



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Ref: OCR Docket #06151108

Dr. Buck Gilcrease, Superintendent
Alvin Independent School District
301 E. House Street
Alvin, Texas 77511

Dear Dr. Gilcrease:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against the Alvin Independent School District (AISD), Alvin, Texas, which OCR received on November 20, 2014. The Complainant alleged that the AISD discriminated against XXXX (Student) on the basis of disability and also subjected her and the Student to retaliation. Specifically, the Complainant alleged that:

1. The AISD discriminated against the Student on the basis of disability by failing to evaluate him to determine his individualized educational needs, despite having notice that he is or may be disabled; and
2. On or about XXXX, the AISD retaliated against her and the Student by XXXX XXXX XXXX against them because of her efforts to advocate for the Student's rights as a student with a disability.

OCR is responsible for determining whether entities that receive or benefit from Federal financial assistance, either from the Department or from an agency that has delegated investigative authority to the Department (recipients), are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulations, at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The AISD is both a recipient of Federal financial assistance from the Department and a public entity. Therefore, OCR has jurisdiction to resolve this complaint under Section 504 and Title II.

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

OCR opened an investigation of the following legal issues:

1. Whether the AISD discriminated against the Student on the basis of disability by failing to timely evaluate his need for regular or special education and related aids and services despite having notice that, because of his alleged disabilities, he needed or was believed to need such aids and services, and thereby denied the Student a free appropriate public education during the 2013-14 and 2014-15 school years, in violation of Section 504 and Title II and their implementing regulations, at 34 C.F.R. §§ 104.33 and 104.35, and 28 C.F.R. § 35.130, respectively; and
2. Whether the AISD retaliated against the Complainant and/or Student during the 2014-15 school year by XXXX XXXX XXXX against the Complainant and the Student because of the Complainant's efforts to advocate for the Student's rights as a student with a disability, in violation of Section 504, at 34 C.F.R. § 104.61, and Title II, at 28 C.F.R. § 35.134.

Prior to the conclusion of OCR's investigation, and before OCR had obtained sufficient evidence to support a finding of either compliance or noncompliance with regard to the issues above, the AISD expressed an interest in resolving the allegations and issues raised in the complaint. Under Section 302 of OCR's Case Processing Manual, issues under investigation may be resolved at any time when, prior to the conclusion of the investigation the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation.

OCR determined that it is appropriate to resolve the allegations and issues pursuant to OCR's case processing procedures referenced above. OCR negotiated with the AISD and obtained the enclosed Resolution Agreement (Agreement), dated October 13, 2015. OCR has determined that the Agreement, when fully implemented, will satisfactorily resolve the compliance issues raised by the complaint allegations. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint; however, OCR will actively monitor the AISD's implementation of the Agreement. Please be advised that if the AISD fails to adhere to the actions required under the Agreement, OCR will immediately resume its compliance efforts.

This concludes OCR's investigation of the complaint and should not be interpreted to address the AISD's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The Complainant has been notified of this action.

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.

Please be advised that the AISD 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 Complainant may file another 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.

If you have any questions regarding this letter, you may contact Mrs. Williams at (214) 661-9607 or by email at Tamara.Williams@ed.gov. You may also contact me at (214) 661-9648, or by email at Timothy.Caum@ed.gov.

Sincerely,

Timothy Caum
Supervisory Attorney/Team Leader
Dallas Office

Enclosure