



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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June 5, 2023

Dr. Jack Gaham
Superintendent
Beecher Community Unit School District 200U

Sent via email only to: [redacted content]

Re: OCR Docket # 05-22-1177

Dear Dr. Gaham:

This letter is to inform you of the disposition of the above-referenced complaint that was filed with the U.S. Department of Education, Office for Civil Rights (OCR) against Beecher Community Unit School District 200U (District). OCR investigated whether the District failed to respond appropriately to complaints that a [redacted content] student (Student A) was harassed based on race (Black) by other students and a teacher during [redacted content] class during the 2021-2022 school year.

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 in programs and activities operated 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 submitted by the Complainant and the District and interviewing Student A, Student A's parent (the Parent), 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 because OCR's investigation has identified concerns that can be addressed through a resolution agreement. Below is a summary of the applicable legal standards and OCR's investigation to date.

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. 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.

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

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 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.

Facts

During the 2021-2022 school year, the District enrolled approximately 1015 students. The student population is approximately 20% Hispanic/Latino; 3% Black; 73% white; 3% two or more races; and less than 1% other. The District has three buildings, and they serve the following grade levels respectively: one building for grades kindergarten through 5th grade; another for 6th grade through 8th grade; and one for 9th grade through 12th grade.

Student A, [redacted content] student at [redacted content] (School) during the 2021-2022 school year.

District Policies and Grievance Procedures

The District's Policy 7:20 *Harassment of Students Prohibited* (Anti-Harassment Policy) prohibits harassment on the basis of actual or perceived race, and encourages students to promptly report incidents to, in pertinent part, a building Principal or Assistant Principal. A report of harassment under this policy is to be addressed under Policy 2:260 *Uniform Grievance Procedure* (Grievance Procedure), which directs "[a]ny District employee who receives a report or complaint of harassment [to] promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager." The Grievance Procedure directs the Complaint Managers to first attempt to resolve the complaint informally. If the complaint is not resolved informally, the Grievance Procedure then directs the Complaint Manager to investigate the complaint promptly and, within thirty business days, file a written report of the findings with the Superintendent, who in turn shall mail his written decision to the complainant and accused within five business days. The Grievance Procedure also provides for an appeal of the decision to the School Board within ten business days.

The complaint alleges that the District discriminated against Student A based on race when District students and a Classroom Teacher in her [redacted content] class racially harassed her and the District failed to respond appropriately. These instances are outlined below.

PowerPoint Presentations

Student A told OCR that, between [redacted content] 2021, two white students (Student B and Student C) in her [redacted content] class each presented two PowerPoint presentations; a confederate flag was posted on the last slide of each presentation. Student A said that the first presentation was on native tribes and the second presentation was on diseases. Student A said that seeing the confederate flag on these four presentations made her feel upset and very uncomfortable in the class, making it difficult to learn. Student A said that [redacted content]. Student A said that no one in the School discussed these presentations with her or offered her any counseling or other services.

The Parent told OCR that she called the Dean in [redacted content] and complained that these presentations displayed a confederate flag, which was racially insensitive and inappropriate. The Parent said that the Dean said he would investigate her report, but the Dean did not do so. The Dean told OCR that he did not receive any complaints from the Parent, Student A, or anyone else about the PowerPoint presentations. He said he was not aware of the confederate flag slides.

The Parent said that she also complained about these presentations during Student A's [redacted content], Section 504 meeting. She said she told the Section 504 team that the transition to the School had been difficult for Student A due to racial insensitivity and blatant racist actions. However, the Special Education Teacher and Counselor told OCR that, although they both attended the [redacted content] Section 504 meeting, they have no recollection of any complaint about the confederate flag slides in the PowerPoint presentations.

Snapchat

Student A told OCR that, on [redacted content], 2021, Student B posted a snapchat during the school day that contained the “N” word. The snapchat was a picture of Student B and stated, “I heard a knock on the front door and I looked out the front window and saw a [“N” word]. It was here to deliver a toaster but still confused the shit out of me.” Student A said that this snapchat was very upsetting and it made her feel more uncomfortable in her [redacted content] class with Student B. Student A said that the whole school had access to the snapchat. She said that at least five other Black students mentioned the snapchat to her and were upset about it as well. The Parent reported the snapchat to the Dean that same day, attaching the snapchat and saying, “I’m really trying to help my child cope with it.” The Dean responded, “I will catch up with the child and our SRO [School Resource Officer] and handle this asap.” The Parent said she told the Dean that the snapchat was racially insensitive. The Parent said that the Dean did not inform her of any actions he took in response to this complaint.

Student A told OCR that the only time the Dean spoke to her about the snapchat incident was when he asked her if it occurred on or off campus. Student A said she informed the Dean it occurred on campus. She said the Dean did not discuss anything further with her about the snapchat. She said that no one on the staff of the School discussed the snapchat with her or other students in the School or offered her counseling, a safety plan, a schedule change, or any other services.

The Dean told OCR that he investigated the Parent’s complaint concerning the snapchat.¹ He said he interviewed a few students, including Student B, who admitted he sent it. The Dean said he gave Student B a [redacted content] for inappropriate language, which Student B served on [redacted content], 2021. The Dean also said he called Student B’s parents to advise them of the incident and Student B’s discipline and informed them that repeated violations would result in escalated discipline. The Dean said he informed the School Resource Officer and the Principal of the incident. The Dean said he called the Parent on [redacted content], 2021, to notify her that Student B was disciplined but did not share the specific discipline for privacy reasons.

The Dean said he did not receive any other complaints about the snapchat. He said that he did not investigate whether any other student received or saw the snapchat and did not consider whether other students were affected by the snapchat. The Dean said he did not offer Student A counseling services specifically, but that Student A knew that counseling was available at the School. The Dean said that he did not discuss the snapchat with Student A’s class or anyone else in the School. Although Student A and Student B were in two classes together, [redacted content], the Dean did not take efforts to separate Student A and Student B after the incident.

¹ The District has an Anti-Harassment Policy, which provides that no person shall harass, intimidate, or bully a student on the basis of actual or perceived race, and a Uniform Grievance Procedure, which the District did not follow when responding to the Parent and Student A’s complaints. The District’s policies and procedures are available on its website at <https://content.myconnectsuite.com/api/documents/bdc50939f9494a9490e68610bec085de>.

The Dean said that he did not receive any other complaints of race-based harassment from Student A or her Parent. Student A confirmed to OCR that Student B did not engage in further race-based harassment.

Classroom Teacher's Comments

The Parent informed OCR that, when Student B returned to School from his suspension sometime between [redacted content], 2021, the Classroom Teacher alluded to the snapchat incident, stating to the class, "It is the times we are living in, you cannot talk about this stuff during school hours." The Parent said that the Classroom Teacher did not denounce what Student B did and instead said just do not do it during school hours. The Parent said that she complained about the Classroom Teacher's comments to the Dean by phone. The Parent said the Dean told her he would investigate and get back to her, but she heard nothing further from the Dean.

The Parent said that, on [redacted content], 2021, she complained to the Dean by email that the Classroom Teacher said in class, "someone in this class is going home telling their mother what is happening in our class, so we can't talk." The Parent further stated, "I am two seconds away from filing a civil rights complaint. I reached out for support and my child is further impacted," and that the Classroom Teacher's statement was further intimidation of Student A.

The Dean informed OCR that he spoke to the Classroom Teacher on the same day. He said the Classroom Teacher explained that the comments were not about Student A but about a situation involving other students. The Dean said he counseled the Classroom Teacher that she should not make these types of comments in the classroom. He also said that he informed the Parent that the comment was not about Student A. The Dean said he did not confirm the Classroom Teacher's account with the Principal because he had no reason to doubt the Classroom Teacher's explanation of her comment.

Further Incidents Involving Student A

Student A informed OCR that, in [redacted content] 2021, the Classroom Teacher played a song that included the "N" word and Student B said, "they can say it in a song, but when I say it, it is a problem." She said the Classroom Teacher did not say anything in response. Student A and the Parent said they did not complain to the School about this incident.

Student A told OCR that on [redacted content], 2022, Student B told Student A in [redacted content] class, "If you weren't on your 'fucking' phone, then you could have gotten the ball." Student A reported the incident to the Dean and the Dean told OCR that, in response, he spoke to the [redacted content] teachers to keep an eye out on both students; told Student B to leave Student A alone; informed Student B's parents of the incident; and emailed Student A's parent stating that he spoke to Student B's parents and that "any inappropriate interaction will lead to immediate consequences." He said he also spoke to Student A and told her to come to him if there were any further issues.

Student A said that, [redacted content], 2022, the students in the [redacted content] class were playing a Kahoot game and Student C identified himself on it as, “nighas.” She said another white student told Student C he is being racist and needed to stop. Student A said the Substitute Teacher did nothing to address the situation and kept that name up on the screen. Student A and the Parent said they have not complained to the School about this incident.

Student A told OCR she has not heard racial slurs in school except in her [redacted content] class. She said she does not feel that it is a safe school environment, and every day is uncomfortable.

Other Racial Incidents in the District

OCR interviewed several District personnel, including the Superintendent (who is also designated as the District Nondiscrimination Coordinator), Complaint Manager, Principal, Dean, High School Counselor, and SRO; all the witnesses stated that they have not received any other informal or formal complaints of race harassment in the 2020-2021 or 2021-2022 school years.

Some District personnel, including the Principal, Dean, and SRO, reported that they have heard Black students using the “N” word when talking to other Black students, but have not heard students of other races using the “N” word or using other racial slurs. The Dean said that, on [redacted content], 2021, he issued a Black student a warning for using the “N” word when speaking to another Black student in [redacted content] class. He said that, on [redacted content], 2022, this same student used the “N” word when speaking to a Black student at a basketball game. He said that, as a result of the second violation of using inappropriate language, the student [redacted content].

The Superintendent told OCR that the District does not have a formal recordkeeping system to keep track of the complaints received and monitor their resolution. The Superintendent also said that all the staff take a yearly Global Compliance Network training required by the State of Illinois, which has one component on civil rights and a school’s obligations under the laws, and one component on racial bias and sensitivity. He said each of these components are a 20–25-minute slideshow with a quiz. The Superintendent and Complaint Manager told OCR that neither has received training on investigating complaints of discrimination.

Incidents Reported by the Parent in the 2022-2023 School Year²

On [redacted content], 2023, the Parent reported to OCR that racial harassment at the School has continued into the 2022-2023 school year. She stated that Student B and other white students who ride the same bus as Student A and [redacted content] (Student D) have frequently used derogatory terms like “n-word this and that” on the bus. On [redacted content], 2022, Student D spoke out against that language and was [redacted content] for doing so. The Parent does not know whether Student B and the other white students using the racial slurs were disciplined.

² The District expressed an interest in resolving the complaint allegation prior to OCR seeking data from the District with regard to these allegations.

The Parent also reported that, during the week of [redacted content], 2023, Student A told her that one of her teachers asked students in that class what they wanted for their future. One student responded that she wished for “a white gay only community” and the teacher did not say anything in response. Sometime during the week of [redacted content], 2023, a [redacted content] Black [redacted content] student (Student E) talked to the School Principal about having a school event to celebrate Black history month. In response, the Principal compared celebrating Black history month with “celebrating the KKK.”

On [redacted content], 2023, a student in Student E’s [redacted content] class used the name “Ni99er” in an online game-based learning platform that was streamed on the classroom smart board to all students, a screenshot of which was provided to OCR. According to the Parent, the teacher did not do anything to address it even after Student E told the teacher that the name made her feel uncomfortable. When Student E complained to School administrators about it, including the Principal, they told her that she was “making a big deal about it.”

The Parent told OCR that, on [redacted content], 2023, Student B and other white students on the bus shook the bus as Students A and D were exiting in attempt to make them fall off it. Student D told the students that he would “break their jaws” if they did not stop shaking the bus. The Parent said that Student D received [redacted content] for threatening the students and to her knowledge, the white students were not disciplined.

The Parent also informed OCR that, on [redacted content], 2023, after Student B and other white students had been harassing Student A “for days” by staring and pointing at her, and using the N-word in her presence at school, Student D got into a fight with Student B at school. The Parent said School personnel called the police on [redacted content] and, to her knowledge, they had not called the police in the past for a fight at school. After this incident, the District allowed Students A and D to attend school remotely.

Conclusion and Resolution Agreement

The District expressed an interest in resolving the complaint, and OCR determined that it is appropriate to resolve the allegation in this case prior to making a finding. OCR has concerns regarding the District’s response to the Parent’s complaints about race harassment. These concerns include the following:

- the District did not appear to consider the totality of the circumstances and the cumulative effects on Student A, did not follow its Grievance Procedure or conduct complete investigations of possible racially harassing conduct, and did not appear to take escalating steps reasonably designed to prevent the harassment from recurring and remedy the effects of the harassment on Student A and other students;
- the evidence suggests that the District imposed harsher punishment on a Black student who used the “N” word than on multiple white students who engaged in repeated racially harassing conduct;

- the District did not determine whether Student A and other Black students were subjected to a racially hostile environment and did not offer any services to Student A or other students;
- the District does not have a recordkeeping system to keep track of complaints and monitor their resolution; and
- staff are not effectively trained on the District's Title VI obligations and that complaint managers and investigators do not have training on responding to and investigating race harassment complaints.

The enclosed Resolution Agreement is fully aligned with the complaint allegations, the evidence obtained to date, and OCR's compliance concerns. It requires the District to:

- provide all School administrators, faculty, and staff with effective annual training on the District's policies and procedures that address racial discrimination and harassment;
- provide effective training to all School employees who are directly involved in processing, investigating and/or resolving complaints or other reports of discrimination or harassment on the basis of race, and any counselors or other School personnel who are likely to receive reports of race discrimination or harassment;
- provide a mandatory, annual, age-appropriate orientation session for all School students on the District's policies and procedures prohibiting racial discrimination and harassment;
- take prompt and appropriate responsive action to investigate the allegations that Student A and other Black students were harassed on the basis of race during the 2021-2022 and 2022-2023 school years;
- develop a school climate survey to administer to students at the School to assess the effectiveness of training and to ensure the school is free of racial harassment; and
- maintain documents relating to specific complaints or other reports of racial harassment of students to ensure that its files contain all information necessary to process complaints under Title VI.

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, [redacted content], for their cooperation and courtesy during OCR's investigation. If you have any questions, please contact Sunita Kini-Tandon, Senior Civil Rights Attorney, at (312) 730-1452 or by email at Sunita.Kini-Tandon@ed.gov.

Sincerely,

Marcela Sanchez-Aguilar
Supervising Attorney

Enclosure

cc: [redacted content]