



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
LOUISIANA
MISSISSIPPI
TEXAS

August 19, 2020

Via email only to: XXXX

[XXXX to the end of address line],

OCR Ref. No.: 06-20-1357

Dear XXXX XXXX:

This letter is to notify you of the determination made by the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, regarding the above-referenced complaint filed against the Raymondville Independent School District (RISD or District), in Raymondville, Texas, which our office received on February 21, 2020. The Complainant alleged that the District discriminated against XXXX XXXX (Student) based on XXXX disability when it failed to provide the Student with XXXX XXXX XXXX (e.g., XXXX while XXXX XXXX XXXX, in violation of the provisions set forth in the Student's XXXX individual education program (IEP).

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 the Department are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibits discrimination based on 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 based on disability that are filed against public entities, including public elementary and secondary educational institutions. The RISD is a recipient of Federal financial assistance from the Department and is a public elementary and secondary educational system. Therefore, OCR has jurisdiction to process this complaint to resolution pursuant to Section 504 and Title II.

OCR investigated the following legal issue:

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 XXXX individual educational needs from XXXX through XXXX (e.g., XXXX) as stated in XXXX IEP, and thereby denied the Student a free appropriate public education during the XXXX-XXXX 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.

During its investigation, OCR reviewed information provided by the Complainant and the District. OCR also interviewed the Complainant and appropriate RISD witnesses. OCR then contacted the Complainant to afford XXXX the opportunity to provide additional information in support of XXXX

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

complaint. Before OCR made a compliance determination, the RISD expressed interest in voluntarily resolving the allegations in this complaint. Section 302 of OCR's Case Processing Manual (CPM) provides that a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the allegation. Further, the CPM provides that the provisions of the voluntary resolution agreement will align with the complaint allegations or the information obtained during the investigation and be consistent with applicable regulations. OCR determined that voluntary resolution prior to the conclusion of investigation is appropriate. A summary of the information OCR obtained during its investigation appears below.

Background

The Student was in the XXXX grade at the RISD's XXXX during the XXXX-XXXX school year and was recognized as a Student with a disability. Per the XXXX from the RISD dated XXX, the RISD had an admission, review, and dismissal (ARD) meeting for the Student on XXXX. [XXXX to end of subsection]

Legal Standard

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 free appropriate public education (FAPE) to each qualified student with a disability in the district'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. Compliance with this provision is generally determined by assessing whether a district has implemented a student's Section 504 plan, also known as an "IEP." When evaluating whether a district has failed to provide the related aids and services deemed necessary to provide the student a FAPE, OCR determines: (1) whether the district 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 district 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 district'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.

A finding that a recipient has violated one of the laws that OCR enforces must be supported by a preponderance of the evidence (i.e., sufficient evidence to prove that it is more likely than not that unlawful discrimination or retaliation occurred). When there is a significant conflict in the evidence and OCR is unable to resolve that conflict, for example, due to the lack of corroborating witness statements or additional evidence, OCR generally must conclude that there is insufficient evidence to establish a violation of the law.

Analysis and Resolution

The Complainant alleged [XXXX to end of paragraph].

OCR first considered whether the District evaluated the Student in accordance with Section 504 requirements and determined if the Student was a qualified individual with a disability as defined by Section 504. [XX – sentences redacted – XX] Since OCR determined that: 1) the District evaluated the Student in accordance with Section 504 requirements and the District determined that the Student was a qualified individual with a disability as defined by Section 504, and 2) that the District determined that the Student’s needs were determined on an individualized basis by a group of persons knowledgeable about the Student and the information considered, OCR next considered whether the placements, aids, and services identified by the District identified as necessary to meet the Student’s individual needs were provided for the Student.

[XXXX to end of paragraph]

[XXXX to end of paragraph]

[XX – sentences redacted – XX] Prior to OCR investigating further and making a compliance determination, the RISD expressed interest in voluntarily resolving this complaint. OCR determined that voluntary resolution is appropriate in this case.

Conclusion

The District signed the enclosed Resolution Agreement (Agreement) on XXXX. OCR determined the provisions of the Agreement align with the complaint allegations and appropriately resolve them. 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. 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. A duly authorized OCR official approved OCR’s formal policy statements, which are 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 would like to thank you and your staff for your cooperation throughout OCR's investigation of this complaint. If you have any questions or concerns regarding this letter, please contact Brittany Coleman, General Attorney, at (214) 661-9538, or at brittany.coleman@ed.gov. You may also contact me at (214) 661-9638 or at lori.bringas@ed.gov.

Sincerely,

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