



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

January 11, 2021

IN RESPONSE, PLEASE REFER TO: 03201171

Sent via email only to ceo@pgcps.org

Dr. Monica Goldson
Chief Executive Officer
Prince George’s County Public Schools
Sasscer Administration Building
Upper Marlboro, Maryland 20772

Dear Dr. Goldson:

This is to notify you of the resolution of the above-referenced complaint filed with the U.S. Department of Education (the Department), Office for Civil Rights (OCR), against the Prince George’s County Public Schools (the District) alleging discrimination on the basis of race, national origin and retaliation. Specifically, XXXXXXXXXXXXXXXX (the Complainant) alleged that the District discriminated against XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX (the Student) while he attended the District’s XX during the 2019-2020 school year as follows:

1. XXXXXXXX discriminated against the Complainant on the basis of her race and national origin (Hispanic) by failing to ensure meaningful communication with her in a language that she understood.

In addition, the Complainant also alleged that the District discriminated against the Student by treating him differently on the basis of his race when:

XX – Paragraphs Redacted – XX

The Complainant further alleged that the District retaliated against XXXXXXXXXXXXXXXXXXXXXXXX
XX

XX – Paragraphs Redacted – XX

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. In addition, Title VI also prohibits retaliation against any individual who asserts rights or privileges under these laws or who files a complaint, testifies, or participates in an OCR proceeding. As a recipient

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

of Federal financial assistance from the Department, the District is subject to Title VI and its implementing regulations.

During the course of the investigation, the District requested to resolve Allegations 1, 2, 3 and 4. Prior to OCR concluding the investigation of these allegations, the District signed the enclosed Resolution Agreement (Agreement) on December 9, 2020, which when fully implemented will resolve Allegations 1-4.

In the course of investigating Allegations 5 and 6, OCR reviewed information submitted by the Complainant and District. Based on our investigation, we have determined that there is insufficient evidence to support that the District engaged in retaliation as alleged in Allegations 5 and 6. OCR's findings and conclusions are discussed below.

Legal Standards

Allegations 1-4

The regulation implementing Title VI at 34 C.F.R. § 100.3(a) provides that no person shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which Title VI applies. The regulation implementing Title VI at 34 C.F.R. § 100.3 (b)(1)(i)-(iv) and (2) states that a recipient under any program to which Title VI applies may not, directly or through contractual or other arrangements, on the ground of race, color or national origin, deny any individual any service, financial aid, or other benefit provided under the program; provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program; subject an individual to segregation or separate treatment in any matter related to his/her receipt of any service, financial aid, or other benefit under the program; or restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program.

To determine whether an individual has been discriminated against on the basis of race or national origin, under Title VI and its implementing regulation, OCR looks at whether there is evidence that the individual was treated differently than persons of other races under similar circumstances. OCR then assesses the recipient's explanation for any difference in treatment to determine if the reasons are legitimate or are merely a pretext for unlawful discrimination.

If OCR concludes that individuals were treated differently, OCR then considers whether there is a legitimate, nondiscriminatory reason for this different treatment and if the stated reason is a "pretext" – an excuse for a discriminatory motive. OCR can establish pretext in a number of ways. For example, OCR can determine that a discriminatory reason more likely motivated the school district by establishing that the stated reason has no basis in fact; the stated reason was not the true reason; or the stated reason was insufficient to explain the school district's action. Pretext may also include situations in which the individual was treated in a manner that deviated from established policies or practices. In assessing whether a stated reason may be pretextual, OCR would look at the application of standards or criteria to see whether they were consistently followed. If they were not, an explanation would be sought to determine why the inconsistency occurred.

Factual Summary

Background

XX – Paragraphs Redacted – XX

Allegation 1

The Complainant reported that she requested a Spanish language interpreter for a meeting with the
XX
XX
XX
XX
XX
XXXXXXXXXXXXXXXXXXXX

XX- Paragraphs Redacted – XX

Allegation 2

XX – Paragraphs Redacted – XX

Allegations 3 and 4

XX – Paragraphs Redacted – XX

Allegations 1 through 4 - Resolution Agreement

OCR procedures provide that a complaint allegation may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a resolution agreement. The provisions of the resolution agreement must be aligned with the information gathered in our investigation to date and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the District, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR’s procedures, the District requested to resolve Allegations 1-4 through a Voluntary Resolution Agreement, which was executed on December 9, 2020. Accordingly, OCR is concluding its investigation of these allegations. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the District’s implementation of the Agreement.

Legal Standards - Allegations 5-6

The regulation implementing Title VI, at 34 C.F.R. § 100.7(e), prohibits retaliation. To establish a prima facie case of retaliation, OCR must determine whether: (1) an individual experienced an adverse action caused by the recipient; (2) the recipient knew that the individual engaged in a

protected activity; and (3) there is some evidence of a causal connection between the adverse action and the protected activity. If any of those elements cannot be established, then OCR cannot find evidence of a retaliation violation. If these elements are present, then a prima facie case of retaliation is established, and OCR next considers whether the recipient has identified a legitimate, nondiscriminatory reason for taking the adverse action. If so, OCR then considers whether the reason asserted is a pretext for discrimination.

In determining whether an action taken by the recipient was adverse, OCR considers whether the action reasonably acted as a deterrent to further protected activity, or if the individual was, because of the challenged action, precluded from pursuing his or her discrimination claims. In addition, OCR considers whether the alleged adverse action caused lasting and tangible harm. Merely unpleasant or transient incidents usually are not considered adverse.

Factual Summary - Allegations 5 and 6

XX – Paragraphs Redacted – XX

Legal Analysis and Conclusion – Allegations 5 and 6

XX – Paragraphs Redacted – XX

This concludes OCR's investigation of this 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.

The Complainant has a right to appeal OCR's determination regarding Allegations 5 and 6 of this complaint within 60 calendar days of the date indicated on this letter. In the appeal, the Complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the Complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

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, we will

Dr. Monica Goldson

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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.

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact me at 215-656-8522 or vicki.piel@ed.gov.

Sincerely,

/s/

Vicki Piel
Team Leader/Supervisory Attorney
Philadelphia Office

Enclosure

cc: Amana T. Simmons, Esquire (w/ encl.) (via email only: amana.simmons@pgcps.org)
Madeline J. McKnight, Paralegal (w/ encl.) (via email only: madeline.mcknight@pgcps.org)