



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

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December 19, 2013

Dr. Jerome Roberts
Superintendent
East Aurora School District #131
McKnight Service Center
417 Fifth Street
Aurora, Illinois 60505

Re: OCR Docket # 05-13-1311

Dear Dr. Roberts:

This is to advise you of the resolution of the complaint (#05-13-1311) filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on June 6, 2013, against East Aurora Unit School District #131 (District) alleging discrimination on the basis of race.

The Complainant alleged that East Aurora School District #131 (District) discriminated against a seventh grade female student (Student A) at Cowherd Middle School, a District school, on the basis of race (White). The Complainant specifically alleged that during the 2012-2013 school year, students at Cowherd Middle School (School) harassed Student A on the basis of race.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin by recipients of Federal financial assistance. The regulation implementing Title VI, at 34 C.F.R. § 100.3(a), provides, in relevant part, that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance. The District is a recipient of Federal financial assistance and is, therefore, subject to the provisions of Title VI and its implementing regulation.

Harassment on the basis of race, color, or national origin is a form of prohibited discrimination. To determine whether a hostile environment based on race, color, or national origin exists, OCR considers whether there was harassing conduct that was sufficiently severe, pervasive or persistent to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a school. If a

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hostile environment based on race, color, or national origin exists, and a school has notice of the hostile environment, then the school is required to take appropriate responsive action¹.

Different treatment on the basis of race, color, or national origin is also a form of prohibited discrimination. To determine whether different treatment occurred, OCR examines whether there were any apparent differences in the treatment of similarly situated students on the basis of race, color or national origin. If individuals were subjected to different treatment, OCR determines whether the school can provide a legitimate, non-discriminatory reason for the different treatment and whether the proffered reason is a pretext for discrimination. OCR also examines whether there is any evidence to suggest that the school treated the individual(s) in a manner that was inconsistent with its established policies and procedures, or whether any other evidence of race, color or national origin discrimination exists.

Prior to the completion of OCR's investigation, the District expressed an interest in resolving the complaint by voluntarily entering into a settlement agreement. Subsequent discussions with the District resulted in the District signing the enclosed agreement (Agreement) which, when fully implemented, will resolve the issue in the OCR complaint. The provisions of the Agreement are aligned with the OCR complaint allegation and with the information obtained to date during the OCR investigation. The Agreement provisions are consistent with the applicable regulations. As a result of the Agreement, OCR is not making any compliance determination regarding the allegation of discrimination in the OCR complaint.

OCR will monitor the District's implementation of the Agreement. We look forward to receiving the District's first report regarding its implementation of the Agreement by March 1, 2013.

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 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, the extent provided by law, personally identifiable information, which, if released could reasonably be expected to constitute an unwarranted invasion of personal privacy.

¹ See OCR's 2010 Dear Colleague letter on Harassment and Bullying, which is available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>.

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If you have any questions regarding this letter, you may contact Miguel Figueras, OCR Regional Attorney, at (312) 730-1578 or by email at miguel.figueras@ed.gov.

Sincerely,

Ann Cook-Graver
Supervisory Attorney

Enclosure