



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

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September 29, 2015

Dr. Steven Isoye
Superintendent
Oak Park and River Forest High School District 200
201 North Scoville Avenue
Oak Park, IL 60302

Re: OCR Docket # 05-15-1180

Dear Dr. Isoye:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed with OCR on March 20, 2015, against the Oak Park River Forest High School District 200 (District) alleging that, on February 27, 2015, the District discriminated against students on the basis of race (non-African American) when it held a student assembly entitled "Black Lives Matter" that only African American students were permitted to attend.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d - 2000d-7, 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 this law.

As part of its investigation, OCR interviewed the District Superintendent and reviewed documents provided by the Complainant and the District. Based on the information obtained during its investigation, OCR determined that there is sufficient evidence to support the allegation that the District did not comply with Title VI. Discussion between OCR and the District resulted in the enclosed Resolution Agreement signed by the District on September 25, 2015, which is aligned with the violation identified by OCR and addresses all compliance concerns OCR identified. The reasons for OCR's determination are set forth below.

Legal Standards

Title VI requires that beneficiaries be provided equal access to a recipient's education programs, benefits, and services without regard to race, color, or national origin. Pursuant to 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 basis of race, color, or national origin under any program that receives federal financial assistance. Furthermore, applicable provisions of the regulation at 34 C.F.R. § 100.3(b)(1) provide a recipient may not, directly or through contractual or other arrangement, on ground of race, color, or national origin:

- i. Deny an individual any service, financial aid, or other benefit provided under the program;
- ii. Provide any service, financial aid, or other benefit to an individual which is different, or provided in a different manner from that provided to others under the program;
- iii. Subject an individual to segregation or separate treatment in any matter related to the individual's receipt of any service, financial aid, or other benefit under the program;
- iv. 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;
- v. Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program; or
- vi. Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford the individual an opportunity to do so which is different from that afforded others under the program.

Racial discrimination by school districts that violates the Equal Protection Clause of the Fourteenth Amendment to the Constitution also violates Title VI. Under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, state actions, policies or laws that rely on the racial classification of individuals, and which give benefits or burdens on that basis, are subject to strict judicial scrutiny. In order to survive strict scrutiny, such actions, policies or laws must be shown to be narrowly tailored to meet a compelling governmental interest.

To determine if the method chosen is narrowly tailored to achieve a compelling purpose, OCR considers the four prong narrow tailoring test from the U.S. Supreme Court's decision in *Grutter v. Bollinger*, 539 U.S. 306 (2003). That test assesses:

- whether an educational institution has considered workable race-neutral alternatives;
- whether its plan provides for flexible and individualized review of students;
- whether it has minimized undue burdens on other students; and
- whether its plan is limited in time and subject to periodic review.

Relevant District Policies and Procedures

The District's non-discrimination policies and procedures are available through the District's policy handbook (Handbook). Section 7:10 prohibits, in relevant part, discrimination on the basis of race.

Background

Racially Exclusive Assembly

Oak Park and River Forest High School (OPRF) is the only school operated by the District. According to the District Profile on its website at <http://www.oprfhs.org/about/documents/14-15ProfileFinal.pdf>, in 2014-2015, OPRF was 53.9% white, 24.3% African American, 10.7% Hispanic, 3.2% Asian, and 7.9% multi-ethnic.

According to the District, in light of the police actions involving African American victims in Ferguson and New York and subsequent events, a group of students considered staging a “walk out,” believing their voices were not being heard regarding ongoing controversies surrounding the “Black Lives Matter” movement in the country. To channel the students’ energy in a more constructive manner, District administration developed a concept for an assembly. That initiative developed into a “Black Lives Matter” assembly held by the District during the school day on February 27, 2015, as the final activity for Black History Month. The District acknowledged that it convened an assembly for African American students only.

According to its narrative response to OCR, the District determined that, in order to provide a comfortable forum for black students to express their frustrations, it would limit the assembly to participation by students who self-identified as black. Some students who self-identified as white were directed by District officials not to participate in the event as this assembly was designed for students who self-identify as black. During the assembly, students talked about their experiences being black on a broader scale and their experiences at Oak Park River Forest (OPRF) High School. According to press reports, African American students described their experiences in being the only black student in advanced placement classes, having few black teachers and their feelings about always having to represent their race rather than themselves in classroom discussions.

After the holding the assembly, some students and parents voiced concerns about the racially exclusive nature of the assembly. The District also received correspondence from the public expressing such concerns, and there was significant press coverage. According to press reports, the controversy led to a three hour meeting of the District’s Board of Education, at which dozens of parents, students and teachers spoke. Most supported the racially exclusive assembly as a safe place for African American students to describe their unique concerns. The president of the Board and one of its members, however, expressed concerns about the legal ramifications of the event. Numerous letters to the editor in the local newspaper expressed both support and criticism of the event. The District indicated that it had made an effort to reach out to parents and students from within the District who objected to the event by responding to phone calls and emails and attempting to explain the rationale behind the assembly. In a telephone conversation on April 8, 2015, the District’s Superintendent informed OCR that the District had decided not to hold such events in the future.

Analysis and Conclusion

As indicated above, the District acknowledged holding a racially exclusive program – an assembly entitled “*Black Lives Matter*” – at which District officials turned away students of other races. The District asserted that its interest in holding a racially exclusive assembly was

compelling and that the means used survive strict scrutiny. The District identified the interest at stake as to support the unique needs of black students at OPRF.

Further, the District stated:

OPRF does support a positive climate for all students through race-neutral policies, curriculum and activities, ... [but] race remains a significant and even defining element of some students' experience of school culture and climate. In this context, when the very issue at hand is race, race neutral means are not viable.

OCR considered this purpose as supporting a compelling interest by the District in achieving and maintaining diversity in all of its education programs and activities.

OCR next examined whether the racially exclusive assembly was narrowly tailored to achieve the District's compelling diversity interest. In this regard, OCR found that the District did not assess fully whether there were workable race-neutral alternatives; and it did not conduct a flexible and individualized review of potential participants. While the assembly itself was of short duration, at the time the assembly was held, the District was considering scheduling additional racially exclusive assemblies for other groups.

For these reasons, OCR determined that, while the District had a compelling diversity interest in hearing the concerns of African American students, the means used were not narrowly tailored to address this interest. Therefore, OCR concludes that the District violated Title VI. The District has provided the enclosed Resolution Agreement to OCR. The Agreement is aligned with the violation identified by OCR and is consistent with the applicable regulations and legal standards. Specifically, the Agreement contains an assurance that all programs and activities, including assemblies and similar events sponsored by the District, will be open to all students, parents and other individuals regardless of their race, color or national origin. The Agreement also commits the District to develop a policy to ensure that the assurance is carried out, and to provide to training to District staff after the policy is approved by OCR. According to the Agreement, the District will provide OCR with documentation that the policy has been followed with respect to any programs or activities that are anticipated to be of interest to students or parents of particular racial or national backgrounds.

This concludes OCR's investigation of the complaint and 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 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 she 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 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.

OCR would like to thank the District for its cooperation during the investigation. If you have any questions or concerns about OCR's determination, you may contact Roberto Flores, Equal Opportunity Specialist, at (312) 730-1688, or Roberto.Flores@ed.gov.

Sincerely,

Dan Altschul
Acting Supervisory Attorney

Enclosure