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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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1201 Elm Street, Suite 1000
Dallas, TX 75270

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TEXAS

December 14, 2021

Dr. Brian T. Woods, Superintendent
Northside ISD
5900 Evers Road
San Antonio, Texas 78238

Via email only: XXXXX

RE: OCR Complaint No. 06-21-1479

Dear Dr. Woods:

The United States Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint against the Northside Independent School District (the District), in San Antonio, Texas. The Complainant alleged that the Los Reyes Elementary School discriminated against XXXXX child (the Student) on the basis of disability. The Complainant also alleged the District treated XXXX differently on the basis of the Student's disability.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 *et seq.*, and its implementing regulations at 34 C.F.R. Part 104, which prohibit discrimination by recipients of Federal financial assistance from the Department (recipients) based on disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132 *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination based on disability by certain public entities. The School is a recipient and a public entity; therefore, OCR has jurisdiction to process this complaint under Section 504 and Title II.

OCR opened the following issues for investigation:

1. 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 individual educational needs (XXXXX) and thereby denied the Student a free appropriate public education during the 2020-2021 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.
2. Whether the District treated you differently on the basis of the Student's disability in the context of an educational program or activity (i.e., requiring you to pick up

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Controlled By: U.S. Department of Education, OCR, Selim Fiagome

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the Student's education records at the District's student services building rather than at the Student's campus) without a legitimate, nondiscriminatory reason, and thereby, interfered with or limited your ability to participate in or benefit from the services, activities or privileges provided by the District during the 2020-2021 school year, in violation of Section 504, at 34 C.F.R. § 104.4, and Title II, at 28 C.F.R. § 35.130.

OCR conducted an interview with the Complainant, reviewed data provided by the School, and interviewed School staff. OCR's preliminary review indicates the Student was evaluated on August 16, 2021, found to be a qualified individual with a disability, and provided services under an IEP Plan. OCR's review of the Student's IEP Plan indicates the Student was to be provided with 40 minutes of adaptive PE consult and 150 minutes of adaptive PE per grading period by the School. OCR's preliminary review indicates the Student was initially receiving 40 minutes of Adaptive PE consult and 150 minutes of Adaptive PE during the grading period. OCR's review of a schedule provided by the District shows some inconsistency in the provision of Adaptive PE consult minutes, indicating the consult was only 30 minutes at times during the grading period. OCR's preliminary review of the information above reflects a concern that the District may have failed to provide the full consult services deemed necessary to meet the Student's individual educational needs.

Regarding issue 2, OCR's preliminary review indicates the Complainant was directed by District staff that she could only pick up educational records for the Student from the District's 504 Services building. OCR reviewed the District's policy regarding obtaining educational records. According to the Elementary Student Handbook, "[t]he school district maintains student education records at each elementary, middle, high or special school." In addition, the handbook states, "[t]he principal will make arrangements for access and notify the person making the request of the time and place where the records may be inspected." Here, the principal forwarded the request to be processed by the District's 504 services office. The Director of Section 504 and Related Services noted that the District does not require parents of students with special education records to pick up such records at the 504 Services building. And the Director indicated it is the District's practice that parents can obtain records at a student's school. OCR's preliminary review of the information above reflects a concern that the Complainant was treated differently than parents of nondisabled students when she was required to obtain records from the District's 504 Services building rather than the Student's home campus.

Prior to the conclusion of OCR's investigation, the District informed OCR that it was interested in resolving the complaint. Section 302 of OCR's Case Processing Manual 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. 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. OCR approved the School's request to resolve this complaint prior to conclusion of the investigation.

The District voluntarily signed the enclosed resolution agreement (Agreement) on December 13, 2021. OCR determined the Agreement resolves the issues under investigation, upon

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implementation. Thus, OCR is closing the investigation of this complaint as of the date of this letter. OCR will monitor the District's implementation of the Agreement to ensure all commitments are satisfied.

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. You may have the 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 retaliation 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, please contact Selim Fiagome, the attorney assigned to your complaint, at 214-661-9620, or by e-mail at Selim.Fiagome@ed.gov.

Sincerely,

Timothy D. Caum
Supervisory Attorney/ Team Leader
OCR Dallas Office