



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

September 7, 2018

Mr. Fatih Ay, M. Ed., CEO/Superintendent
Harmony Public Schools
9321 W. Sam Houston Pkwy S.
Houston, TX 77099

Ref: 06-18-1611

Dear Mr. Ay:

This letter is to notify you of the resolution of the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, against Harmony Public Schools (HPS), Houston, Texas. The complaint, which was received in our office on April 24, 2018, was filed on behalf of XXXX (the Student), a student at XXXX XXXX. The complainant alleged that HPS discriminated against the Student on the basis of his race (XXXX), and also retaliated against the complainant and the Student.

OCR is responsible for determining whether entities that receive Federal financial assistance from the Department, or an agency that has delegated investigative authority to OCR, are in compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibits discrimination on the basis of race, color, or national origin. Further, the regulation implementing Title VI, at C.F.R. § 100.7(e), states:

No recipient or other person shall intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by [regulations enforced by OCR] or because [one] has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this part.

HPS is a recipient of Federal financial assistance from the Department; therefore, OCR has jurisdictional authority to process this complaint for resolution pursuant to Title VI.

Legal Issues

Based on the complaint allegations and OCR's jurisdictional authority, OCR opened the following legal issues for investigation:

1. Whether HPS discriminated against the Student on the basis of race by failing to adequately respond to racially harassing conduct from another student, which was sufficient to constitute a hostile environment, and of which HPS had or should have had notice during the spring 2018 semester, in violation of Title VI, at 24 C.F.R. § 100.3.

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

2. Whether HPS retaliated against the complainant and Student during the spring 2018 semester because the complainant and Student reported allegations of racial harassment to HPS, in violation of Title VI, at 34 C.F.R. § 100.7(e), when:
 - a. XXXX – phrase redacted – XXXX subjected the Student to continued verbal and physical intimidation and harassment (e.g., XXXX – to end of paragraph redacted - XXXX);
 - b. On XXXX XXXXX XXXX, XXXX administrators refused to meet with the complainant to discuss the alleged harassment of the Student because the complainant did not agree to be recorded during the meeting;
 - c. On XXXX XXXX XXXX, the Student's XXXX teacher placed a "negative notation" in the class's online grading system that the Student had been talking in class, even though it is common for students to talk in the course of this class;
 - d. On XXXX XXXX XXXX, XXXX XXXX gave the Student written notice that the Student would be removed from two Advanced Placement (AP) courses for the 2018-19 school year for failure to achieve a grade of 80, even though the Student's grades were not yet final; and
 - e. On or around XXXX XXXX XXXX, the XXXX XXXX Principal refused to provide the complainant with any documentation evidencing the school's justification for removing the Student from AP courses for the 2018-19 school year, despite the complainant's request.

As a preliminary matter, a finding that a recipient has violated one of the laws that OCR enforces must be supported by a preponderance of the evidence (i.e., sufficient evidence that it is more likely than not that unlawful discrimination occurred). Where there is a significant conflict in the evidence and OCR is unable to resolve that conflict, for example, due to the lack of corroborating witness statements or additional evidence, OCR generally must conclude that there is insufficient evidence to establish a violation of the law.

OCR began its investigation of this complaint by requesting documentation from HPS in response to the complainant's allegations. OCR also followed up with the complainant to offer the complainant the opportunity to respond to the information provided by HPS. Prior to OCR concluding its investigation and making a compliance determination, HPS contacted OCR and expressed its interest in taking action to voluntarily resolve this complaint.

Under Section 302 of OCR's *Case Processing Manual* (CPM), a complaint may be resolved at any time when, prior to the conclusion of the investigation, a recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to do so. In light of HPS's willingness to address the complainant's allegations without further investigation, OCR has determined that entering into a voluntary resolution agreement with HPS is appropriate in this case.

HPS submitted a signed Voluntary Resolution Agreement (Agreement) to OCR on September 7, 2018. Enclosed is a courtesy copy of the Agreement. The provisions of the Agreement are

aligned with the complaint allegations and the information obtained during OCR's investigation, and are consistent with applicable law and regulations. OCR has determined that this Agreement, upon full implementation, satisfactorily resolves the issues opened for investigation. Therefore, OCR is closing the investigative phase of this complaint. OCR will monitor the HPS'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. 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 a recipient 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.

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 Rachel Caum, the attorney assigned to this complaint, at (214) 661-9632, or at rachel.caum@ed.gov. You may also contact me, at (214) 661-9638, or at lori.bringas@ed.gov.

Sincerely,

/s/

Lori Howard Bringas
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

Enclosure: Voluntary Resolution Agreement

cc: XXXX, XXXX (*via email only*)