



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

April 7, 2017

Dr. Michael Hinojosa
Superintendent, Dallas ISD
3700 Ross Avenue
Dallas, TX 75204

CC: Leticia McGowan
Dallas ISD Office of Legal Services
lmcgowan@dallasisd.org

OCR Complaint #06171127
Dallas Independent School District

Dear Dr. Hinojosa:

The U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, has reached a resolution of the above-referenced complaint, received on November 9, 2016. The Complainant alleged that Dallas Independent School District (DISD or District) discriminated against African American [XXXX] students on the basis of race by failing to respond properly to complaints of racial harassment by a teacher (the Teacher) at [XXXX] [XXXX] [XXXX] (the School). Specifically, the Complainant alleged that:

- The Teacher excluded African American students from classroom activities and targeted them using harsh language and public shaming;
- The Teacher refused to allow African American students in her classroom to use the bathroom when other students were allowed to do so;
- The Teacher wrote multiple unfounded office referrals for African American students in her classroom;
- The Teacher filed an unfounded police report claiming that a [XXXX] year old African American student assaulted her;
- The Teacher choked the same [XXXX] year old African American student in her classroom causing a report to be filed with Child Protective Services; and
- The District's Human Capital Management office and Legal Services office failed to respond to these incidents in an appropriate and timely manner.

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

OCR is responsible for enforcing 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 by recipients of Federal financial assistance from the Department based on race, color, and national origin. The DISD is a recipient of Federal financial assistance from the Department. Thus, OCR has jurisdiction to resolve this complaint under Title VI.

OCR opened the following issue for investigation:

Whether the DISD discriminated against African American [XXXX] students on the basis of race by failing to adequately respond to racially harassing conduct by a District staff member, which was sufficient to constitute a hostile environment of which it had or should have had notice during the 2016-2017 school year, in violation of Title VI, at 34 C.F.R. § 100.3.

Legal Standard

Title VI provides that no individual 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 in any program or activity to which Title VI applies. According to OCR policy, a violation of Title VI may be found if a recipient has created or fostered a racially hostile environment, i.e., harassing conduct (e.g., physical, verbal, graphic or written) that is based on race, color, or national origin and that is 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 the recipient. Harassment must consist of more than casual or isolated racial incidents to create a racially hostile environment. Further, a determination of whether conduct is “severe” or “pervasive” must examine the gravity as well as the frequency of the harassing conduct. A recipient has violated Title VI if it has effectively caused, encouraged, accepted, or failed to correct a racially hostile environment of which it has actual or constructive notice.

In order to establish a violation of Title VI based on a racially hostile environment, OCR must find that: (1) a racially hostile environment existed; (2) the recipient had actual or constructive notice of the racially hostile environment; and (3) the recipient failed to respond adequately to redress the racially hostile environment. Whether a racially hostile environment existed must be determined from the totality of the circumstances, such as the frequency and/or severity of the discriminatory conduct, whether the conduct is physically threatening or humiliating, and what kind of psychological harm results from the conduct (psychological harm is not required, but is taken into account). If OCR finds that a hostile environment existed and the recipient had notice of its existence, OCR then determines whether the recipient responded appropriately by taking reasonable, timely, and effective steps to respond to the specific incidents of harassment and discrimination. To be effective, OCR does not require that a recipient’s response to racially harassing conduct ensure that all future harassment or other discriminatory conduct will be prevented, but rather that the response is reasonably calculated to end the harassment, prevent its recurrence, and make whole any victims of the harassment.

Investigative Summary

The Complainant alleged that the DISD failed to respond in a proper or timely manner to complaints of racial harassment against African American [XXXX] students by a Teacher at [XXXX] [XXXX] [XXXX]. In response to OCR's initial data request, the District submitted documentation indicating that the Teacher has [XXXX] African American students, [XXXX] boys and [XXXX] girls, on her roster of [XXXX] students for the 2016-2017 school year. OCR reviewed ten disciplinary referrals written by the Teacher within the month of [XXXX]; the [XXXX] African American boys in the Teacher's class were the only subjects of these referrals. OCR also reviewed signed statements from several of the Teacher's supervisors and colleagues at the School indicating that they had witnessed the Teacher yelling at and shaming the African American students in her class, ignoring them during instructional time, and punishing them for asking to use the restroom.

OCR reviewed evidence indicating that the Teacher had particular problems with one African American male student (Student A) in her class. Five of the ten referrals written by the Teacher during [XXXX] were for Student A. OCR reviewed statements and medical records regarding the Teacher's allegation that Student A assaulted her by pulling her down on the playground in [XXXX]. OCR reviewed a statement by another teacher who witnessed the incident indicating that the Teacher was holding Student A by the hand. The Complainant told OCR that the Teacher attempted to file a police report against Student A for this incident. OCR also reviewed a Child Protective Services report filed by the Complainant indicating that Student A told his parents that the Teacher choked him in class. The Complainant also told OCR that the District placed Student A in a [XXXX] [XXXX] class in order to distance him from the Teacher.

OCR reviewed documentation indicating that the Complainant extensively documented and reported the above information to the District beginning in early [XXXX]. The District reported it placed the Teacher on administrative leave and referred her for internal investigation on [XXXX].

Prior to conducting interviews of District employees or obtaining additional data, OCR was notified by the District of its interest in voluntarily resolving the complaint. OCR's Case Processing Manual (CPM) Section 302 provides that issues under investigation may be resolved at any time when, prior to the conclusion of OCR's investigation, the recipient expresses an interest in resolving the issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation. On March 8, OCR approved the District's request to resolve the complaint prior to the conclusion of OCR's investigation. The District submitted the attached Resolution Agreement (Agreement) on April 7, 2017, which OCR has determined addresses the allegations in this complaint and which, when fully implemented, will resolve the complaint. The Agreement requires the District to investigate all allegations of harassment based on race by the Teacher regarding each of the African American students on her 2016-2017 roster, and make whole any students found to be victims of racial harassment. The Agreement also requires the District to respond promptly to allegations of racial harassment in the future and to provide reports of its responses to OCR. Finally, the Agreement requires the District to provide training for its staff regarding the District's responsibility to provide an educational environment free from racial harassment.

As of the date of this letter, OCR is closing the investigative stage of this complaint; however, OCR will actively monitor the implementation of the Agreement by the District. If the District fails to implement the Agreement, OCR will resume its investigation of the above issue. This letter is not intended nor should it be construed to cover any matters not specifically addressed herein.

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 may not harass, coerce, intimidate, or discriminate against anyone because they have filed a complaint or participated in the complaint resolution process. If this happens, the person 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, it 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.

If you have any questions regarding this letter, please contact Tyler Clemons, the attorney assigned to this matter, at (214)661-9690 or Tyler.Clemons@ed.gov, or Timothy D. Caum, Supervisory Attorney, at (214)661-9648 or Timothy.Caum@ed.gov.

Sincerely,

/s/

Taylor D. August
Regional Director, Dallas Office
Office for Civil Rights