



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN STREET, SUITE 1620
DALLAS, TEXAS 75201-6831

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

August 4, 2014

Ref. 06-11-1383

Mr. Brock Cartwright, Superintendent
Hamlin Independent School District
Administration Office
P.O. Box 338
Hamlin, TX 79520

Dear Mr. Cartwright:

This letter is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, has completed its investigation of the above-referenced complaint filed against the Hamlin Independent School District (HISD or District), Hamlin, Texas. In the complaint, which was received in this office on May 26, 2011, the complainant alleged HISD discriminates against students on the basis of race (XXXXXXXXXXXXXXXXXX). Specifically, the complainant alleged the XXXXXX XXXXXX School (XXX) Principal used racially offensive language towards her and her children at XXX during the 2010-11 school year.

This agency is responsible for determining whether organizations that receive or benefit from Federal financial assistance from the U.S. Department of Education or an agency that has delegated investigative authority to this Department are in compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at, 34 C.F.R. Part 100. Title VI prohibits discrimination on the basis of race, color, or national origin. HISD is a recipient of Federal financial assistance from the U.S. Department of Education. Therefore, OCR has jurisdictional authority to process this complaint against HISD alleging discrimination on the basis of race under Title VI.

Based on the letter of complaint and additional information obtained from the complainant, the complainant's son (hereinafter referred to as "Student A"), and the complainant's daughter (hereinafter referred to as "Student B"), OCR determined that the complainant's allegations raised the following legal issues for investigation:

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

- 1) Whether, during the 2010-11 school year, HISD discriminated against Student A and Student B on the basis of race (XXXXXXXXXXXXXXXXXX) by failing to respond adequately to redress the racially harassing conduct (i.e., both XXX students and the Principal used racially offensive language towards Student A and Student B), which was sufficient to constitute a racially hostile environment, of which it had or should have had notice, in violation of the regulation implementing Title VI, at 34 C.F.R. § 100.3.
- 2) Whether, during the 2010-11 school year, HISD subjected Student A¹ to discrimination on the basis of race in the application of discipline, in violation of the regulation implementing Title VI, at 34 C.F.R. § 100.3
- 3) Whether, during the 2010-11 school year, HISD subjected Student B to discrimination on the basis of race in the application of discipline, in violation of Title VI, at 34 C.F.R. § 100.3.

A finding that a recipient has violated one of the laws that OCR enforces must be supported by a preponderance of the evidence (i.e., sufficient evidence to prove that it is more likely than not that unlawful discrimination occurred). To resolve this complaint, OCR reviewed information from the complainant and the district, conducted an onsite investigation November 3-4, 2011, as well as interviewed the complainant, Students A and B, district personnel, and three various groups of XXX students. After analyzing the evidence, OCR concluded that the evidence, when considered in its totality, established a violation of Title VI occurred with regard Issues 1 and 3. The reasons for our determination are set forth below.

Background

The town of Hamlin is a small rural community in the Panhandle/South Plains region of Texas with a population of approximately 2000 persons. The HISD consists of one elementary, one middle, and one high school. During the 2009-10 school year, HISD had a total student enrollment of 500 students (56.6% white students; 35.4% Hispanic students; 7.1% black students; and 1% Asian/Pacific Islander students.²) During the 2009-10 school year, XXX had a student enrollment of XXX students (XX white students, XX Hispanic students, and X black students).³ According to data submitted by the district, the total student population at XXX for the 2010-11 school year was XXX students and the racial breakdown was as follows: XXX Caucasian/white students (XXXX%), XX Hispanic students (XXX%), X American Indian students (XXX%), X Asian students (XXX%), and XX African-American/black students (XXX%).

¹ The notification letters dated July 12, 2011, only mentioned Student B; however, during the investigation, the complainant also raised an incident during which Student A was also allegedly treated differently on the basis of race.

² Civil Rights Data Collection (CRDC), 2009 – 2010. OCR will only focus on information regarding xxxxx and xxxxx students, per the issues investigated in this complaint. The CRDC data is being used as background information.

³ CRDC, 2009 – 2010.

Issue 1: Racially Hostile Environment

A violation of Title VI may be found if a recipient has created or is responsible for a racially hostile environment (by effectively causing, encouraging, accepting, tolerating, or failing to correct) that interferes with or limits the ability of a student to participate or benefit from the services, activities, or privileges provided by a recipient.

To establish a violation of Title VI under the hostile environment theory, OCR must find that: 1) a racially hostile environment existed; 2) the recipient had actual or constructive notice of the racially hostile environment; and 3) the recipient failed to respond adequately to redress or otherwise respond to the hostile environment. Whether conduct constitutes a hostile environment must be determined from the totality of the circumstances, including a consideration of whether the racial harassment is severe, pervasive, or persistent. In making this determination, OCR examines the context, nature, scope, frequency, duration, and location of the racial incidents, as well as the identity, number, relationships of the persons involved, and the age of the students subjected to the harassment. The harassment must in most cases, consist of more than casual or isolated racial incidents to establish a Title VI violation. Harassing conduct can take many forms, including verbal acts and name calling, nonverbal behavior, such as graphic or written statements, or conduct that is physically threatening, harmful, or humiliating. Harassment does not necessarily have to include intent to harm, be directed at a specific target, or involve repeated incidents.

If OCR finds that a hostile environment existed under these standards, then OCR will proceed to determine whether the recipient received notice of the harassment and whether the recipient took reasonable steps to respond to the harassment. Under Title VI, school officials have an obligation to address harassment that creates a racially hostile environment where the school district knows, or has reason to know, of such conduct. An appropriate response includes immediate and appropriate steps to investigate what has occurred, and then taking steps that are reasonably calculated to end any harassment, eliminate the hostile environment that has been created, and prevent the harassment from recurring. In the event the initial response is not effective, then a recipient may be obligated to escalate its response to prevent further harassment. If a hostile environment exists, the recipient school district is also responsible for taking steps to remedy the effects of harassment on any student who was subjected to the harassment.

In her letter of complaint and subsequent correspondence with OCR, the complainant alleged that the XXX Principal (the Principal) continuously used the term “nigger”⁴ in front of her and Students A and B, and that the Principal used the racial epithet specifically towards Student A. The complainant stated that she had spoken to the Principal and informed him that his use of the word made her uncomfortable, but he was nonresponsive to her concerns. Additionally, the complainant indicated that she spoke to

⁴ OCR uses “nigger”, “niggar”, and “the n-word” throughout the course of this letter, based on the testimony and/or written documentation of the person providing the statement(s).

the former HISD Superintendent (Superintendent), and he informed her he would speak to the Principal regarding the use of the word, but to her knowledge, the Principal was never reprimanded.

OCR interviewed both Students A and B, who were in the xxxxxx and xxxxxx grade at XXX, respectively. Student A indicated that he had been called “nigger” by the Principal and other XXX students. Student A stated that he was also involved in an incident during which a xxxxx classmate wrote a “nigger poem,”⁵ and he became angry as a result of the poem and tore it up. Student B stated she had been called a nigger several times by different students, and while all of the XXX teachers know that xxxxx students have been calling xxxxx students “niggers,” nothing has been done. Student B further stated that “nigger” was the only racial epithet used towards the Students during the 2010-11 school year at XXX.

According to the complainant, Student A attended private counseling because of the harassing conduct experienced at XXX, and Student B would often lash out and get into trouble as a response to the racial names she was being called, namely “nigger.” Both Students A and B indicated that they had been called “nigger” numerous times during the 2010-11 school year. Neither Student A or B (nor the complainant) alleged that they were called names other than “nigger.” Additionally, neither Student A or B indicated that they had been involved in any racially motivated physical assaults.

Element One: Did a racially hostile environment exist?

During an interview with OCR, when asked about his alleged use of the term, “nigger” the Principal stated that he did not recall using the word towards either of the Students. With respect to alleged racial name-calling by other students, during the onsite investigation, some HISD employees (including XXX teachers, the HISD Superintendent, and the XXX Principal) who were interviewed indicated they had not personally witnessed XXX students using racially derogatory names towards each other during the 2010-11 school year. However, some staff indicated they had heard students use racial names. Some teachers stated that the words are used in the classrooms, in the hallways, and on the football field.

OCR determined that students at XXX regularly use racial epithets towards each other, and the Students were called “nigger” during the 2010-11 school year. Moreover, it is undisputed that Student A received a “nigger poem” from a Xxxxx student.⁶ OCR considered the context in which the racially harassing conduct occurred—a small school in a rural town with a xxxxxx school student population of XXX students that includes only XX xxxxxxxxxxxxxxxxx students. Due to the small size of the school, OCR determined that the students and staff would likely have more interaction with each other and the regular use of racially derogatory words at XXX would more readily create a

⁵ Because the poem was destroyed by Student A, OCR could not review the contents of the document; however, “nigger poem” is the way HISD officials characterized the document (which according to Student A had “nigger” written on it multiple times by the xxxxx classmate).

⁶ The “nigger” poem incident is discussed in more detail under Issue 2.

hostile environment for students; particularly the use of “nigger” towards the Students, due to the small population of xxxxx students at XXX.

While HISD staff reported that no student reported to them that they were hurt or offended by the use of the racially derogatory terms by XXX students, and no acts of physical violence were reported by the complainant or the Students, OCR found that the repeated use of racial epithets among XXX students during the 2010-11 school year was persistent and pervasive. Therefore, based on the aforementioned, including the frequency (daily), duration (throughout the 2010-11 school year), the age of the Students A and B (ages XX years old and XX years old, respectively,) and scope (throughout XXX, e.g., in the hallways and classrooms) of the racially derogatory comments (i.e., “nigger”), OCR concluded the conduct, as alleged, was sufficiently persistent and pervasive to constitute a racially hostile environment at XXX during the 2010-11 school year.⁷

Element Two: Did the recipient have actual or constructive notice of the racially hostile environment?

The complainant stated she discussed her concerns with both the Principal and Superintendent. During OCR’s investigation, neither the Principal nor Superintendent denied that the complainant at some point during the 2010-11 school year discussed her concerns about either the Principal or students allegedly using “nigger” or “niggar” towards the Students. Moreover, XXX staff acknowledged that they addressed students about the inappropriate use of racial comments. Therefore, based on a review of the evidence, OCR has determined that HISD had actual notice of the racially hostile environment at XXX during the 2010-11 school year.

Element Three: Did the recipient fail to respond adequately to redress the racially hostile environment?

OCR reviewed HISD’s district policy (Local), the HISD Student Code of Conduct (Code), and the XXX Teacher Guidelines for the 2010-11 school year. The district policy (Local) includes a statement of nondiscrimination that indicates the district “prohibits discrimination, including harassment, against any student on the basis of race, color, religion, gender, national origin, disability, or on any other basis prohibited by law, that adversely affects the student.” Moreover, in the Code, there are five listed levels of offenses, with Level I being the least severe and Level V being the most severe. According to the Code, Level III acts of misconduct include “those student infractions which are somewhat more serious than those in Levels I and II in their effect on the orderly process of the school program.” One of the listed examples of a Level III offense

⁷ OCR also determined that terms such as “wetback,” and “brownie” were used at XXX. Although OCR did not specifically investigate whether students of xxxxx races/ethnicities (other than XXXXXXXXXXXXXXXXX) were subjected to a hostile environment, OCR will address this concern via the attached resolution agreement.

includes, “Using profane, obscene, indecent, or racially or ethnical offensive language and/or physical gestures to other students.”

The District stated that XXX staff members have addressed the individual use of racial comments made by XXX students, and *if* a problem has continued with its use, students “can be written up on an office referral and sent to the office.” However, according to HISD, in most of the situations, the problems are handled by the instructor and do not result in a formal office referral.

Students reported to OCR that when someone would inform the teachers of racial comments being made daily in the hallways, they either “would not do anything,” or would tell the person who used the racial name to “stop” and would state, “I will keep my eye on them [i.e., the person who used the racial name].” One student indicated that three teachers were informed last school year about the use of racial names by students and nothing was done. The students confirmed that they participate in bullying training, but they didn’t believe the training sessions changed the school environment because the racial name-calling in the hallways persisted.

Based on information obtained via interviews during the onsite investigation, as well as in the district’s own data response, OCR determined that students at XXX frequently use inappropriate racial names towards each other, and determined that a hostile environment was established at XXX during the 2010-11 school year with respect to Students A and B and other xxxxx students. HISD staff had notice of the racially hostile environment at XXX. However, according to the evidence, the racial name calling still occurred on a repeated basis. Once a district has notice of a hostile environment, that district must take steps reasonably calculated to ensure that the harassment does not continue, and to ensure those subjected to the harassment are not restricted in their participation in its programs and activities.

Based on the evidence, OCR determined that HISD’s response was not reasonably calculated to end any harassment, eliminate the hostile environment that had been created at XXX, and prevent the racial harassment from recurring among the students. A more effective response would have included, in addition to punishing the perpetrators, such steps as reaffirming the school’s policy against discrimination (including racial harassment), publicizing the means to report allegations of racial harassment, training faculty on constructive responses to racial conflict, hosting class discussions about racial harassment and sensitivity to students of other races, and conducting outreach to involve parents and students in an effort to identify problems and improve the school climate. Consequently, based on the aforementioned, OCR found a violation of Title VI with regard to Issue 1.

Issue 2 (Student A) and Issue 3 (Student B)-Discrimination in Discipline:

The standards for determining compliance with Title VI are set forth in the regulation at 34 C.F.R. §100.3(a) and (b). The regulation, at 34 C.F.R. §100.3(a), states that no person shall, on the grounds 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. Section 100.3(b)(1)(i)-(vi), further states that a recipient may not, on the grounds of race, color or national origin, deny an individual any service or benefit of its programs; provide any service or benefit to an individual which is different or provided in a different manner; subject an individual to segregation or separate treatment in any matter related to receipt of any service or other benefit under the programs; restrict an individual in the enjoyment of any benefits of its programs; treat an individual differently in determining continued enrollment in its programs; or, deny an individual an opportunity to participate in a program through the provision of services which is different from that afforded others under the program. The regulation, at 34 C.F.R. §100.3(b)(2), also provides that a recipient may not utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination on the basis of race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

OCR investigates alleged discrimination in the application of student discipline consistent with federal statutory authority, the Department’s regulations, policies and pertinent case law. Disciplinary policies and practices can result in unlawful discrimination based on race in two ways: first, if students are intentionally subject to *different treatment* on account of their race; second, even if a policy is neutral on its face but has a disproportionate and unjustified *effect* on student(s) of a particular race, referred to as *disparate impact*.

Different Treatment

Title VI prohibits schools from intentionally disciplining students differently based on race. Enforcement of a rule or application in a discriminatory manner is prohibited intentional discrimination. When similarly-situated students of different races are disciplined differently for the same offense, discrimination can be the only reasonable explanation for the different treatment. Intentional discrimination in the administration of student discipline can take many forms, however, and can be proven even without the existence of a similarly-situated student. Additionally, a school’s adoption of a facially-neutral policy with an invidious intent to target certain races is prohibited intentional discrimination.

Title VI also protects students even if a school contracts or arranges for entities, over which it exercises some control, to be responsible for aspects of a school’s student safety or student discipline program. Schools cannot divest themselves of responsibility for the non-discriminatory administration of school safety and student discipline by relying on school resource officers, school district police officers, “contract” law enforcement companies or other contractors or law enforcement personnel over whom the school can exercise some control.

Whether OCR finds a violation of Title VI will be based on the facts and circumstances surrounding the particular discipline incident or series of incidents.

Disparate Impact

In addition to different treatment of students based on race, schools violate Federal law when they evenhandedly implement facially neutral policies or practices that, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of discriminating against students on the basis of race. The resulting discriminatory effect is commonly referred to as “disparate impact.”⁸ In determining whether a facially neutral student discipline policy has an unlawful disparate impact on the basis of race, OCR engages in the following three-part inquiry:

- 1) Has the discipline policy resulted in an adverse impact on students of a particular race as compared with students of other races?
- 2) Is the discipline policy necessary to meet an important educational goal?⁹
- 3) Even in situations where a school can demonstrate that a policy is necessary to meet an important educational goal, are there comparably effective alternative discipline policies available that would meet the school’s stated educational goal with less of a burden or adverse impact on the disproportionately affected racial group or is the school’s proffered justification a pretext for discrimination?

Student A

The complainant alleged that Student A was treated differently based on race with regard to a discipline incident involving a xxxxx classmate who allegedly wrote a “nigger poem.” Specifically, the complainant stated that Student A was disciplined for tearing up a “nigger poem” that Student A’s xxxxx classmate had composed. According to the complainant, while Student A was disciplined (i.e., received detention), the student who wrote the poem was not. During an interview with OCR, Student A corroborated the complainant’s allegation.

According to HISD, Student A was sent to the Principal’s office for tearing up another student’s paper. Once in the office, Student A reluctantly informed the Principal that the reason he tore up the paper was because on the paper was a nigger poem or joke that used the word “nigger.” According to the District, Student A stated he “did not want to get anyone in trouble” when the Principal asked Student A if would like for him to call in the student who wrote the poem/joke. The Principal later followed up with the student who allegedly wrote the nigger poem, and the student indicated that she had written the poem as Student A alleged. HISD asserted that the Principal had a conversation with this student and advised her that it was not appropriate behavior and if a similar incident occurred, she would be formally disciplined. According to HISD, neither the student who wrote the poem or Student A, received a formal disciplinary notice, but rather both

⁸ Recipients of Federal financial assistance are prohibited from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals or a particular race, color, or national origin.” 34 C.F.R. § 100.3(b)(2); *see also* 28 C.F.R. § 42.104(b)(2).

⁹ *See Elston v. Talladega County Bd. Of Educ.*, 997 F.2d 1394 (11th Cir. 1993).

only had informal office visits with the Principal about their behavior. Based on a review of information submitted by HISD, OCR corroborated that neither student received a disciplinary referral form for the incident.

Student B

During an interview with OCR, Student B indicated that during the course of the 2010-11 school year, she was disciplined for numerous arguments with xxxxx students (primarily, Student B alleges, as a response to the other students calling Student B a “nigger”); however, the xxxxx students were not disciplined for calling her a “nigger.” According to HISD, Student B was disciplined three times during the 2010-11 school year for incidents involving another XXX student.

Regarding the first incident, on September 14, 2010, Student B got into an argument with her classmate, who is xxxxx (hereinafter referred to as Student C), and Student B received three days of ISS, while Student C received lunch detention. According to the District, the reason Student B’s punishment was more severe was because Student B attempted to be physically aggressive with Student C. During the second incident which occurred on September 24, 2010, Student B threatened to hit Student C “in the mouth.” As reported by the Principal, Student B was given ISS for being the aggressor and Student C did not receive any punishment because Student C did not respond or threaten Student B. In the third incident, which occurred on January 24, 2011, Student B received detention for “mouthing off” with Student C. Initially, both students received lunch detention; however, Student B’s punishment was increased to three days of ISS because she was disrespectful to the Principal by slamming the door and making comments under her breath.

With regard to the first incident between Student B and Student C, OCR reviewed the referral forms for both Student B and C for the incident, which occurred on September 14, 2010. Both Student B and Student C received referral forms from the Xxx Teacher. OCR reviewed the referral forms which confirmed that Student B received three days of ISS and two swats and Student C received three days of lunch detention. On Student B’s referral form, the Xxx Teacher wrote the following: *“I was assisting [Student B] doing her letter project and she was making rude remarks about another student. This escalated and [Student B] said she was going to “cuss her smooth out.” The other child responded and I had to physically separate them.”* On Student C’s referral form, the teacher wrote the following: *“[Student C] had out her hands and said all but two could see them [i.e., her bracelets] she kept on and the situation escalated. I told her to 4 times to leave the room. She refused but finally left after asking [Student B] what she had said and standing up as if to confront [Student B].”*

With regard to the second incident, which occurred on September 24, 2010, after reviewing the referral forms, there was no referral form found for Student C for this date (as previously mentioned, HISD stated that Student C was not disciplined on this date because she was not the aggressor). The actions taken were listed as: sent home for one

day (9/24/10), one day suspension, and three days ISS: 9/27, 9/28, 9/29, 9/30/10 (1 extra day for slamming door when leaving office).

With regard to the incident on January 24, 2011, while HISD indicated both students were disciplined, in reviewing Student C's referral forms for the school year, she did not receive a referral form for this date. The form indicated that Student B received after school detention for two days and two swats. The Principal also added to the form 3 days of ISS for "being disrespectful in office, slam[med] door, comments under breath."

During OCR interviews with both the Xxx Teacher and Principal, they reiterated that Student B was not treated differently on the basis of race with regard to discipline during the 2010-11 school year. The Principal affirmed what he said in his affidavit; i.e., Student B would receive harsher punishment because she would either be the aggressor or acted more disrespectful towards him than the other student involved.

With regard to Issue 2 (Student A), OCR was unable to substantiate that Student A was treated differently on the basis of race. The evidence demonstrates that both students were sent to the office for their behavior, and both students were not formally disciplined for their involvement with the incident (i.e., neither student received a referral form). While the complainant disagrees with HISD's assertion and stated that Student A received punishment for tearing up the "nigger poem" and the student who wrote the poem did not, OCR did not find sufficient evidence to conclude that Student A was punished more harshly than his xxxxx classmate.¹⁰

With regard to Issue 3 (Student B), however, the preponderance of the evidence shows that Student B was treated differently on the basis of race with regard to discipline. Both students (Student B and Student C) were similarly situated as they both had prior discipline history during the 2010-11 school year, and they both had an argument on September 14, 2010. HISD in its written response to the OCR data request, as well as the Principal during an interview with OCR, stated that Student B was given ISS because she attempted to be physically aggressive with Student C. However, OCR's review of Student C's referral form reveals information contrary to HISD's assertions. Specifically, the form provided that not only did Student C refuse to leave the room four times at the Xxx Teacher's instruction, but also that Student C "asked [Student B] what she said," and stood up "as if to confront Student B." Moreover, the referral form provided that Student B said she was going to "cuss [Student C] smooth out," and Student C responded, and the teacher had to physically separate them. The referral form also indicates that Student B received corporal punishment in addition to ISS, which was not mentioned in the District's response or during the interviews with the Principal.

Additionally, with regard to the incident on January 24, 2011, while HISD indicated in its response that both students were disciplined, in reviewing Student C's referral forms for the school year, OCR found no referral form for Student C on this date, which establishes an inference that Student C was not formally disciplined for the incident. HISD did not provide OCR with a legitimate, nondiscriminatory, and nonpretextual reason for its

actions; therefore, OCR determined that Student B was treated differently on the basis of race with regard to discipline.

Conclusion:

Based on the aforementioned, OCR found a violation of Title VI with regard to Issues 1 and 3. Regarding Issue 1, OCR determined that a hostile environment was established at XXX during the 2010-11 school year with respect to Students A and B and xxxxx XXXXXXXXXXXXXXXXXXXX students. Additionally, HISD staff had notice of the racially hostile environment at XXX. However, OCR determined that HISD's response was not reasonably calculated to end any harassment, eliminate the hostile environment that had been created at XXX, and to prevent the racial harassment from recurring among the students. With regard to Issue 2, OCR was unable to substantiate that Student A was treated differently on the basis of race. Therefore, OCR found insufficient evidence of a violation with regard to Issue 2. Regarding Issue 3, the preponderance of the evidence shows that Student B was treated differently on the basis of race with regard to discipline, and HISD did not provide a legitimate, nondiscriminatory, and nonpretextual reason for the different treatment of Student B.

The compliance concerns identified during the investigation with regard to Issues 1 and 3 will be addressed via the enclosed resolution agreement (Agreement), which was signed by the District on January 6, 2014. OCR has determined the Agreement, when fully implemented, will resolve Issues 1 and 3 and will ensure HISD's compliance with Title VI.

The HISD has agreed to voluntarily address these compliance issues by submitting the enclosed Agreement. Pursuant to the Agreement, the HISD will reaffirm, in writing, its notice of nondiscrimination/anti-harassment on the basis of race, color, or national origin; review and revise, if necessary, its policies and procedures that address discrimination on the basis of race, color, or national origin to ensure that include a specific prohibition against racial harassment, references to Board policies applicable to harassment; and contact information of the individual(s) to whom such harassment should be reported. The HISD will provide its professional employees and all XXX faculty and staff, training to help participants better understand behaviors that constitute racial harassment; what constitutes notice to staff of racial harassment; and training regarding how and to whom instances of racial harassment are to be reported. HISD will provide XXX students with training that informs them of behaviors which constitute racial harassment and emphasizes that racial harassment is prohibited. As part of the information, the students will be informed of the name of personnel at XXX and at the HISD Administrative Office to whom incidents of racial harassment are to be reported. The Agreement requires that HISD document all investigations of formal complaints involving racially harassing conduct and to maintain records of the investigation in a centralized file for one year subsequent to the disposition of the investigation. HISD will evaluate the information collected to determine if the actions taken by the District were appropriate. The HISD will conduct climate checks at XXX to assess the effectiveness of the

District's steps (pursuant to this Agreement and otherwise) to improve the climate at XXX with respect to racial harassment. The HISD will also establish a "working group" comprised of students, parents, teachers, and administrators as part of a self-evaluation program to monitor the effectiveness of its anti-harassment efforts.

With respect to the subject students, the Agreement requires the HISD to offer Students A and B the opportunity to be evaluated by a certified counseling professional to determine if said students were negatively affected by the racially hostile environment established during the 2010-11 school year at XXX, and to determine if there is a need for counseling and/or additional counseling, or other measures to remedy the effects of the harassment on the Students. HISD will make available the counseling or other remedial measures, if any are determined necessary, at its own expense, no later than the end of the spring semester of the 2013-14 school year (spring 2014). HISD will also review Student B's file and take appropriate remedial action including, but not limited to, altering or expunging the Student's disciplinary records for the incident(s) where she was treated differently than her similarly situated peer(s). Further, the HISD will institute a data tracking process that will allow discipline referrals and sanctions to be monitored and analyzed at XXX, based on the race of the students, by the District Superintendent or his designee(s), to ensure that the standards in the HISD disciplinary policies and procedures are appropriately and consistently implemented during the 2013-14 school year.

OCR will monitor the implementation of the Agreement and the District's actions to ensure the District's compliance with Title VI. Should the District fail to fully implement the Agreement, OCR will take appropriate action to ensure the District's compliance with Title VI, including possibly initiating administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach. This concludes OCR's investigation of the complaint and should not be interpreted to address the HISD'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 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.

Under OCR procedures, we are obligated to advise both the complainant and the institution against which a complaint is filed that intimidation or retaliation against a complainant is prohibited by the regulations enforced by this agency. Specifically, the regulations enforced by OCR, directly or by reference, state that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by the regulations enforced by OCR or because one has made a complaint, testified, assisted or participated in any manner in an investigation, proceedings or hearing held in connection with a complaint.

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 or concerns, please feel free to contact the attorney investigator assigned to this complaint, Tonya Gentry, Senior Attorney, at 214/661-9615, or Adriane Martin, Supervisory Attorney/Team Leader, at 214/661-9678.

Sincerely,

Taylor D. August
Regional Office Director
Office for Civil Rights
Dallas Office

Enclosure

cc: Dennis Eichelbaum, Esq.
Eichelbaum, Wardell, Hansen, Powell, and Mehl, P.C.