



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 25, 2019

VIA MAIL

Dr. Roland Hernandez, Superintendent
Corpus Christi Independent School District
801 Leopard Street
Corpus Christi, TX 78401

Re: OCR Complaint No. 06-19-1281

Dear Dr. Hernandez:

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 [redacted] and filed against the Corpus Christi Independent School District (District) in Corpus Christi, Texas. The complainant alleged that the District discriminated against a student (Student) on the basis of disability. The complainant specifically alleged that the District:

1. Failed to evaluate Student's educational needs related to [redacted] behavioral disability;
2. Failed to provide complainant with procedural safeguards on how to appeal its placement decisions; and
3. Removed Student from [redacted] (School) without conducting a manifestation determination hearing.

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 110, the allegations were processed via OCR's Rapid Resolution Process (RRP). RRP is an expedited case processing approach that can be used to resolve cases in any of OCR's statutory areas. OCR considered the following issues in RRP:

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

- (1) Whether the CCISD discriminated against the Student on the basis of disability by failing to evaluate for and develop and/or implement appropriate modifications or related aids and services (e.g. behavior modification plans) to address [redacted] behavioral needs, 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 104.35, and 28 C.F.R. § 35.130, respectively;
- (2) Whether CCISD discriminated on the basis of disability during the 2018-2019 school year when it failed to provide the complainant notice of procedural safeguards following a Section 504 evaluation meeting and prior to implementing a significant change in the Student's educational placement in violation of Section 504 and Title II, at 34 C.F.R. § 104.36, and 28 C.F.R. § 35.130, respectively; and
- (3) Whether CCISD failed to provide Student a free appropriate public education (FAPE) during the 2018-2019 school year by subjecting [redacted] to a significant change in placement [redacted] without first conducting a reevaluation to determine whether [redacted] misconduct was caused by his disability.

Section 108(j) of OCR's *Case Processing Manual* (CPM) provides that OCR will dismiss allegations when it obtains credible information indicating that the allegations raised by the complainant are currently resolved and are therefore no longer appropriate for investigation. During the processing of this complaint, OCR obtained credible information that allegations 1 and 2 are resolved and therefore no longer appropriate for investigation. Specially, OCR reviewed information that showed that the Student was evaluated pursuant to Section 504 and received related aids and services for [redacted] identified disabilities, [redacted]. The Student's educational program also included a Behavior Modification Plan. OCR also determined that the CCISD provided the complainant with procedural safeguards on November 14, 2018 and January 10, 2019. Accordingly, OCR dismissed Issues 1 and 2 pursuant to CPM Section 108(j) and will take no further action with respect to those allegations. OCR continued to investigate Issue 3.

The District informed OCR that it was interested in resolving the remaining allegation, Issue 3, through a voluntary Resolution Agreement (RA) pursuant to OCR's CPM. Specifically, Section 110 (b), states that "where a recipient has indicated that it is willing to take action in the future to resolve the complaint...the complaint may be resolved by obtaining a RA." OCR's investigation to date, raised concerns regarding the District's obligation to conduct a manifestation determination hearing prior to significantly changing a student's placement. 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 [redacted]. OCR has determined that when fully implemented the Agreement will address all of the allegations in Issue 3. 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.

If you have any questions regarding this letter, please contact Sheria D. Smith, the attorney assigned to the matter, at (214) 661-9635 or sheria.smith@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:

[redacted], Attorney for District

[redacted]