



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Thursday, September 12, 2019

Re: OCR Docket #06-19-1340
Angela Bryant, Superintendent
Genoa Central School Board
RT 7 Box 3440
Texarkana, Arkansas 71854

Dear Superintendent Bryant:

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 XXXX and filed against the Genoa Central School District (Recipient, GCSD, or District), in Texarkana, Arkansas. The Complainant alleged that the GCSD discriminated against XXXX (Student) on the basis of disability. The Complainant specifically alleged that the Student was XXXX because of XXXX disability.

OCR is responsible for determining whether entities that receive or benefit from Federal financial assistance from the Department (recipient), 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. The GCSD is a recipient and a public entity. Therefore, OCR has jurisdiction to process this complaint for resolution under Section 504 and Title II.

Pursuant to OCR's Case Processing Manual (CPM) Section 110, XXXX allegations were processed via OCR's Rapid Resolution Process (RRP). OCR initiated an investigation of this complaint pursuant to OCR's Rapid Resolution Process (RRP) at Section 110 of OCR's *Case Processing Manual* (CPM). 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:

1. Whether the GCSD treated the Student differently on the basis of disability (XXXX) in the context of an educational program or activity without a legitimate, nondiscriminatory reason, 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 District during the 2018-2019 school year, in violation of Section 504, at 34 C.F.R. § 104.4, and Title II, at 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.

OCR subsequently opened the following additional legal issue:

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 (XXXX), the Student needed or was believed to need such aids and services, 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.

During the processing of this complaint, OCR reviewed documents provided by the GCSD and information obtained during OCR's interviews with GCSD Staff. In addition, OCR interviewed the complainant and her representative and reviewed information provided by them as well.

Regarding Issue 1 and the Complainant's allegation that the XXXX excluded the Student XXXX because of XXXX disability, OCR's investigation indicated concerns that the GCSD may have denied the Student the opportunity to participate XXXX because of behaviors related to XXXX disability (XXXX). The District's XXXX informed OCR that XXXX prohibited the Student from attending the dance, in question, due to XXXX personal understanding of safety concerns that could be regarded as characteristics of the Student's disability.

Regarding Issue 2, OCR learned that the Student may have been placed in homebound due to XXXX disability without a proper evaluation pursuant to Section 504. The complainant, through XXXX representative, alleged that the District did not provide any other option for the Student besides homebound placement. Relative to the Student, OCR's investigation to date has concerns about the District's understanding of Section 504 procedures regarding the evaluation and placement of students. Based on that allegation, OCR investigated whether the District discriminated against the Student on the basis of disability by failing to evaluate the Student's need for homebound placement and thereby denied the Student a free appropriate public education during the 2018-2019 school year.

Section 110(b) of the CPM 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 resolution agreement, the implementation of which OCR will monitor.*" Based on the foregoing, OCR has determined that it is appropriate to resolve this complaint by obtaining a resolution agreement, the implementation of which OCR will monitor.

GCSD signed the enclosed Resolution Agreement (Agreement) on XXXX. 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 GCSD 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 GCSD's implementation of the Agreement. Please be advised that if GCSD fails to adhere to the actions outlined in the Agreement, OCR will resume its compliance efforts.

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 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 Sheria D. Smith, the attorney assigned to investigate your complaint, at (214) 661-9635, or by e-mail at sheria.smith@ed.gov. You may also contact Melissa Malonson, Supervisory Attorney, at 214-661-9637 or by e-mail at melissa.malonson@ed.gov.

Sincerely,

A handwritten signature in blue ink that reads "Melissa Malonson". The signature is written in a cursive, flowing style.

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

CC: Cody Kees, Counsel for Genoa Central School District