



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

October 8, 2020

Derek Swenson  
Superintendent

By email: [dswenson@bridge-rayn.org](mailto:dswenson@bridge-rayn.org)

Re: Complaint No. 01-20-1223  
Bridgewater-Raynham Regional School District

Dear Superintendent Swenson:

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 the Bridgewater-Raynham Regional School District (District). The Complainant alleges that the District discriminated against a XXXXX student (Student) enrolled at the XXXXXXXXXXXXXXXXXXXX Elementary School (School), based on race. The complaint alleges that the Student was subjected to racial harassment by School staff and her peers. Specifically, the complaint alleges that on XXXXXXXXXXXX, 2019, a School teacher and teacher's assistant asked the Student and a White student if they owned a XXX. After both students informed the School teacher and teacher's assistant that they owned XXXX, the School staff XXXXXXXX them both and proclaimed that they "did not XXXXX anything" on the White student. The Complainant stated that the School teacher and teacher's assistant loudly informed the Student that she XXXXXXXX like XXXXXXXXXXXX in front of her classmates and sent her to the nurse's office. Thereafter, the Complainant alleges that the School sent the Student home on the XXX with her belongings in a XXXXXXXXXXXX. The Complainant further alleges that the Student's classmates taunted and maliciously teased the Student by stating that "she comes from a XXXXX home." Lastly, the Complainant alleges that the District failed to appropriately respond to this harassment, which was reported by the Student's parent. 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), 42 U.S.C. Section 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the bases 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, OCR has jurisdiction over it pursuant to Title VI.

OCR opened the following legal issue for investigation:

- Whether the District failed to respond in a reasonable, timely, and effective manner to racial harassment of the Student of which the District had notice during fall 2019, in violation of 34 C.F.R. Section 100.3(a) and (b).

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

Before OCR completed its investigation and made a compliance determination, the District entered into a Resolution Agreement with OCR to resolve the concerns that OCR had identified.

### **Legal Standard**

Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance. Racial harassment that creates a hostile environment is a form of discrimination prohibited by Title VI. Once a recipient has notice of a racially hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. Thus, if OCR finds that the recipient took responsive action, OCR will evaluate the appropriateness of the responsive action by examining reasonableness, timeliness, and effectiveness.

### **Summary of Preliminary Investigation**

During its investigation to date, OCR reviewed documents provided by the Complainant and the District. OCR also interviewed the Complainant and Superintendent.

The Complainant and the District confirmed that during the 2019-2020 school year, the Student was a XXX grade student at the School. The Complainant alleged that on XXXXXXXXXXXX, 2019, a teacher and teacher's assistant (collectively, Staff Members) asked the Student and a White student (Student 1) if they owned a XXX. According to the Complainant, the Staff Members XXXXXXXX the students after they confirmed that they both owned a XXX and proclaimed that they "did not XXXXX anything" on Student 1. The Complainant informed OCR that the Staff Members loudly informed the Student that she XXXXXXXX like XXXXXXXXXXXX in front of her classmates and sent her to the nurse's office. The Complainant alleged that the School sent the Student home with her belongings in a XXXXXXXXXXXX.

While the Complainant contends that the Parent filed an internal complaint of discrimination concerning the XXXXXXXXXXXX incident, the District disputes this contention. The Complainant and the District confirmed that in late XXXXXXXX 2019, the Parent sent separate emails to the Superintendent and the Principal referencing an XXXXXXXXXXXX incident and requesting that they transfer the Student to a different classroom. The Parent's email to the Superintendent also specifically stated that the Student's teacher (Teacher A) had "antagonized" the Student since the beginning of the school year, and noted that on XXXXXXXXXXXX, the Student was sent home with a large XXXXXXXXXXXX full of her belongings. The Parent email to the Principal noted that Teacher A had expressed her concerns about the Student in "numerous letters," which she gave to the Student "in full view of her classmates," who began taunting her about receiving these letters. The Complainant also provided OCR with correspondence that indicated that the Parent contacted the National Association for the Advancement of Colored People (NAACP) about her discrimination concerns relating to the XXXXXXXXXXXX incident and the NAACP emailed the Principal on the Parent's behalf. Specifically, on XXXXXXXXXXXX, 2019, the NAACP emailed the Principal stating that the Student is XXXXXXXX, that the incident was "unacceptable," that [a]lternative solutions could have been used," and that "[i]f in fact, the XXXXXXXXXXXX had an XXXX, remove it. You do not embarrass a student."

The District's data indicates that on XXXXXXXXXXXX, 2019, the Principal informed the Parent that her request to change the Student's classroom was approved. On XXXXXXXXXXXX, the Student's first day assigned to a new XXXXX grade teacher (Teacher B), the Parent emailed Teacher B to express her frustration that Teacher B allowed the Student to interact with Teacher A and expressed her intention to file a complaint with the Massachusetts Commission Against Discrimination (MCAD). According to both the District and Complainant, the Parent did not ultimately file a discrimination complaint with the MCAD. The District and the Complainant dispute whether the Parent continued to raise concerns after the Student's reassignment to Teacher B's classroom. Although the Superintendent informed OCR that the Parent did not raise any additional concerns, the Complainant conversely stated that the Parent continued to raise bullying concerns with the School administration until the Student started receiving remote instruction in mid-March 2020.

The District's data indicates that after learning about this OCR complaint, the District conducted a preliminary investigation of the XXXXXXXXXXXX incident, for the first time. Teacher A and three other teachers confirmed that there was a strong XXXX in the hallway outside of Teacher A's classroom on the morning of XXXXXXXXXXXX. Teacher A stated that another XXXXX-grade teacher (Teacher C) questioned Teacher A's students about whether they had a XXX at home, and that she heard the Student tell Teacher C that her XXX had been in her XXXXXXXXXXXX that morning and Teacher C say that she would take the XXXXXXXXXXXX to the nurse to XXXXXXXXXXXX it. The Nurse confirmed that Teacher C brought the Student's XXXXXXXXXXXX to her office and told her that it XXXXXXXXXXXX like XXXXXXXXXXXX. The Nurse also stated that the Student told her that her XXX jumped either into or onto her XXXXXXXXXXXX that morning, and that the Parent informed her that she owned a XXX. Lastly, the Nurse confirmed that she placed the Student's XXXXXXXXXXXX in a XXXXXXXXXXXX that the Student picked up at the end of the day. The Principal denied that Teacher A, Teacher B, or the School Nurse notified him about the XXXXXXXXXXXX incident. Rather, the Principal contended that the "first indication that there had been an XXXX problem in the hallway outside some of the grade X classrooms" was when the Parent contacted him "extremely upset" and requested that he fire Teacher A and apologize in late XXXXXXXXXXXXXXXX.

The District provided OCR with a copy of its Harassment Policy (Policy), which explicitly states that the District "will not condone or tolerate any harassment, discrimination, or different treatment, of or among staff or students based upon characteristics that include but are not limited to race, color, religion, national origin, ancestry, sex, gender identity, age, disability, participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status." While the Policy includes a process for a student to report inappropriate treatment that either the student or another student has been subjected to, it only includes a process for employees to report harassment that he/she has personally experienced. The Policy does not include a process for a parent/guardian or a third party to file a harassment complaint on behalf of his/her child.

### **Preliminary Analysis**

Based on its preliminary investigation, OCR has identified concerns that require further investigation prior to making a compliance determination. For example, while it is undisputed that the Parent raised a number of concerns about Teacher A's treatment of the Student and on one occasion, complained that the Student's classmates were taunting her for receiving letters from Teacher A, it is unclear whether the District had notice that the Student was allegedly being subjected to a racially hostile environment. Further, even though the District promptly reassigned the Student to Teacher C, it is unclear whether this action alone eliminated the alleged racially hostile environment that the Student may have been subjected to. OCR is concerned that the District may not have conducted an investigation in fall 2019 designed to ascertain whether racial discrimination occurred.

As noted above, the District expressed an interest in resolving this complaint pursuant to Section 302 of OCR's *Case Processing Manual* prior to OCR completing its investigation and making a compliance determination, and OCR determined that a voluntary resolution would be appropriate to address the issues it had identified.

### **Conclusion/Resolution**

The enclosed Resolution Agreement (Agreement) will address the concerns that OCR has identified, and OCR will monitor the District's implementation of the Agreement to ensure that its terms and obligations are implemented. OCR may conduct additional visits and may request additional information if necessary to determine whether the District has fulfilled the terms of the Agreement. Once the District has satisfied the commitments under the Agreement, OCR will close the case. As stated in the Agreement, if the District fails to implement the Agreement, OCR may initiate 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, including to enforce the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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.

Sincerely,

/s

Abra Francois  
Compliance Team Leader

Enclosure