



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

Thursday, August 6, 2020

REGION VI
LOUISIANA
MISSISSIPPI
TEXAS

Dr. Joe Young
Superintendent
Brownwood Independent School District
2707 Southside Dr.
Brownwood, TX 76801

OCR Complaint No. 06-20-1374

Dear Dr. Young:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against the Brownwood Independent School District (BISD), Brownwood, Texas, which was referred from the Department of Justice to OCR and received on February 28, 2020. The complaint alleged that the only ramp to enter the BISD football stadium (Stadium) seating is too steep for him to use with his walker.

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 the 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 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. § 12131 *et seq.*, 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 certain public entities. BISD is a recipient of Federal financial assistance from the Department and is a covered public entity. Therefore, OCR has jurisdictional authority to process this complaint for resolution under Section 504 and Title II.

OCR processed the following issue for investigation:

Whether persons with disabilities are denied the benefits of, excluded from participation in, or otherwise subjected to discrimination by BISD because the ramp at the football stadium is inaccessible to or unusable by persons with disabilities, in violation of Section 504 and Title II, at 34 C.F.R. §§ 104.21-104.23, and 28 C.F.R. §§ 35.149-35.151, respectively.

During the processing of this complaint, OCR reviewed evidence regarding the Stadium, its construction date and notices to stadium guests. OCR also interviewed BISD staff and reviewed rebuttal responses from the complainant. OCR approved the BISD's request to resolve the issue prior to the conclusion of the investigation pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). The bases for the resolution of this complaint is discussed below.

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

The complainant XXXX attended activities at the Stadium. The complainant informed OCR that when XXXX attended activities at the Stadium it was difficult for XXXX to enter the Stadium's seating because the ramp was too steep XXXX.

OCR's investigation revealed that the BISD has one stadium, which was constructed in 1972. The Stadium has two seating areas that border the long sides of each side of the football field. There are two ramps leading up to each seating area, which has not been altered since 1972. As such, OCR determined that BISD's football stadium is considered an existing facility under both Section 504 and Title II and is subject to a program accessibility standard, for which there is no slope requirement. As such, OCR's investigation continued to determine whether the football stadium, when viewed in its entirety is readily accessible to and usable by persons with disabilities.

BISD staff reported that "upon request golf carts are used to transport patrons to the seating areas." However, the information the BISD provided to OCR regarding how patrons are informed of this service only provided notice to patrons for wheelchair assistance, not all mobility impaired persons. OCR noted this concern to the BISD, who requested to resolve this issue prior to the conclusion of the investigation via a voluntary resolution agreement pursuant to Section 302 of OCR's Case Processing Manual. Section 302 of OCR's 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 *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. The provisions of the resulting resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation, and will be consistent with applicable regulations.

BISD signed the enclosed Resolution Agreement (Agreement) on July 27, 2010. OCR has determined the Agreement is aligned with the complaint allegation and appropriately resolves it. Further, OCR accepts the Agreement as an assurance that BISD 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 BISD's implementation of the Agreement. Please be advised that if BISD 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