



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

Renaissance Tower  
1201 Elm Street, Suite 1000  
Dallas, TX 75270

REGION VI  
LOUISIANA  
MISSISSIPPI  
TEXAS

[XXXX XXXX XXXX]

OCR Ref. No. 06-21-1287

[XXXX to end of address line]

Via email only

Dear [XXXX XXXX]:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against [XXXX XXXX], the Carrollton-Farmers Branch Independent School District (CFB ISD, District, or recipient), in Carrollton, Texas. This complaint was received by OCR on [XXXX XXXX XXXX]. The complainant alleged that the District discriminated against [XXXX XXXX XXXX XXXX] (Student A), who attended [XXXX XXXX XXXX XXXX XXXX] within the District, on the basis of disability. The complainant also alleged that the District retaliated against [XXXX] and [XXXX XXXX XXXX XXXX] (Student B), who attended [XXXX XXXX XXXX] within the District. Specifically, the complainant alleged that:

1. During approximately [XXXX XXXX XXXX XXXX XXXX], the District discriminated against Student A on the basis of [XXXX] disabilities by refusing to provide [XXXX] with accommodations and/or services [XXXX] needed as a result of such disabilities (*i.e.*, [XXXX to end of parenthesis]); and
2. The District retaliated against the complainant and Student B when [XXXX to end of allegation].

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

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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. Section 504 prohibits 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 public entities. Both Section 504 and Title II also prohibit retaliation. Because the District is a recipient of Federal financial assistance from the Department and is a public entity, OCR has jurisdiction to process this complaint for resolution pursuant to Section 504 and Title II.

In this case, OCR investigated the following issues:

1. Whether the District discriminated against Student A 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 (*i.e.*, [XXXX to end of parenthesis]), and thereby denied the Student a free appropriate public education (FAPE) 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; and
2. Whether the District retaliated against the complainant and Student B by [XXXX to end of clause], in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively.

During its investigation of this complaint, OCR carefully reviewed written and electronic documentation provided by both the complainant and the recipient. As explained in this letter, OCR resolved the allegations and issues of this investigation pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). The basis for OCR’s resolution regarding the issues of the investigation is discussed in further detail below.

## **I. Investigative Summary for Issue 1 – Alleged Failure to Implement:**

### **A. Evidence Obtained To Date:**

[XXXX to end of subsection]

### **B. Legal Standard:**

Under the Section 504 implementing regulations at 34 C.F.R. § 104.33(a), 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 district’s jurisdiction. The Section 504 regulation, at 34 C.F.R. § 104.33(b), defines 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 "individualized education program," or "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 at 28 C.F.R. § 35.130 to require the provision of a FAPE to the same extent that the Section 504 implementing regulations specifically require the provision of a FAPE.

C. Preliminary Analysis:

[XXXX to end of paragraphs]

Section 302 of OCR's *Case Processing Manual* (CPM) states that allegations under investigation may be resolved at any time when, prior to the point when the Regional Office issues a final determination, the recipient expresses an interest in 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. After the investigation of this complaint began, but before OCR reached an investigative compliance determination as to this issue, the District expressed a desire to voluntarily resolve this complaint. OCR determined that voluntary resolution of Issue 1 of this investigation and the related allegation was appropriate.

**II. Investigative Summary for Issue 2 – Alleged Retaliation:**

A. Evidence Obtained To Date:

[XXXX to end of subsection]

B. Legal Standard:

OCR interprets the regulations it enforces, consistent with case law regarding analogous provisions, to require satisfaction of the following three elements to find a *prima facie* case of retaliation:

1. An individual experienced an adverse action caused by the recipient; and
2. The recipient knew that the individual engaged in a protected activity or believed the individual might engage in a protected activity in the future; and

3. There is some evidence of a causal connection between the adverse action and the protected activity.

Although all three elements must exist to establish a *prima facie* case, OCR need not address all three elements if it determines one is missing. If OCR does not find that a *prima facie* case exists, OCR will conclude that there is insufficient evidence to support a finding of retaliation. If, however, the evidence demonstrates a *prima facie* case of retaliation, an inference of unlawful retaliation is raised and OCR proceeds to the next stage of the analysis. To ascertain whether this inference might be rebutted, OCR will then determine whether the recipient can identify a non-retaliatory reason for its actions. If such a reason is identified, OCR's investigation proceeds to the third stage. At the third stage, OCR examines the evidence to resolve what the reason was (or reasons were) for the intimidation, threat, coercion, or discrimination.

### C. Preliminary Analysis:

[XXXX to end of paragraphs]

Section 302 of OCR's CPM states that allegations under investigation may be resolved at any time when, prior to the point when the Regional Office issues a final determination, the recipient expresses an interest in 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. After the investigation of this complaint began, but before OCR reached an investigative compliance determination as to Issue 2, the District expressed a desire to voluntarily resolve this issue. OCR determined that voluntary resolution of Issue 2 of this investigation and the related allegation was appropriate.

### III. **Conclusion:**

As explained above, OCR determined that voluntary resolution of this complaint under Section 302 of OCR's CPM was appropriate. The District submitted the enclosed Resolution Agreement (Agreement) to memorialize the steps that it will take to resolve the compliance issues raised by the complaint. OCR has determined that the Agreement, when fully implemented, will address all of the allegations investigated in this complaint. 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 efforts to implement 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 concludes OCR's investigation of this complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

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. The complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

Further, please be advised that 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 appreciates the District's cooperation during the investigation and resolution of this complaint. If you have any questions regarding this letter, please contact Cristin Hedman Sparks, the attorney assigned to this matter, at (214)-661-9647 or [cristin.hedman@ed.gov](mailto:cristin.hedman@ed.gov). You may also contact me at (214)-661-9638 or [lori.bringas@ed.gov](mailto:lori.bringas@ed.gov).

Sincerely,

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

Enclosure: Executed Voluntary Resolution Agreement