



UNITED STATES DEPARTMENT OF EDUCATION

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March 8, 2022

Transmitted by email to corireynolds@mcwmavericks.org

Ms. Cori Reynolds
Superintendent
Martin County West School District 2448
105 E. 5th Street
Sherburn, Minnesota 56171

Re: OCR #05-21-1125
Martin County West Schools

Dear Ms. Reynolds:

This letter is to notify you of the outcome of the complaint filed with U.S. Department of Education, Office for Civil Rights (OCR), against Martin County West School District 2448 (District). The complaint alleges that the District discriminated against Student A, Student B, and Student C (collectively the “Students”) based on race (XXXXX) when in January, February and March 2021, the District failed to appropriately respond to reports of racial harassment by District staff and students.

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 from the Department of Education. As a recipient of Federal financial assistance from the Department of Education, the District is subject to the requirements of Title VI and its implementing regulation. OCR therefore has jurisdiction over this complaint.

OCR investigated the complaint by reviewing information from the Complainant and the District and interviewing the Complainant, the Students, and relevant District staff. Prior to the completion of OCR’s investigation, the District expressed interest in resolving the complaint under Section 302 of OCR’s Case Processing Manual. OCR determined that a 302 agreement is appropriate in this case. A summary of OCR’s investigation to date and the 302 agreement follows.

Facts

During the 2020-2021 school year, Student A was in XXX grade, Student B was in XXX grade, and Student C was in XXX grade in the District's Junior/Senior High School (School). The Complainant and the Students identified several incidents of alleged race-based discrimination and harassment that occurred during the spring 2021 semester. They assert that they complained to District staff about each incident but the District failed to appropriately respond to their complaints.¹

Student A

The Complainant and Student A contend that in January 2021, Student A's Physical Education teacher (Teacher A) referred to Student A's XXXXX boyfriend as a "drug dealer" after Teacher A saw a picture of the boyfriend on Student A's phone at school. The Complainant and Student A stated that they reported to the Principal that they believed Teacher A's comment was racial harassment and the Principal failed to respond.

According to District records and staff statements, on February 4, 2021, Student A reported that Teacher A saw a picture of a XXXXX male on another student's phone (Student F) while in school. Teacher A remarked to Student F while in the presence of other students, "Is [Student F's] boyfriend a drug dealer?" Teacher A also said to the Student F, "What's up with you dating drugdealers?" According to the District, Student A indicated the comment was racially motivated.

When the Principal raised the matter with Teacher A, Teacher A admitted to the Principal and OCR that he made the comment to Student F, but that he meant it as a joke. He conceded to making similar comments to other students in the past about their boyfriends enrolled in other schools being drug dealers. He told OCR that he was shown a picture of Student A's boyfriend and he may have made the "drug dealer" comment to Student A about her boyfriend. Teacher A asserts he was not aware of the races of the boyfriends when he made these comments to other students. The Principal issued a verbal reprimand to Teacher A, advising him not to make judgmental comments to students in the future. They discussed how Teacher A's comment had impacted students. In March 2021, Teacher A apologized to Student A for the comment after a meeting between the Complainant and District staff. The Principal did not provide Student A or the Complainant with notice of the outcome of her conversation with Teacher A. Nor did she consider whether Teacher A's comments created a racially hostile environment for the affected students or offer any services to Student A. The Principal asserts that she was not aware that Student A was claiming that Teacher A's comments were racial in nature.

The Complainant also asserts that in January 2021, the School's head basketball coach (Coach A) discriminated against Student A based on race at basketball practice. Student A fell

¹ OCR reviewed emails and text messages between the parties provided by the District and the Complainant. None of the communications show that the Complainant complained about race-based harassment or discrimination to District staff.

during a basketball practice in January 2021 and Coach A did not help her get up. However, the Complainant stated, Coach A did assist a White basketball player who fell during the same practice. Coach A and Coach B report that while they noticed Student A fall, they did not attend to her as she immediately got back up and did not report being injured.

The Complainant also contends that in January 2021, Teacher A harassed Student A based on race by shouting at Student A and sending her to the office after breaking a rule during a kickball game. Teacher A allegedly did not discipline several non- XXXXX students who also failed to follow the rules during the game. Teacher A denies that he disciplined Student A differently than other students during this game.

Student B

The Complainant alleged that Student B was subjected to racial discrimination and harassment by students as well as staff. With respect to students, the Complainant told OCR that for the past three school years a group of male students told Student B that she smells and called Student B a “beaner,” and other racial names. The Complainant said these incidents were reported to the Principal but that nothing was done in response to her reports. The Principal asserts that Student B did not raise these complaints to her.

The Complainant also asserted that the District discriminated against Student B on the basis of race when in January 2021, Coach A refused to allow Student B to play on the varsity basketball team after missing two practices. Coach A allegedly allowed a White student (Student D) to play on the varsity team after she missed more practices than Student B. According to the coaches and District records, consistent with policies described in the Student Handbook, Student B was ineligible to play most of the 2020-2021 basketball season for XXXXX XXXXX; Coach A denied that the missed practices were the reason that Student B was not allowed to play on the varsity team. In a text message exchange between the Complainant and the assistant basketball coach (Coach B) on January 10, 2021, the Complainant acknowledged that Student B was required to sit out of games for XXXXX XXXXX. The District provided documents showing that Student D was XXXXX XXXXX. According to the District, Student B was denied an opportunity to play on the varsity team because she was XXXXX XXXXX and not because of her race.

The Complainant and Student A indicated that Student A and Student B met with Coach A in February 2021 to discuss the January 2021 falling incident and various concerns about how Coach A treated Student A and Student B differently because of their race. Coach A recalled meeting with Student A only and stated that Student A did not raise concerns regarding different treatment based on race during this meeting.

Student C

Student C told OCR that during the third quarter of the 2020-2021 school year, classmates regularly called him names at school, such as “fat ass, retard, faggot, fatty, bitch, dumb ass,

beaner and spic.” According to Student C, one of the students who called him names slammed Student C’s hand in his locker. Student C said he went to the office and complained to the Principal. Student C said the Principal talked to the offending student but did not issue discipline. By contrast, the Principal told OCR that Student C did not report this incident to her or report that he was being harassed based on race or for any other reason. The Principal denied talking to another student about any harassing behavior directed toward Student C.

The Complainant and Student C told OCR that in February 2021, Student E called Student C a “spic” Student C reported the incident to the 7th grade basketball coach (Teacher B). According to the Complainant, Teacher B told Student C not to bully other students and the District took no further action against Student E. Student C told OCR that he had reported the race-based comment to the Principal as well, but that the Principal took no action. The Principal and Teacher B denied that Student C reported the incident to either of them.

On another occasion, one of Student C’s friends told Student C about a note that was going around science class that included bad words about him, including “spic.” Student C told OCR that he reported the note to the Principal and followed up with her a week and a half later, but the Principal said she was still looking into the matter. The Principal never told Student C that whether she had disciplined anyone as a result of the note. The Principal denies ever having been informed of a note and, therefore, was unable to investigate or take action related to such an allegation.

The Complainant and Student C said that on that same day in February 2021, the Principal confiscated Student C’s cell phone because he was using it during lunch but did not confiscate the cell phones of White students who were also using their phones during the same lunch period. The Student Handbook provides that students in Grades 7 and 8 may use their cell phones only before and after school or during teacher-directed time.² The Principal told OCR she had no recollection of the incident and denied that Student C reported he was being treated differently based on race with respect to the School’s cell phone policy.

March 4, 2021 Meeting

On March 4, 2021, the Dean met with the Complainant, Student A’s father, Student A and the Principal. According to the Principal and the Dean, Student A’s father expressed several concerns about the treatment of Student A by District staff. Near the end of the meeting, the Complainant expressed a general concern that her children were being harassed and treated differently by District staff and students because of their race. The Principal and the Dean of Students stated that they did not investigate further because the Complainant did not provide any details. According to the Complainant, the Principal and Dean did not ask for specific incidents and she did not provide examples of different treatment of Students B or C. According to the District, there was no further follow up with the family after the meeting.

² See, Martin County West Junior/Senior High School Student Handbook, p. 16.
<https://mn50000757.schoolwires.net/cms/lib/MN50000757/Centricity/Domain/26/Secondary%20Handbook%202021.pdf>

Student's Enrollment Status

XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX.

Applicable Legal Standards

The regulation implementing Title VI, at 34 C.F.R. § 100.3, provides that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which Title VI applies. Racial harassment that creates a hostile environment is a form of discrimination prohibited by Title VI. Racial harassment can be verbal, nonverbal, or physical in nature. The existence of a hostile environment that is created, encouraged, accepted, tolerated or left uncorrected by a recipient constitutes discrimination on the basis of race in violation of Title VI.

To establish a violation of Title VI under the hostile environment theory, OCR must find that: (1) a hostile environment based on race existed; (2) the recipient had actual or constructive notice of a hostile environment based on race; and (3) the recipient failed to respond adequately to redress the hostile environment based on race.

Harassment creates a hostile environment when the conduct is sufficiently severe, persistent, or pervasive so as to interfere with or limit an individual's ability to participate in or benefit from a recipient's program. Harassing acts need not be targeted at the complainant in order to create a hostile environment. The acts may be directed at anyone, and the harassment need not be based on the complainant's or victim's race so long as it is motivated by race (e.g., it might be based on the race of a friend or associate of the victim). The harassment must in most cases consist of more than casual or isolated incidents to establish a Title VI violation. Whether harassing conduct creates a hostile environment must be determined from the totality of the circumstances. OCR will examine the context, nature, scope, frequency, duration, and location of the race-based harassment, as well as the identity, number, age, and relationships of the persons involved. If OCR determines that the harassment was sufficiently severe that it would have adversely affected a reasonable person, of the same age and race national origin as the victim, under similar circumstances, from participating in or enjoying some aspect of the recipient's education program or activity, OCR will find that a hostile environment existed.

A school may be found to have violated Title VI if it has failed to correct a hostile environment based on harassment of which it has actual or constructive notice. A recipient is charged with constructive notice of a hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination. In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient.

Once a recipient has notice of a hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. OCR evaluates the appropriateness of the responsive action by assessing whether it was reasonable, timely, and effective. The appropriate response to a hostile

environment based on race must be tailored to redress fully the specific problems experienced as a result of the harassment.

OCR enforces the requirements of Title VI consistent with the requirements of the First Amendment of the U.S. Constitution. The laws that OCR enforces protect students from discrimination but are not intended to restrict the exercise of protected speech in violation of the First Amendment.

Conclusion and Resolution Agreement

OCR finds insufficient evidence to conclude that the District discriminated against Student B on the basis of race by refusing to allow her to play on the varsity basketball team in January 2021. District records established that Student B was ineligible to play most of the 2020-21 season for academic reasons. The Complainant acknowledged this in a text message that OCR reviewed. OCR found no evidence to suggest that Student B's race affected her eligibility for varsity basketball, or evidence of more favorable treatment of similarly situated students of other races.

OCR has concerns regarding the District's response to Teacher A's acknowledged comments to students at school referring to boyfriends of District students as drug dealers. While the District reprimanded Teacher A, who then apologized to Student A, they did not provide Student A or the Complainant with notice of the outcome of the conversation with Teacher A. The District did not consider whether Teacher A's comments created a racially hostile environment for the affected students or offer any services to Student A.

OCR also has concerns regarding race-based name calling and slurs uttered by students and directed at Students A, B and C. While the District asserts that it was not aware of the name calling and slurs, the Complainant and Students assert that District staff had notice of the race harassment that they verbally reported to staff. While the evidence as to whether these alleged incidents of name calling were reported to District staff is disputed, the District did not take steps to investigate any other possible incidents of harassment or take sufficient steps to address the harassment.

Finally, OCR has concerns that the District failed to respond to the Complainant's March 4, 2021 statement that District staff and students harassed and treated the Students differently because of their race.

The enclosed Resolution Agreement is fully aligned with the complaint allegations. It requires the District to:

- communicate an offer to investigate the allegations of racial harassment of Student A, Student B and Student C by students and Teacher A during the spring 2021 semester and assess what actions, if any, should be taken to address the effects of any harassment found to have occurred;

- train District staff on the District's nondiscrimination and harassment policies and on investigation techniques;
- provide training to students at the School on the District's nondiscrimination and harassment policies; and
- take steps to track and maintain data concerning incidents of racial harassment and discrimination involving District students sufficient to determine Title VI compliance.

This concludes OCR's resolution actions with regard to the complaint and should not be interpreted to address the District's compliance with any other regulatory provision nor to address any issues other than those addressed in this letter. The 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.

OCR would like to make you aware that the Complainant may have a right to 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 he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment. A complainant may file an action in 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, OCR 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 privacy.

OCR wishes to thank District staff and District counsel Jennifer Earley and Elizabeth Meske for their cooperation and courtesy during OCR's investigation. If you have any questions about this letter, you may contact Sara Choh, OCR Attorney, by phone at (312) 730-1461 or by email at sara.choh@ed.gov.

Sincerely,

Ann Cook-Graver
Supervisory Attorney

Enclosure

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