



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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TEXAS

October 4, 2023

Dr. Clark Ealy, Superintendent
Schertz-Cibolo-Universal City Independent School District
1060 Elbel Road
Schertz, Texas 78154

Via email only cealy@scuc.txed.net; c/o Elizabeth Neally, Counsel, eneally@wabsa.com

**RE: OCR Complaint No. 06-23-1745
Schertz-Cibolo-Universal City ISD**

Dear Dr. Ealy:

The United States Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against Schertz-Cibolo-Universal City Independent School District (the District). The Complainant alleged the District discriminated against her on the basis of disability when she was denied the use of her service animal on a District campus.

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 District is a recipient and a public entity; therefore, OCR has jurisdiction to process this complaint under Section 504 and Title II.

During the investigation to date, OCR reviewed information provided by the District and Complainant. OCR identified compliance concerns that the District infringed on the Complainant's ability to be accompanied by her service animal on a District campus. The applicable legal standard, factual findings, and reasons for OCR's compliance concerns are summarized below.

Legal Issue

Whether the District discriminated against the Complainant on the basis of disability by infringing on the Complainant's ability to use her service animal on a District campus, in

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violation of Section 504 and Title II, and their implementing regulations, at 34 C.F.R. § 104.4(a) and 28 C.F.R. § 35.136(a), respectively.

Legal Standard

The regulations implementing Section 504, at 34 C.F.R. § 104.4, and Title II, at 28 C.F.R. § 35.130(a), state that no person with a disability shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which the regulations apply. Generally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability. See 28 C.F.R. § 35.136(a). A service animal includes a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. See 28 C.F.R. § 35.104. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are permitted. See 28 C.F.R. § 35.136(g). A public entity may ask that a service animal be removed from the premises if the same is out of control and the handler does not take effective control of the animal, or if the service animal is not housebroken. See 28 C.F.R. § 35.136(b).

Under the Title II regulations at 28 C.F.R. § 35.136(f), a public entity may only ask if a service animal is required because of a disability and what work or task the animal has been trained to perform. Moreover, a public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Findings of Fact

During the [redacted content], the Complainant [redacted content] at the [redacted content] (the School) [redacted]. Due to the Complainant's diagnoses of [redacted content], the Complainant has a trained service dog to [redacted content]. The Complainant alleged that on [redacted content], the School's [redacted content] informed her that her service dog was no longer permitted at the School's campus and that the District would conduct an internal review of its policies to determine whether she could return with the service dog. The Complainant alleged that the [redacted content] requested documentation regarding the service dog's certification multiple times from [redacted content].

OCR's review of information provided by the District indicates that, in [redacted content], the District became aware that [redacted content]. As such, the District conducted an internal review of its policies to determine whether [redacted content]. OCR's review of the District's data response indicates, in [redacted content], the School's [redacted content] informed the Complainant that she could not bring her service animal to the School until the District completed its internal review.

The District provided OCR with an affidavit from the School's [redacted content] indicating that, on or about [redacted content], the Complainant was notified that [redacted content]. He denied asking the Complainant for documentation regarding the service dog's certification.

In early [redacted content], the District informed the Complainant [redacted content] that her service dog was not permitted to accompany her to the School's campus [redacted content]. However, after completing its internal review, the District determined it improperly excluded the Complainant's service dog. On [redacted content], the District informed the Complainant that her service dog could accompany her to the School's campus [redacted content].

OCR reviewed the District's service animal policy, which states that the District shall not require documentation regarding a service animal, such as proof that the animal has been certified, trained, or licensed as a service animal.

Analysis

The evidence indicates that between [redacted content], the District informed the Complainant on one or more occasions that she could not bring her service dog to the School pending the District's internal review of policies, [redacted content]. OCR's review raises a concern that the District infringed on the Complainant's ability to use her service animal at the School.

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. OCR approved the District's request to resolve this complaint prior to conclusion of the investigation. The District entered into the attached Resolution Agreement (Agreement), which when implemented will address the compliance concerns. The Agreement requires the District to provide training to School faculty, staff, and administrators regarding its obligations under Section 504 and Title II, specific to the District's obligation to permit the use of a service animal by an individual with a disability.

OCR will monitor the implementation of the Agreement until the District is in compliance with the terms of the Agreement. Upon completion of the obligations under the Agreement, OCR will close the case.

This concludes OCR's investigation of the 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 individual has 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 [redacted content], the attorney assigned to this complaint, at [redacted content], or by e-mail at [redacted content].

Sincerely,

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