



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

April 21, 2021

IN RESPONSE, PLEASE REFER TO: 03211021

Dr. Michael Q. Roth, Superintendent
Upper Moreland School District
2900 Terwood Road
Willow Grove, PA 19090
Via Email Only: mroth@umtsd.org

Dear Dr. Roth:

This is to advise you of the outcome of the complaint filed with the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) against Upper Moreland School District (the District). The Complainant alleged that the District discriminated against her daughter (Student) on the bases of race and color during the 2020-2021 school year. Specifically, the Complainant alleges that the District subjected the Student to a hostile environment on the bases of race and color.

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. As a recipient of Federal financial assistance from the Department, the District is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Before OCR completed its investigation, on April 13, 2021 the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Resolution Agreement.

Legal Standards

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.

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

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.

Factual Background

During the 2020-2021 school year, the Student was a XXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX The class met every other morning. Because students were learning remotely at the beginning of the school year, due to the Covid-19 crisis, teachers were instructed to record their instructional time so that students could participate asynchronously if needed. OCR was provided with copies of the videos.

XX – Paragraphs Redacted – XX

Preliminary Analysis

Based on OCR's preliminary investigation, the District may not have fully investigated the merits of the Student's allegations, nor determined whether she was subjected to different treatment based on her race or a hostile environment. However, because the District requested a voluntary resolution agreement, OCR has not completed its investigation into the District's response.

Conclusion

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District signed the enclosed Resolution Agreement on April 21, 2021, which, when fully implemented, will resolve the allegations raised in this complaint. As is our usual practice, OCR will monitor the District's implementation of the Agreement.

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, or participates in an OCR proceeding. 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.

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact Catherine Deneke, the OCR attorney assigned to this complaint, at 215-656-5964 or Catherine.Deneke@ed.gov.

Sincerely,

/s/

Christina M. Haviland
Supervisory Attorney

Enclosure

cc: Sharon Montanye, SMontanye@sweetstevens.com