



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

ONE PETTICOAT LANE
1010 WALNUT STREET, SUITE 320
KANSAS CITY, MO 64106

REGION VII
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

October 3, 2017

Ms. XXXXX XXXXX, XXXXX
XXXXX XXXXX XXXXX XXXXX
Okmulgee, Oklahoma 74447

Re: Docket # 07171079

Dear XXXXX XXXXX:

On January 3, 2017, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against Okmulgee Public Schools (District), Okmulgee, Oklahoma, alleging discrimination on the basis of race. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

The Complainant alleged that the District subjected her 12th grade son to a hostile environment on the basis of race (African American and Native American) in violation of 34 C.F.R. § 100.3(a) and (b)(1) when the XXXXX XXXXX Teacher (Teacher) stated: "You people don't work anyways that's why you can't go anywhere."

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 United States Code (U.S.C.) § 2000d, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 100. Title VI prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance.

As a recipient of Federal financial assistance from the Department, the District is subject to Title VI. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Legal Standard

The Title VI regulation at 34 C.F.R. § 100.3(a) and (b)(1) prohibits discrimination on the basis of race. A violation of Title VI may be found if a recipient has created or is responsible for a racially hostile environment i.e., harassing conduct (e.g., physical, verbal, graphic, or written) 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 a recipient. A recipient has subjected an individual to discrimination on the basis of race if it has effectively caused, encouraged, accepted, tolerated, or failed to correct a racially hostile environment of which it has actual or constructive notice. To establish a violation of Title VI under the hostile environment theory, OCR must find that: 1) a racially hostile environment

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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.

Preliminary Investigation

The Complainant provided the following information. During the 2016-17 academic year, the Student was in XXXXX grade in the District. He was enrolled in XXXXX XXXXX as an elective course. On November 28, 2016, the Students' XXXXX XXXXX teacher (the Teacher) asked students to write a paper about "why America is great." The Student asked the Teacher if he could write why America is not great. The Teacher said no. The Student then asked the Teacher if the Teacher wanted him to lie. According to the Complainant, the Teacher said that he was "sick of this [expletive]," this "was the dumbest [expletive]" he had ever heard, the Student's parents and grandparents should be "disgusted" with the Student, and if the Student does not like this country, "he should move to another one." The Student replied that he would move if he could. The Teacher then said: "You people don't work anyways that's why you can't go anywhere."

In an interview with OCR, the XXXXX XXXXX Principal stated that he called in several of the students from the Student's XXXXX XXXXX class and asked the students to provide written statements describing what they heard and witnessed during the Student's interaction with the Teacher. The XXXXX XXXXX Principal told OCR that many of the students in the class did not know what he was referencing or refused to make comments or provide a written statement. The District ultimately obtained written statements from five students in the XXXXX XXXXX class, including the Student's statement, and provided OCR copies of these statements.

The Student's statement, provided to the XXXXX XXXXX Principal on November 29, 2016, stated that the Teacher asked the students to write about how much they loved America. The Student asked if they could write some reasons they disliked America. The Teacher said: "I'm sick of this [expletive], that's the dumbest [expletive] I've heard. People like you just need to leave, go to another country." The Student wrote that he responded by stating, "I would if I could." According to the Student's statement, the Teacher said "that's the thing...you people don't work" and, "that's why you can't go anywhere, you're stuck here." According to the statement, the Teacher also told the Student that his parents and grandparents would be disgusted if they heard what the Student said.

A classmate (Student 1) of the Student in the XXXXX XXXXX class provided the XXXXX XXXXX Principal with a written statement dated November 29, 2016. According to Student 1's statement, the Teacher asked the students to write about how much they loved America. The Student asked if they could write about reasons they disliked America. The Teacher said, "I'm sick of this [expletive], that's the dumbest [expletive] [he's] heard, people like you need to leave and go to a different country." The Student said he would if he could. Then the Teacher said, "That's the point you people don't work so you're stuck here." Student 1 said he was offended by the Teacher's statements.

A second classmate (Student 2) of the Student in the XXXXX XXXXX class provided the XXXXX XXXXX Principal with a written statement dated November 29, 2016. According to

Student 2, the Teacher gave the students an assignment to write a paper about how much they loved America. The Student asked if they could write about why they disliked America. The Teacher said: “I’m sick of the [expletive] that I’ve heard today from you kids how do you not love America there’s your family fighting for you and you don’t like it why don’t you get up and leave if it’s that bad.” According to Student 2’s statement, the Student said: “You know what’s messed up? You guys bring us here and tell us to leave. If I could I would leave but I can’t.” Then the Teacher said: “That’s right you can’t because you people can’t afford to because y’all don’t work.” Student 2 said in his written statement that he told the Teacher that the Teacher “can’t get mad at [the Student] for feeling like that” and “the Teacher can’t tell the Student how to feel.” Student 2 said he then left the classroom with the Student.

The District has grievance procedures available for parents and students to use in filing complaints of discrimination and harassment based on race. The Complainant filed a formal grievance with the District and on December 10, 2016, the Director of Programs and Special Services initiated an investigation into the Complainant’s grievance. The Director of Programs and Special Services reviewed written documentation related to the incident, including written statements the XXXXX XXXXX Principal obtained, interviewed the Teacher as well as additional student witnesses. The District provided OCR with documentation related to the Director of Programs and Special Services investigation, which contained information which supplemented the information gathered by the XXXXX XXXXX Principal.

Specifically, a third classmate (Student 3) who was in the XXXXX XXXXX class with the Student was interviewed by the Director of Programs and Special Services on December 14, 2016. Student 3 said she did not recall the November 28, 2016 incident. She said she was “zoned out” in that class. She stated that she listened to music on a personal device during class and did not recall the Teacher making any offensive statements or cursing.

A fourth classmate (Student 4) was also interviewed by the Director of Programs and Special Services on December 14, 2016. Student 4 recalled that on November 28, 2016, the Teacher was upset with the class for not doing assigned work. According to Student 4, the Teacher and the Student “got into it” and the Student left class. Student 4 believed the Teacher was upset because the students were not doing the assignment correctly. Student 4 recalled the Student asking the Teacher if he could write what was wrong with America and the Teacher said, “No, write what I said the assignment was and that is what is great about America.” The Teacher said that he was “sick of this [expletive]” they were writing in class. Student 4 understood the Teacher’s comments to be directed to the entire class. Student 4 recalled that the Teacher also said, “your grandparents would be very upset to hear you talk” and something about “you people don’t work that’s why you can’t leave this country.” Student 4 said he did not take offense to the Teacher’s comments, but he did not like the Teacher cussing at them. The Director of Programs and Special Services asked Student 4 if he found the Teacher’s statements to be racial in nature and whether he felt like the Teacher’s statements were directed specifically at African American students. According to the Director of Programs and Special Services, Student 4 responded, “No I didn’t take it racial at all.”

On December 16, 2016, the Director of Programs and Special Services contacted the Complainant by letter stating that on November 29, 2016, the XXXXX XXXXX Principal

conducted a thorough investigation into the incident and that on December 10, 2016, the Director of Programs and Special Services initiated a formal investigation into the Complainant's allegations. The Director of Programs and Special Services' letter stated that the investigation involved reviewing documents, talking with possible witnesses, and interviewing the Teacher. The letter concluded that:

Although privacy considerations limit my ability to share confidential information with you concerning school employees, I can tell you that Okmulgee Public Schools takes all complaints serious and are investigated thoroughly. In addition, we ensure that all our faculty and staff provide a safe and secure learning environment for all our students while attending Okmulgee Public Schools.

The District informed the Complainant that it determined the Student was not subject to a hostile environment based on race. Nonetheless, the District determined the Teacher's content, while not motivated by racial animus, was inappropriate in nature. The District provided documentation to OCR that the Teacher was subjected to disciplinary action including a written reprimand. The Teacher was placed on an Improvement Plan during which he was required to undergo observations and demonstrate progress toward interactions with students and was required to undergo race and cultural diversity training. The Student was permitted to withdraw from the XXXXX XXXXX class and worked with his academic counselor to enroll in a different class of equivalent credit.

Resolution

Prior to the completion of OCR's investigation, the District submitted a signed Agreement (copy enclosed) on October 3, 2017, that, when fully implemented, will address the allegation of this complaint. OCR considers the allegation in this complaint resolved effective the date of this letter and will monitor the District's implementation of the Agreement. When OCR concludes the District has fully implemented the terms of the Agreement, OCR will close the complaint. If the District fails to carry out the Agreement, OCR may resume investigating the complaint.

The Agreement requires the District to provide racial harassment training to District administrators, counselors, and teachers. The Resolution Agreement also requires the District to provide training to all individuals in the District who are responsible for investigating reports of racial harassment on how to conduct prompt and thorough investigations of reports of racial harassment and how to document the investigation and findings. Please consult the Agreement for further details.

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 Complainant 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, 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.

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.

OCR is committed to prompt and effective service. If you have any questions, please contact XXXXX XXXXX, Attorney, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.XXXXX@ed.gov.

Sincerely,

Anne Bradley
Acting Supervisory Attorney

Enclosure

cc: XXXXX XXXXX
XXXXX XXXXX