



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION III
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May 27, 2021

IN RESPONSE, PLEASE REFER TO: 03201273

Dr. Brett A. Cooper
Superintendent of Schools
Daniel Boone Area School District
501 Chestnut Street
Birdsboro, PA 19508

Sent via email only: brett.cooper@dboone.org

Dear Dr. Cooper:

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 Daniel Boone Area School District (the District). The Complainant, XXXXXXXXXX, alleged that the District discriminated against her son, XXXXXXXXXX (the Student), on the basis of race and/or color (multi-racial/Black) when it failed to address a hostile environment at his school during the 2019-2020 school year of which it had notice.

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, which prohibit 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 Title VI and its implementing regulations.

Legal Standards

The regulation implementing Title VI, at 34 C.F.R. Section 100.3(a), provides that no person shall, on the ground of race, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program of the District. Recipients may not, based on race, color, or national origin, provide, restrict or deny a student any service or benefit under the recipient's educational program or subject a student to separate treatment in the receipt of any such service or benefit. See 34 C.F.R. § 100.3(b)(1)(ii), (iii), (iv) and (vi).

Under Title VI and its implementing regulation, OCR considers a variety of related factors to determine if a hostile environment has been created and considers the conduct in question from both an objective and a subjective perspective. Factors examined include the degree to which the misconduct affected one or more students' education; the type, frequency, and duration of the misconduct; the identity of and relationship between the alleged harasser and the subject or subjects of the harassment; the number of individuals involved; the age and race of the alleged harasser and the subject of the harassment, the size of the school, location of the incidents, and the context in which they occurred; and other incidents at the school. The more severe the

conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical. A single or isolated incident of harassment may, if sufficiently severe, create a hostile environment.

Once a recipient knows or reasonably should know of possible harassment, it must take immediate and appropriate action to investigate or otherwise determine what occurred. A recipient must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment, prevent the harassment from recurring and, as appropriate, remedy its effects. These duties are a recipient's responsibility, regardless of whether a student has complained, asked the recipient to take action, or identified the harassment as a form of discrimination. A recipient has notice of peer or third-party harassment if a responsible employee actually knew or, in the exercise of reasonable care, should have known about the harassment. If a recipient delays responding to allegations of harassment or responds inappropriately, the recipient's own action may subject students to a hostile environment. If it does, the recipient will be required to remedy the effects of both the initial harassment and the effects of the recipient's failure to respond promptly and appropriately.

Factual Background

XX- Paragraphs Redacted – XX

Request to Resolve Complaint through a Voluntary Resolution Agreement

Under Section 302 of OCR's Case Processing Manual (CPM), a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a Resolution Agreement and OCR determines that such a resolution is appropriate. The provisions of the Resolution Agreement must be aligned with the complaint allegations, the information obtained in the 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. OCR determined that this complaint is appropriate for resolution through a Voluntary Resolution Agreement under Section 302 of OCR's CPM.

Consistent with OCR's procedures, on April 20, 2021, the District requested to resolve the complaint through a Voluntary Resolution Agreement. On May 26, 2021, the District signed this Agreement. When fully implemented, the Agreement will address the allegation in this complaint. As is our standard practice, OCR will monitor the District's implementation of the Agreement, a copy of which is enclosed. Accordingly, OCR is concluding its investigation of the allegation as of the date of this letter.

This letter is not intended nor should it be construed to cover any other issues regarding the District's compliance with Title VI, which may exist and are not discussed herein. 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 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.

If you have any questions or concerns, please call me at (215) 656-8522 or vicki.piel@ed.gov or Meg Willoughby, the attorney assigned to this complaint, at 215 656-8579 or meg.willoughby@ed.gov.

Sincerely,

/s/

Vicki Piel
Team Leader/Supervisory Attorney
Philadelphia Office

CC: Michele J. Mintz, Esq.

Enclosure