



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

June 8, 2015

IN RESPONSE, PLEASE REFER TO: 03141243

Ms. Patricia Putty
Superintendent
Scott County Public Schools
2168 Frankfort Road
Georgetown, Kentucky 4032

Dear Mrs. Putty:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint filed against the Scott County Public School (the District). XX XXXXXXXXXXXX XXXXXX (the Complainant) alleges that the District discriminated against her son XXXXX XXXXX (the Student) on the basis of race/color (black). Specifically, the Complainant alleges that the District discriminated against the Student on the basis of race/color XXXX XX XXXXXXXXXXX XXXX X XXXXXXXXXXX XX XXXXX XXXXXXXX XXXXXXX XXXXXXXXXXX XXX XXXXXXX XXXXXXXXXXX XX XXXX XXXXXXXXXXXXXX XXX XXXXXXXXXXXXX.

OCR enforces Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100. Title VI prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the District is subject to these laws.

OCR applies a preponderance of the evidence standard to determine whether the evidence is sufficient to support a particular conclusion. Specifically, OCR examines the evidence in support of and against a particular conclusion to determine whether the greater weight of the evidence supports the conclusion or whether the evidence is insufficient to support the conclusion.

During the investigation, OCR reviewed evidence including documentation provided by the Complainant and the District, and interviewed the Complainant, District administrators and staff. Based on the evidence gathered, OCR has determined that the District violated Title VI with respect to its failure to respond to the Complainant’s complaint of race discrimination. On May 14, 2015, the District signed a Resolution Agreement to address this compliance concern.

LEGAL STANDARDS

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

Under the Title VI regulation at 34 C.F.R. § 100.3(a), no individual may be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination on the ground of race, color, or national origin under any program or activity that receives Federal funds. The Title VI regulation at 34 C.F.R. § 100.3(b)(1)(i)-(iv) and (vi) specifically provides that a recipient shall not, on the basis of race, color, or national origin deny an individual any service; provide any service to an individual which is different or is provided in a different manner from that provided to others; subject an individual to segregation or separate treatment in any matter related to the receipt of service; restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others; or deny an individual an opportunity to participate in the program or afford an opportunity to do so which is different from that afforded to others under the program.

A violation of Title VI may be found if a recipient has created or is responsible for a racially hostile environment i.e., harassing conduct (e.g., physical, verbal, graphic, or written) that is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a recipient. A recipient has subjected an individual to different treatment on the basis of race if it has effectively caused, encouraged accepted, tolerated or failed to correct a racially hostile environment of which it has actual or constructive notice.

As with other types of discrimination claims, OCR will first apply a standard different treatment analysis to allegations involving racial incidents perpetrated by representatives of recipients. Under this analysis, a recipient violates Title VI if one of its agents or employees, acting within the scope of his or her official duties, has treated a student differently on the basis of race, color, or national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the student to participate in or benefit from the services, activities or privileges provided by the recipient.

If the alleged harasser is an agent or employee of a recipient, acting within the scope of his or her official duties (i.e., such that the individual has actual or apparent authority over the students involved), then the individual will be considered to be acting in an agency capacity and the recipient will be deemed to have constructive notice of the harassment. The appropriate response to a racially hostile environment must be tailored to redress fully the specific problems experienced at the institution as a result of the harassment. In addition, the responsive action must be reasonably calculated to prevent recurrence and ensure that participants are not restricted in their participation or benefits as a result of a racially hostile environment created by students or non-employees.

In evaluating a recipient's response to a racially hostile environment, OCR will examine disciplinary policies, grievance policies, and any applicable anti-harassment policies. OCR also will determine whether the responsive action was consistent with any established institutional policies or with responsive action taken with respect to similar incidents.

FACTUAL FINDINGS

The Student was enrolled in the Scott County Schools (the District) at Garth Elementary School (the School), XXX – SENTENCES REDACTED - XXX.

XXX – PARAGRAPHS REDACTED – XXX

LEGAL ANALYSIS

The evidence OCR obtained was insufficient to demonstrate that the XXXXX discriminated against the Student on the basis of his race/color XXX – SENTENCES REDACTED - XXX

XXX – PARAGRAPH REDACTED - XXX

Accordingly, OCR finds that the District did not provide a prompt and equitable resolution to the Complainant’s complaint.

CONCLUSION

OCR concludes, by a preponderance of evidence that the District failed to provide a prompt and equitable resolution to the Complainant’s complaint. Thus, OCR concluded that the District did not comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100. On May 14, 2015, the District provided OCR with the enclosed signed Resolution Agreement (the Agreement). When fully implemented, the Agreement will address all of OCR’s compliance concerns. OCR will monitor the implementation of the Agreement until the recipient is in compliance with the statute(s) and regulations at issue in the case.

This concludes OCR’s investigation of the complaint and should not be interpreted to address the Program’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.

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, we 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. Please be advised that the Program 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.

OCR is committed to prompt and effective service. If you have any questions, please contact me at (215) 656-6935, or by email at beth.gellman-beer@ed.gov.

Sincerely,

/s/

Beth Gellman-Beer
Team Leader
Philadelphia Office

Enclosure