



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

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August 28, 2017

Ms. Kathy Dinger
Superintendent
Bushnell-Prairie City Community Unit School District #170
845 N. Walnut Street
Bushnell, IL 61422

Re: #05-17-1222

Dear Ms. Dinger:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), completed its case resolution processing for the complaint filed against Bushnell-Prairie City Community Unit School District #170 (District), alleging discrimination on the basis of race.

Specifically, the complaint alleged that, during the 2016-2017 school year, the District subjected a junior high school student (Student A) to discrimination based on race (African American) when other students subjected him to a racially hostile environment and the District was aware of the hostile environment but failed to respond adequately.

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, which prohibit discrimination based on race, color or national origin by recipients of Federal financial assistance from the Department. As a recipient of Federal financial assistance, the District is subject to Title VI.

Prior to OCR's investigation, the District expressed interest in resolving the allegation. Discussions between OCR and the District resulted in the District's signing the enclosed Resolution Agreement (Agreement), which, when fully implemented, will resolve the issue raised allegation of the complaint.

Background

The District operates one elementary school, one middle school (the Junior High School), and one high school. According to the last published Illinois school report card, the Junior High School enrolled 156 students: 95.7% of students who identified as white, 1.2% of students who identified as Hispanic, 0% of students who identified as black, 0% of students who

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identified as Asian, 0% of students who identified as American Indian, and 3.1% of students who identified as “Two or More Races.”

District’s Policies

The District has policies that prohibit discrimination on the basis of race, including racial harassment that are posted on its website and include the name and contact information of the individuals responsible for responding to inquiries regarding Title VI.¹ The District’s 2016-2017 Parent-Student Handbook (Handbook), which is available on the District’s website, under the section “Bullying, Intimidation, and Harassment,” prohibits bullying on the basis of race and encourages students to immediately report such bullying orally, or in writing, to a “District complaint manager or any staff member.” The Handbook also outlines the student code of conduct (the Code). The Code prohibits bullying, and includes race harassment in its description of prohibited conduct. The Handbook also states that the District has a formal grievance policy that covers race discrimination and harassment complaints which can be found in the Board of Education Policy and Procedure manual located at each District school and on the District’s website.²

Legal Standards

The regulation implementing Title VI, at 34 C.F.R § 100.3(a), states that no person shall, on the basis of race or national origin, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity by a recipient of Federal financial assistance.

Racial harassment that creates a hostile environment can constitute a form of discrimination prohibited by Title VI. Harassment based on race is intimidation or abusive behavior toward a student based on race that creates a hostile environment by interfering with or denying a student’s participation in or receipt of benefits, services, or opportunities in the institution’s program. Harassing conduct may take many forms, including verbal acts and name calling, nonverbal behavior such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

To show racial harassment in violation of Title VI, the evidence must establish that: (1) a hostile environment on the basis of race existed, i.e., harassing conduct (e.g., physical, verbal, graphic, or written) occurred that was 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; (2) the recipient had notice of the hostile environment; and (3) the recipient failed to respond adequately to address the hostile environment. In analyzing claims of harassment based on race, OCR considers the totality of

¹ <http://www.bpcschoools.org/board-policy-manual.html>

² <http://www.bpcschoools.org/parent-student-handbook.html>

the circumstances to determine whether a hostile environment has been created. These circumstances include the context, nature, scope, frequency, duration, and location of the harassment incidents, as well as the identity, number, and relationships of the persons involved.

The regulation implementing Title VI does not contain an explicit requirement that recipients adopt and implement complaint procedures to address allegations of discrimination based on race, color or national origin. However, grievance procedures that encompass race discrimination can be part of a prompt and effective response to harassment or other forms of discrimination prohibited by Title VI. In addition, a recipient that has adopted discrimination complaint procedures must apply the procedures in a manner that does not constitute Title VI discrimination.

Facts

The complaint alleged that, during the 2016-2017 school year, the District subjected Student A to discrimination based on race (African American) when other students subjected him to a racially hostile environment and the District was aware of the hostile environment but failed to respond adequately.

Student A attends the Junior High School. The Complainant told OCR that Student A has been called the “N” word by at least two white students. Student B told Student A “shut up little N-word.” The Complainant did not recall the dates when this occurred. She said that she contacted the Junior High Principal about the harassment, but the Principal denied that the incident occurred and did not discipline Student B. The Complainant also reported to OCR that throughout the 2016-2017 school year, another white student (Student C) constantly called Student A the “N-word.” Because the Principal did not address the initial harassment, the Complainant did not report the harassment by Student C to the Principal or any other School employee. Instead, she informed OCR that she spoke to Student C herself and told him to stop calling Student A that name. She said that after she spoke to Student C, he stopped calling Student A the n-word.

Analysis and Conclusions

OCR has determined the allegation is appropriate for resolution under Section 302 of OCR’s Case Processing Manual. The District expressed interested in resolving the allegations in order to complete the investigation and reach a finding regarding this allegation, OCR needs to receive data from the District, interview relevant District personnel with knowledge of the complaint allegations; interview students who may have witnessed or engaged in racial harassment; and, interview Student A.

The agreement requires the District to take the following actions: investigate whether Student A was subjected to harassment based on race during the 2016-2017 school year, submit its proposed findings, supporting documentation, remedial actions, and disciplinary actions to

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OCR for review and approval, send written notification to the parents of the finding, any remedial actions to be taken, and of the opportunity to appeal any findings, and implement appropriate discipline and/or remedial actions, if any are warranted.

OCR will monitor the District's implementation of the agreement.

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.

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 individual may file a 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.

The complainant may file a private suit in Federal court, whether or not OCR finds a violation.

We wish to thank you and your staff for your cooperation and courtesy during our investigation. If you have any questions, please contact Sandra Garcia, Senior Equal Opportunity Specialist, at (312) 730-1580 or by email at Sandra.L.Garcia@ed.gov.

Sincerely,

Marcela Sanchez-Aguilar
Supervisory Attorney

Enclosure