. Part 104 (Section 504), which prohibits discrimination based on disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 et seq., 28 C.F.R. Part 35 (Title II). 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 District is a recipient of Federal financial assistance and is a covered public entity. Therefore, OCR has jurisdiction to process this complaint under Section 504 and Title II.

Pursuant to OCR's Case Processing Manual (CPM) Section 109, the complainant's allegations were processed via OCR's Rapid Resolution Process (RRP). OCR considered the following issues in RRP:

- (1) Whether the District failed 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, before taking any action with respect to a significant change in placement (e.g., XX-phrase redacted-XX), and thereby denied the Student a free

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appropriate public education during the Spring 2018 semester, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. § 104.35 and 28 C.F.R. § 35.130, respectively.

- (2) Whether the District retaliated against the Student by XX- phrase 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.

On September 28, 2018, the complainant contacted OCR and requested to withdraw the allegation of retaliation. Accordingly, OCR dismissed Issue 2 pursuant to CPM Section 108(m) and will take no further action with respect to that allegation. OCR continued to process Issue 1 via RRP.

During RRP, the District informed OCR that it was interested in resolving the remaining allegation, Issue 1, 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 OCR's issuance of a final determination, the recipient expresses an interest in resolving the allegations, and OCR determines it is appropriate to resolve them with an agreement. OCR approved the District's request to resolve this complaint.

The District voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint; the District submitted the signed Agreement to OCR on November 27, 2018. OCR has determined that when fully implemented the Agreement will address all of the allegations. Further, OCR accepts the Agreement as an assurance the District 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 District's implementation of the Agreement. Please be advised that if the District 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 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.

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 Stephanie Inman, the attorney assigned to the matter, at (214) 661-9651 or stephanie.inman@ed.gov. You may also contact me at (214) 661-9600 or at melissa.malonson@ed.gov.

Sincerely,

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

CC Via Email:
XXXX, Attorney for BISD
XXXX@XXXX.com