



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION II

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NEW JERSEY
NEW YORK
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March 21, 2016

Dr. Gloria Calhoun Scott
Superintendent
East Orange School District
199 4th Avenue
East Orange, New Jersey 07017

Re: Case No. 02-15-1455
East Orange School District

Dear Superintendent Scott:

This letter is to notify you of the determination made by the U.S. Department of Education, New York Office for Civil Rights (OCR) in the above-referenced complaint filed against the East Orange School District. The complainant alleged that the District failed to respond appropriately to complaints he made in or around XXXXX 2014 and XXXXX 2015 that his daughter (the Student) was subjected to harassment and bullying by other students because of her national origin (XXXXX).

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. §2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The District is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title VI.

Harassment of students based on race, color, or national origin is a form of discrimination prohibited by Title VI and its implementing regulation. Harassing conduct can include verbal, written, graphic, physical, or other conduct by an employee, a student, or a third party, as well as conduct that is physically threatening or humiliating. Harassment can create a hostile environment if it is sufficiently serious to limit a student's ability to participate in, or receive benefits, services or opportunities, in the recipient's program. If OCR determines that harassing conduct occurred and the recipient had actual or constructive notice of the harassment, OCR will examine additional factors to make a determination as to whether a hostile environment existed and whether the recipient took prompt and effective action to stop the harassment, prevent its recurrence, and, as appropriate, remedy its effects.

In its investigation, OCR interviewed the complainant and District staff. OCR also reviewed documentation that the complainant and the District submitted. OCR made the following determinations.

The complainant alleged that the District failed to respond appropriately to complaints he made in or around XXXXX 2014 and XXXXX 2015 that the Student was subjected to harassment and bullying by other students because of her national origin. The complainant stated that on or about XXXXX, 2014, after an incident during which students at the District's high school (the School) physically assaulted the Student, three students called him a "XXXXX" and a "XXXXX," in the presence of the Assistant Principal and a security guard. The complainant asserted that although the Student was the victim in the incident on XXXXX, 2014, the School suspended the Student for approximately ten days beginning on or about XXXXX, 2014, and other students continued to harass and bully the Student in XXXXX 2014, after her suspension. Specifically, the complainant stated that on or about XXXXX, 2014, a group of students that included at least one of the students involved in the incident in the bathroom approached the Student menacingly in the cafeteria, but a security guard intervened. The complainant further stated that on XXXXX, 2014, while the complainant was with the Student at the School, a group of three students approached them; one of the students tried to strike the Student and all three "XXXXX." The complainant further stated that on XXXXX, 2014, five students approached the complainant as he was leaving the School after dropping off the Student, and told the complainant that three girls were going to beat up the Student that day.

The complainant asserted that the District failed to respond to the following complaints or reports of bullying and harassment:

- (1) In or around XXXXX 2014, he orally filed a harassment, intimidation, and bullying complaint (HIB complaint) with the District's XXXXX (the District XXXXX) alleging harassment on the basis of national origin regarding the incident on XXXXX, 2014.
- (2) In or around XXXXX 2015, after not having received a response from the District regarding his HIB complaint, he again orally reported to the District XXXXX that the Student had been subjected to peer harassment and bullying because of her national origin.
- (3) In or around XXXXX 2015, he reported to the Student's case manager that he had complained to District administrators that the Student had been bullied and harassed in XXXXX 2014, and that he had not received a response. The complainant stated that he told the case manager that the bullying and harassment was based on his and the Student's national origin, XXXXX, and that he believed that the District's failure to respond to his complaints was because of racial/national origin discrimination.

The complainant reported to OCR that he was not asked to complete any paperwork and he has had no response to his complaints from the District.

OCR determined that in XXXXX 2014, the Student was enrolled in the XXXXX grade in a general education program at the District's XXXXX School (the School). Documentation the

District provided stated that on or about XXXXX, 2014, several female students at the School assaulted the Student in a School bathroom; and attempted to “jump” the Student in the cafeteria.

With respect to the complainant’s assertion that in or around XXXXX 2014, he orally filed a HIB complaint with the District XXXXX about the incident on XXXXX, 2014, the District XXXXX, who is responsible for XXXXX for the District, denied that the complainant complained to her at any time that the Student had been harassed on the basis of race and/or national origin (XXXXX) or that she was aware that anyone allegedly had called the complainant “XXXXX” and/or “XXXXX.” The District XXXXX acknowledged that on or about XXXXX, 2014, the complainant and the Student met with District staff, including the Superintendent, the District XXXXX, the District XXXXX, the XXXXX, and the District XXXXX, to develop a plan for the Student’s safety and well-being, and provide assistance with regard to the Student’s XXXXX situation, as she and the complainant were XXXXX. The meeting minutes indicated that at the meeting, the group discussed the complainant’s concerns about the Student’s safety; the Student’s academic and inappropriate personal and social behavioral circumstances; home instruction for the Student for the remainder of school year 2014-2015; community resources, including XXXXX; and the referral of the Student and the complainant to New Jersey Performance Care (NJPC) for an assessment and wraparound services including counseling. The complainant acknowledged to OCR that he did not allege race or national origin discrimination at the meeting on or about XXXXX, 2014. The District stated that the complainant expressed satisfaction with the District’s response during the meeting; and the complainant and Student were very satisfied with the Student’s success in home instruction during school year 2014-2015.

With respect to the complainant’s assertion that in or around XXXXX 2015, he again orally reported to the District XXXXX that the Student had been subjected to peer harassment and bullying, as stated above, the District XXXXX denied that the complainant complained to her at any time that the Student had been harassed on the basis of race and/or national origin (XXXXX) or that she was aware that anyone allegedly had called the complainant “XXXXX” and/or “XXXXX.” The District XXXXX recalled that during XXXXX 2015, the complainant called her asking for a bullying report. She stated to OCR that the complainant thought that he had raised a bullying complaint to the XXXXX; she disagreed that a complaint had been raised previously. She had no notes of their conversation; however, she opined that she thought that the District had dealt with his concerns when personnel met the prior XXXXX in the Superintendent’s meeting, or that the problem had been dealt with at the school level. The District XXXXX, when asked by OCR why she did not open an HIB complaint at the time of this request, reported that the complainant did not report his concerns at that time as an HIB complaint and she was not certain whether the building level staff had already addressed them. She stated to OCR that even though the complainant asked about a bullying report, he never reported to her that he believed the Student had been harassed on the basis of national origin or race, or that anyone had used derogatory slurs directed at him.

With respect to the complainant’s assertion that in or around XXXXX 2015, he reported to the Student’s case manager that he had complained to District administrators that the Student had been bullied and harassed in XXXXX 2014, and that he had not received a response, a District Social Worker informed OCR that during a meeting held on or about XXXXX, 2015, the

complainant reported to him that the Student had been physically assaulted by other students at the School. The Social Worker stated that the complainant informed him that he had previously complained to School and District administrators in XXXXX 2014, but that the District had ignored his concerns because he is XXXXX. The Social Worker related that the complainant also stated that the Student had been victimized during that assault because she is XXXXX; and, that he had attempted to file a complaint with the Superintendent's office, but had been advised to meet with School officials, which he did. The Social Worker stated that he reported to the Director that he had met with the complainant, but acknowledged that he did not communicate the complainant's concerns regarding his and/or the Student's treatment on the basis of national origin. The Social Worker acknowledged that he had received training in reporting HIB complaints; however, the Social Worker stated that he believed that the complainant's issues were being handled already, as the Student had been granted a transfer to a different District high school and was not going to return to the School.

On March 11, 2016, the District voluntarily entered into the attached resolution agreement to resolve the complainant's allegation, in accordance with Section 302 of OCR's Case Processing Manual. OCR will monitor implementation of the resolution agreement. If the District fails to comply with the terms of the resolution agreement, OCR will resume its investigation.

This concludes OCR's investigation of the complaint and should not be interpreted to address the College'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 file a private suit in federal court whether or not OCR finds a violation.

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, 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 regarding OCR's determination, please contact Alexander Artz, Compliance Team Attorney, at (646) 428-3901 or alexander.artz@ed.gov; Jane Tobey Momo, Senior Compliance Team Attorney, at (646) 428-3763 or jane.momo@ed.gov; or Nadja Allen Gill, Team Leader, at (646) 428-3801 or nadja.r.allen.gill@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: XXXXX, Esq.