



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

July 2, 2018

Superintendent Kevin Dirth
Maple Run Unified School District
By e-mail: kdirth@maplerun.org

Re: Complaint No. 01-17-1319
Maple Run Unified School District

Dear Superintendent Dirth:

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 Maple Run Unified School District (the District). The Complainant alleged that the District discriminated against her daughter (the Student) on the basis of race. Specifically, the complaint alleged that the District failed to properly respond to complaints made by the Complainant and the Student concerning ongoing racial harassment of the Student by a XXXXX (Employee). The complaint further alleged that the District's first investigation was inadequate, and that—even after a more thorough second investigation that found that XXXXX XXXXXXXXXXXX XXX XXXXXXXXXXXX—the District did not take any remedial action. As explained further below, before OCR completed its investigation, the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement (Agreement).

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. Because the District receives federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Title VI.

Legal Standards

A District's failure to respond promptly and effectively to racial harassment that it knew or should have known about, and that is sufficiently serious that it creates a hostile environment, is a form of discrimination prohibited by Title VI. A District may also violate Title VI if an employee engages in racial harassment of students in the context of the employee carrying out his/her responsibility to provide benefits and services, regardless of whether the District had notice of the employee's behavior. Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; physical conduct; or other conduct that may be physically threatening, harmful, or humiliating. Harassment creates a hostile environment when the conduct is sufficiently severe or pervasive as to interfere with or limit a student's ability to participate in or benefit from the

District’s programs, activities, or services. When such harassment is based on race, it violates Title VI.

To determine whether a hostile environment exists, OCR considers the totality of the circumstances from both an objective and subjective perspective and examines the context, nature, scope, frequency, duration, and location of incidents, as well as the identity, number, and relationships of the persons involved. Harassment must consist of more than casual, isolated incidents to constitute a hostile environment.

When responding to harassment, a District must take immediate and appropriate action to investigate or otherwise determine what occurred. The specific steps in an investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. In all cases, however, the inquiry should be prompt, thorough, and impartial. If an investigation reveals that discriminatory harassment has occurred, a District must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

Summary of Preliminary Investigation

OCR reviewed the materials provided by the Complainant and by the District, and interviewed the Complainant. OCR examined the investigative file related to the District’s first investigation, which found the Employee’s remarks to be XXXXXXXX XXXXXXXXXXXX XXX XXX XXXXXX XXXXXXXXXXXX; the investigation file related to the District’s second investigation, which found that XXXXXX XXXXXXXXXXXX XXX XXXXXXXXXXXX; and the report from the independent review, which found that XXXXXX XXXXXXXXXXXX XXX XXXXXXXXXXXX. Although the first investigation did not find that XXXXXX XXXXXXXXXXXX XXX XXXXXXXXXXXX, the District nevertheless required the Employee to attend meetings to learn about harassment and the potential impact of XXXXXXXXXXXX XXXXXXXX. As a result of the second investigation, the District required the Employee to participate in additional meetings and trainings related to XXXXXX XXXXXXXXXXXX. The report from the independent review also recommended several remedial actions to the District. The Complainant received letters from the District notifying her of the outcome of its investigations but not any remedial actions. She also received the final report and recommendations from the independent review.

Based on the Complainant’s concern that the District did not take any steps to remedy the effects of the racial harassment, OCR obtained and reviewed documentation of the extensive remedial actions that the District implemented during the 2016-2017 and 2017-2018 school years. These remedial actions include but are not limited to trainings for faculty, coaches, teams, and administrators; monthly instructional meetings between the Employee and the District’s Equity Coordinator; updates to the District’s website; edits to correspondence sent by the District regarding harassment investigations; and revisions to the District’s protocol for responding to harassment complaints.

For example, the District has already provided substantial documentation to OCR regarding remedial actions taken by the Employee, such as (1) attending three trainings related to the

facilitation of bias-free environments; (2) participating on the District's XXXXXXXXXX Committee; and (3) meeting with the District's Equity Coordinator on a monthly basis to enhance the Employee's understanding of District policies addressing diversity and harassment, provide her with an opportunity to ask questions, and identify resources available to students and employees. In addition, the District has provided OCR with documentation indicating that all but one of its administrators and designated investigators received training during the 2017-2018 school year about conducting harassment investigations.¹ Furthermore, the District reminded its administrators they must inform individuals accused of harassment of the allegations, provide them with the opportunity to respond, and ensure that the individuals understand any violations that are found. The District has also confirmed that it instructed all coaches not to facilitate opportunities where one member of the team is provided with negative feedback by other members of the team.

Through the enclosed Agreement, OCR will ensure that the District completes the remaining actions.

Conclusion

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 Agreement which, when fully implemented, will address the allegation raised in the complaint. OCR will monitor the District's implementation of the Agreement.

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.

¹ The sole administrator who did not receive this training will not be returning to the District for the 2018-2019 school year. OCR recommends that once a new administrator is hired, the District provide training to that individual on conducting harassment investigations.

If you have any questions, you may contact Civil Rights Attorney Stephanie Leiter at (617) 289-0006 or by e-mail at Stephanie.Leiter@ed.gov.

Sincerely,

/s/

Ramzi Ajami
Compliance Team Leader

Enclosure

cc: Cindy Koenemann-Warren, Esq.