

CUI/INV/LEI/PRVCY



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

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

REGION VI
LOUISIANA
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TEXAS

September 30, 2021

Diana Sayavedra, Acting Superintendent
Fort Bend Independent School District
16431 Lexington Blvd.
Sugar Land, Texas 77479-2308

Sent via electronic mail only: superintendent@fbisd.com

RE: OCR Complaint 06-21-1419
Fort Bend Independent School District

Dear Acting Superintendent Sayavedra:

The U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against the Fort Bend Independent School District (FBISD or District), in Sugar Land, Texas. The complaint, which was received in our office on XXXXXX XXX XXXX, was filed on behalf of a student at XXXXXXXXX XXXX XXXXXX (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.

Controlled by: U.S. Department of Education, OCR, Marvin Macicek

The FBISD is a recipient of Federal financial assistance from the Department and is a public elementary and secondary educational institution. Therefore, OCR has jurisdiction over this complaint under Section 504 and Title II.

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

Whether the FBISD 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 and thereby denied the Student a free appropriate public education (FAPE) during the XXXXXXXXX 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.

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.

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.

If a student with a disability transfers to a recipient district from another school district with a Section 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the plan is appropriate, the district is required to implement the plan. If the district determines that the plan is inappropriate, the district is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R. § 104.35 and determine which educational program is appropriate

XX
XX.

The Section 504 Plan created by the Student’s previous school District indicated that the Student was a qualified student with a disability XXXXXXXXXX and specified the following accommodations: XX
XX
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XXXXXXXXXXXXXXXXXXXXXXXXXXXX.

In addition, OCR reviewed email correspondence between the Complainant and the Principal dated XXXXXXXX XXX XXXX. In the email, the Complainant stated XXXXXXXXXXXXXXX
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XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

The District also provided OCR with XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. The District also provided teacher observation reports from 5 of the Student’s teachers. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XX
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XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

The District’s records also evinced that the XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. Copies of email communication reflected that the Student was given the opportunity to make up many assignments by the end of the school year. The District’s records further reflect that the only Section 504 meeting held for the Student occurred in XXXXX XXXX, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. Finally, the District’s records reflect that XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

Conclusion and Resolution

Prior to OCR investigating further and making a compliance determination, the FBISD expressed interest in voluntarily resolving 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 in resolving the allegations and OCR determines that it is

If you have any questions regarding this letter or the Agreement, please contact Marvin Macicek, the investigator assigned to the complaint, at (214) 661-9636, or at marvin.macicek@ed.gov. You may also contact me, at (214) 661-9638, or at lori.bringas@ed.gov.

Sincerely,

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

Enclosure: Voluntary Resolution Agreement