



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
LOUISIANA  
MISSISSIPPI  
TEXAS

March 6, 2020

Dr. Brad Hunt, Superintendent  
Coppell Independent School District  
200 S. Denton Tap Rd.  
Coppell, TX 75019

Ref: 06-20-1163

Dear Superintendent Hunt:

This letter is to notify you of the resolution of the above-referenced complaint received by the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, and filed against the Coppell Independent School District (CISD or District), Coppell, Texas. The complaint, which was received in our office on XXXX XXXX XXXX, was filed on behalf of a student at XXXX XXXX XXXX XXXX (the Student) and alleged disability discrimination.

This agency 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 Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability. OCR is also responsible for enforcing 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, which prohibits discrimination on the basis of disability by certain public entities, including elementary and secondary educational institutions.

The CISD is a recipient of Federal financial assistance from the Department and is a public elementary and secondary educational institution. Therefore, OCR has jurisdiction to process this complaint to resolution pursuant to Section 504 and Title II.

**Legal Issues**

Based on the complaint allegations and OCR's jurisdictional authority, OCR opened the following legal issues for investigation:

1. Whether the CISD 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 (FAPE) during the XXXX XXXX semester, in violation of Section 504, at 34 C.F.R. § 104.33, and Title II, at 28 C.F.R. § 35.130.

2. Whether the CISD discriminated against the Student on the basis of disability by failing to appropriately evaluate the Student's need for regular or special education and related aids and services prior to making a change to the related aids and services identified as necessary to meet the Student's individual educational needs, and thereby denied the Student a FAPE during the XXXX XXXX semester, in violation of Section 504, at 34 C.F.R. §§ 104.33 and 104.35, and Title II, at 28 C.F.R. § 35.130.

### **Legal Standards**

The regulations implementing Section 504 and Title II, both of which prohibit discrimination on the basis of disability, provide the legal framework for OCR's investigation of this complaint. Under the Section 504 and Title II implementing regulations, at 34 C.F.R. § 104.33(a) and 28 C.F.R. § 35.130, respectively, a public school district that receives Federal financial assistance from the Department (recipient) must provide a FAPE to each qualified student with a disability in the recipient's jurisdiction. The Section 504 regulations, at 34 C.F.R. § 104.33(b), define an "appropriate education" as the provision of regular or special education and related aids and services that (i) are designed to meet the individual educational needs of disabled persons as adequately as the needs of nondisabled persons are met, and (ii) are based upon adherence to procedures that satisfy Section 504 requirements.

The Section 504 regulations' evaluation procedures, at 34 C.F.R. § 104.35(a) and (b), state that a recipient must evaluate any student who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the student's initial educational placement and any subsequent significant change in that placement. The Section 504 regulations, at 34 C.F.R. § 104.35(d), also mandate that a recipient establish procedures providing for the periodic re-evaluation of students receiving related aids and services. The Section 504 regulations do not specify how quickly an evaluation must be completed after a recipient obtains notice that a student needs or is believed to need special education or related services, or how often a recipient must re-evaluate a student identified as eligible for 504 services. In the absence of a recommendation to initiate a significant change in a disabled student's educational placement, which would trigger a need to re-evaluate a student's needs, OCR otherwise applies a "reasonableness" standard to determinations regarding the timeliness of re-evaluations. When evaluating a student under Section 504, the regulations, at 34 C.F.R. § 104.35(c), provide that:

In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options . . . .

With regard to a recipient's obligation to provide a FAPE to students with disabilities, compliance with this requirement is generally determined by assessing whether a recipient has implemented a student's Section 504 plan. When evaluating whether a recipient has failed to provide the related aids and services deemed necessary to provide the student a FAPE, OCR considers: (1) whether the recipient evaluated the student in accordance with Section 504 requirements and determined that the student was a qualified individual with a disability as defined by Section 504; (2) whether the student's needs were determined on an individualized basis by a group of persons knowledgeable about the student and the information considered; and (3) whether the placements, aids, and services identified by the recipient through this process as necessary to meet the student's individual needs were or are being provided. If they have not been provided, OCR will determine the recipient's reason for failing to do so and the impact of the failure.

OCR interprets the general prohibition against discrimination in the Title II implementing regulations to require the provision of a FAPE to the same extent that the Section 504 implementing regulations specifically require the provision of a FAPE.

### **Preliminary Findings**

XX – paragraph redacted – XX

OCR began its investigation of this complaint by requesting and reviewing responsive documentation from the CISD. The CISD's records reflect the following facts regarding the CISD's evaluation of the Student to determine his eligibility for regular or special education and related aids and services.

XX – remainder of findings redacted – XX

### **Preliminary Analysis**

OCR's preliminary investigation of this complaint revealed some concerns regarding implementation of the Student's 504 plan by his teachers during the XXXX XXXX semester. As reflected in the CISD's 504 committee meeting minutes, some of the Student's teachers appeared to not consistently provide certain accommodations to the Student because it was their determination that the Student did not require them. XX – remainder of paragraph redacted – XX

Moreover, while it is OCR policy to refrain from reviewing placement decisions made by a committee of individuals convened in accordance with the procedural requirements set forth in Section 504, OCR notes that the CISD's documentation does not clearly indicate how the CISD reached its determination that the Student no longer required related aids and services, XX – remainder of paragraph redacted – XX.

In short, while OCR has not completed its investigation and does not have sufficient information to make a determination regarding the CISD's compliance with Section 504 and Title II with

respect to the issues opened for investigation, the CISD's documentation reveals some concerns that the CISD may not have "carefully considered" all information presented to the 504 committee from all sources and, further, that the Student's teachers may not have consistently ensured that the Student's accommodations were being provided to the Student in the manner determined necessary for the Student by the Student's 504 committee.

### **Conclusion and Resolution**

Prior to OCR investigating further and making a compliance determination, the CISD expressed interest in taking action to voluntarily resolve the allegations made in this complaint. Pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), allegations under investigation may be resolved at any time when, prior to the point when OCR issues a final determination, the recipient expresses an interest resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. In light of the CISD's willingness to address the allegations made in this complaint without further investigation, OCR has determined that entering into a voluntary resolution agreement with the CISD is appropriate in this case. Accordingly, OCR approved the CISD's request to voluntarily resolve this complaint pursuant to Section 302 of the CPM.

The CISD voluntarily submitted the enclosed Voluntary Resolution Agreement (Agreement) to OCR, signed by the CISD's Superintendent on March 5, 2020. The provisions of the Agreement are aligned with the complaint allegations and the information obtained during OCR's preliminary investigation and are consistent with applicable law and regulations. OCR has determined that the Agreement, upon full implementation by the CISD, satisfactorily resolves the allegations presented in 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 CISD's implementation of the Agreement. Please be advised that if the CISD 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 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.

Please be advised that the CISD 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 any questions regarding this letter or the Agreement, please contact Rachel Caum, Attorney, at (214) 661-9632, or at [rachel.caum@ed.gov](mailto:rachel.caum@ed.gov). You may also contact me, at (214) 661-9638, or at [lori.bringas@ed.gov](mailto:lori.bringas@ed.gov).

Sincerely,

/s/

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

Enclosure: Voluntary Resolution Agreement

cc: XXXX XXXX, XXXX XXXX (*via email only*)