



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION I  
5 POST OFFICE SQUARE, 8<sup>th</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921

September 26, 2018

Dr. Verna D. Ruffin  
[vruffin@waterbury.k12.ct.us](mailto:vruffin@waterbury.k12.ct.us)

Re: Complaint No. 01-14-1166  
Waterbury Board of Education

Dear Superintendent Ruffin:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received against Waterbury Board of Education (District). The Complainant alleged that the District discriminated against her daughter (Student) on the basis of race when Wilby High School (School) staff disciplined the Student more harshly than her white peers at the School (Allegation 1). The Complainant also alleged that after she filed a complaint with the District about the School's treatment of the Student, School staff retaliated against the Student by suspending her for ten days on the pretext that she assaulted a teacher when she had not (Allegation 2). As explained below, before OCR concluded its investigation of Allegation 1, the District expressed a willingness to resolve the allegation and OCR determined that it was appropriate to resolve the allegation with an agreement. In addition, OCR is dismissing Allegation 2 for lack of subject matter jurisdiction.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance from the Department. The laws enforced by OCR prohibit retaliation against any individual who asserts rights or privileges under these laws or their implementing regulations, or who files a complaint, testifies, assists, or participates in a proceeding under these laws. Because the District receives federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Title VI.

### **Allegation 1**

The Complainant and District confirmed that the Student is African-American and that during the XXXX-XXXX school year, she attended the XXXXX grade at the School. The District's data indicates that the Student received several out-of-school suspensions, mostly due to unexcused absences from class, and verbal and physical altercations. Specifically, during the XXXX-XXXX school year, the Student was suspended for approximately XXXXXX-XXX days. Correspondence provided by the District indicates that in October XXXX and March XXXX, the Complainant filed internal complaints concerning the District's suspensions of the Student. The October XXXX complaint alleged that the District inaccurately reported the Student's conduct to justify her suspension, and the March XXXX complaint claimed that an XXXXXXXXXX XXXXXXXXXX physically assaulted the Student while separating her from

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another student during a fight. The District’s data indicates that the District investigated both internal complaints, found the allegations to be unsubstantiated and upheld the Student’s suspensions. In June XXXX, the District arranged for the Student to complete her incomplete academic credits over the summer and authorized her transfer to another District school.

Prior to the conclusion of OCR’s investigation and pursuant to Section 302 of OCR’s *Case Processing Manual*, the District expressed an interest in resolving this complaint. Subsequent discussions between OCR and the District resulted in the District signing the enclosed Resolution Agreement (Agreement) which, when fully implemented, will address the initial concern identified by OCR during its investigation. OCR will monitor the District’s implementation of the Agreement.

### **Allegation 2**

After carefully reviewing the information the Complainant provided, OCR determined that we will not investigate Allegation 2. OCR is dismissing Allegation 2 under Section 108(r) of OCR’s *Case Processing Manual* because it does not have subject matter jurisdiction.

In analyzing an individual’s claim of retaliation against a recipient, OCR analyzes whether: (1) the recipient knew the individual engaged in a protected activity or believed the individual might engage in a protected activity in the future;<sup>1</sup> (2) the individual experienced an adverse action caused by the recipient;<sup>2</sup> and (3) there is some evidence of a causal connection between the adverse action and the protected activity. If all these elements are present, this establishes an initial, or *prima facie*, case of retaliation. However, if any one of the above elements cannot be established, then OCR cannot infer that retaliation occurred and will dismiss a complaint.

The Complainant alleged that after she filed a complaint with the District about the School’s treatment of the Student, School staff retaliated against the Student by suspending her for ten days on the pretext that she assaulted a teacher when she had not. Specifically, the Complainant filed an internal complaint with the District in October 2013, which alleged that the Assistant Principal inaccurately reported that the Student threatened to kill another student to justify the five-day suspension. In February 2014, the Student was suspended for ten days when the District reported that it observed her, among other things, push a teacher to the ground.

OCR notes that the Student did experience adverse action when the District suspended her for XXX days in February XXXX. However, OCR did not obtain any evidence that the Complainant engaged in any protected activity or that the District believed she might engage in such activity in the future. Although the Complainant alleged that she made a report concerning the XXXXXXXX XXXXXXXXXX in October XXXX, the Complainant provided no information to suggest that she had reported that the XXXXXXXX XXXXXXXXXX’ s conduct was motivated by race or another protected status. With no information to suggest that the Complainant engaged in protected activity within the meaning of the anti-discrimination laws that OCR

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<sup>1</sup> A “protected activity” is the exercise of a right that is protected under OCR’s non-discrimination laws.

<sup>2</sup> An adverse action is something that could deter a reasonable person from engaging in further protected activity.

enforces, OCR is without subject matter jurisdiction to investigate Allegation 2 and must dismiss it pursuant to Section 108(r) of the *Case Processing Manual*.

### **Conclusion**

This concludes OCR's investigation of the complaint. This letter 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 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 District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. 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. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, you may contact Attorney Abra Francois at (617) 289-0142 or by e-mail at [Abra.Francois@ed.gov](mailto:Abra.Francois@ed.gov).

Sincerely,

Adrienne M. Mundy-Shephard  
Acting Regional Director

Enclosure

cc: Linda Wihbey  
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