



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN STREET, SUITE 1620
DALLAS, TEXAS 75201-6831

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

March 7, 2019

Dr. Bert Jimerson, Superintendent
Burleson Independent School District
1160 SW Wilshire Blvd.
Burleson, TX 76028

RE: OCR Complaint Number 06-18-1857
Burleson Independent School District

Dear Dr. Jimerson:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its investigation of the above-referenced complaint, received on August 27, 2018, filed against the Burleson Independent School District (BISD or District), Burleson, Texas. The complainant alleged that the District discriminated against the Complainant's XXXX (the Student) based on disability. The complaint also alleged retaliation.

This agency is responsible for determining whether entities that receive or benefit from Federal financial assistance from the Department (recipients), or from 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. § 794 (amended 1992), and its implementing regulation, 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 regulation, 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 BISD is a recipient and a public entity. Thus, OCR has jurisdiction to resolve this complaint pursuant to Section 504 and Title II.

OCR opened the following legal issues for investigation:

1. Whether the District 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 (*e.g.*, XX – phrase redacted - XX), and thereby denied the Student a free appropriate public education during the 2018-2019 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.

2. Whether XXXX retaliated against the Student by reducing the Student's playing time during XXXX XXXX during the XXXX XXXX school year, because the Complainant previously advocated on behalf of the Student's disability-related rights, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. § 104.61 and 28 C.F.R. § 35.134, respectively.

During the investigation of this complaint, OCR reviewed information received from the Complainant and the recipient. The information received reflected that the Student is a XX – to end of sentence redacted – XX. The Complainant provided OCR with information indicating that the Student experienced XX – to end of paragraph redacted – XX.

Prior to the conclusion of OCR's investigation, on February 4, 2019, the District informed OCR that it was interested in resolving the 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 February 21, 2019, OCR determined that a resolution under Section 302 of the *CPM* was appropriate.

On March 5, 2019, the District voluntarily signed a Resolution Agreement (Agreement) to resolve the complaint allegations. A copy of the Agreement is enclosed. OCR determined that the provisions of the Agreement are aligned with the complaint allegation and appropriately resolves them. Further, OCR accepts the Agreement as an assurance that 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. 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 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 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 questions concerning this letter, please contact Marvin Macicek, the investigator assigned to the complaint, at (214) 661-9636, or by email at marvin.macicek@ed.gov. You may also contact me at (214) 661-9638, or by email at lori.bringas@ed.gov.

Sincerely,

/s/

Lori Bringas
Supervisory Attorney/Team Leader
OCR Dallas Office
Office for Civil Rights

Enclosure: Resolution Agreement