



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

July 10, 2019

OCR Ref. No. 06-19-1268

[XXXX to end of address line]

Via first class mail and email to [XXXX]

Dear [XXXX XXXX]:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against [XXXX XXXX], the Lubbock Independent School District (LISD, District or recipient) in Lubbock, Texas. The complainant alleged that the District discriminated against [XXXX XXXX] (Student) on the bases of race, color, and/or national origin; and on the basis of disability ([XXXX]). The complainant also alleged that the District retaliated against [XXXX] and the Student. Specifically, the complainant made the following allegations.

[XXXX to end of allegations]

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 with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulations at 34 C.F.R. Part 100; and 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. Title VI prohibits discrimination on the basis of race, color, or national origin; and Section 504 prohibits 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 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, including public elementary and secondary educational institutions. Additionally, the regulations implementing Title VI, Section 504, and Title II prohibit retaliation. Because the District is a recipient of Federal financial assistance from the Department and is a public entity, OCR has jurisdiction to process this complaint for resolution.

OCR investigated the following legal issues:

1. Whether the District treated the Student differently on the basis of race, color, and/or national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason as the complainant has alleged, and thereby interfered with or

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

limited the ability of the Student to participate in or benefit from the services, activities or privileges provided by the recipient from [XXXX XXXX] through [XXXX XXXX], in violation of Title VI, at 34 C.F.R. § 100.3;

2. Whether the District discriminated against the Student on the basis of disability by failing 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 as the complainant has alleged, and thereby denied the Student a free appropriate public education during [XXXX XXXX] through [XXXX XXXX], 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;
3. 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 as the complainant has alleged, and thereby denied the Student a free appropriate public education during [XXXX XXXX] through [XXXX XXXX], 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;
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 [XXXX XXXX XXXX XXXX XXXX XXXX], which was sufficient to constitute a hostile environment as the complainant has alleged, of which the District had or should have had notice during [XXXX XXXX] through [XXXX XXXX], in violation of Section 504 and Title II, at 34 C.F.R. § 104.4, and 28 C.F.R. § 35.130, respectively; and
5. Whether the District retaliated against the Student and/or the complainant in the manner the complainant alleged during [XXXX XXXX] through [XXXX XXXX], for the reasons the complainant alleged, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively, and/or Title VI, at 34 C.F.R. § 100.7(e).

Evidence Obtained:

[XXXX to end of section]

Preliminary Analysis:

In this matter, OCR only reviewed preliminary documentation and information from the complainant and the recipient, and did not receive sufficient information to make a compliance determination. Specifically, OCR did not receive sufficient information to determine that the District discriminated against the Student on the bases of race, color, and/or national origin; or on the basis of disability. Similarly, OCR did not receive sufficient information to determine that the District retaliated against the complainant or the Student.

However, OCR’s review of the information obtained revealed concerns relevant to the allegations raised. [XXXX to end of paragraph]

Prior to OCR collecting additional documentation, conducting interviews, and making a determination as to the issues investigated, the District expressed an interest in resolving the related allegations.

Resolution Summary:

In addition to collecting the above-referenced information, OCR received the District's expressed interest in resolving the complaint allegations. Section 302 of OCR's *Case Processing Manual* provides that complaint allegations may be resolved at any time when, prior to the point when the Regional Office issues a final determination under CPM Section 303, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them with an agreement. OCR approved the District's request to resolve this complaint prior to the conclusion of the investigation.

The District signed the enclosed Resolution Agreement (Agreement) on July 10, 2019. OCR has determined that, when fully implemented, the Agreement will address all of the complaint allegations. Further, OCR accepts the Agreement as an assurance the District will fulfill its obligations under Section 504, Title II, and Title VI with respect to this complaint. The dates for implementation and specific actions are detailed in the enclosed Agreement. As of the date of this letter, OCR's investigation of this complaint is closed. OCR will 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 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. The complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

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 individual may file a 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.

OCR appreciates you and the District for your cooperation during the investigation and resolution of this complaint. If you have any questions regarding this letter, please contact General Attorney Cristin Hedman, the investigator assigned to the matter, at (214)-661-9647 or cristin.hedman@ed.gov. You may also contact me at (214)-661-9638 or lori.bringas@ed.gov.

Sincerely,

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

Enclosure: Signed Resolution Agreement

CC: [XXXX to end of CC line]