



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD, SUITE 310
DENVER, CO 80204-3582

REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

April 25, 2014

Patrick Sánchez
Superintendent, and
Adams County 14 School District Board of Education
Adams County School District 14 (Commerce City)
5291 East 60th Avenue
Commerce City, Colorado 80022

Re: Adams County School District 14
Case Number 08-10-1112-D

Dear Superintendent Sánchez and Members of the Adams 14 School District Board of Education:

On March 25, 2010, we received a complaint against the Adams County 14 School District (District). The Complainant alleged that the District discriminated against students, parents and staff¹ on the basis of national origin (Hispanic). Specifically, the Complainant alleged that the District is a hostile environment for Hispanic staff and students. The Complainant further alleged that the District fails to communicate effectively with parents who are limited in their English proficiency (LEP) in a language and manner that they understand.

The following District actions were specifically identified as the conduct that resulted in the alleged hostile environment:

- District Administration identifying and targeting Hispanic staff (including teachers on visas, bilingual staff and teachers with accents) for increased performance scrutiny resulting in negative evaluations, negative changes in assignments, and forced resignations;
- District administration taking actions to eliminate the use of Spanish from the District (including communicating its intent to eliminate the use of Spanish in social and non-academic settings with students, to include the removal of Spanish language materials from classrooms and buildings when students were present);

¹ Originally, in our notification letter to the District dated July 21, 2010, we identified the allegation as being towards teachers. However, through our investigation we learned that there were other staff members who brought parallel facts to our attention.

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

- Preventing English language learner (ELL) parents from participating in the District's ELL design committee;²
- District Administration making national origin-based derogatory statements toward Hispanic staff, students, and parents;
- District Administration failing to address allegations of national origin (Hispanic) harassment that were brought to the former Superintendent's attention³; and
- The District not communicating effectively with ELL parents during parent teacher conferences, report card meetings, and in all school communications sent to parents.

Additionally, while the allegations were Districtwide in scope, OCR focused its investigation primarily on the following schools:

Alsup Elementary School
Central Elementary School
Dupont Elementary School
Hanson Elementary School
Monaco Elementary School

Rose Hill Elementary School
Kearny Middle School
Adams City High School
Lester Arnold High School

We initiated an investigation of these allegations under Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the bases of race, color, or national origin in activities or programs that receive federal financial assistance. The District receives federal financial assistance from the Department and therefore is subject to the provisions of Title VI. Under Title VI, the District is responsible for providing nondiscriminatory environments that are conducive to learning and afford students equal educational opportunities in accordance with 34 C.F.R. § 100.3 (a) and (b).

Based on the allegations of this complaint, we investigated the following legal issues:

1. Whether the District is a hostile environment for Hispanic students and staff in violation of 34 C.F.R. §100.3(a) and (b).
2. Whether the District fails to communicate effectively with parents who are LEP in a manner and way that they understand in violation of 34 C.F.R. § 100.3(a) and (b).

Through our investigation, we determined that the District created a hostile environment toward Hispanic students and staff, and failed to communicate effectively with LEP parents in a language and manner that they understand. This letter explains the bases for our conclusion.

² The former Superintendent instituted the ELL Design Committee to study the District's alternative language program and to make recommendations for changing the District's alternative language program.

³ At all times in this letter, the Superintendent and/or former Superintendent identified is xxxx. Where the current Superintendent, Patrick Sánchez is identified, he is identified specifically by name and title.

Background

The District is located just north of downtown Denver in Colorado. The District serves the community of Commerce City, Colorado. The District has over 7,000 students. Greater than 19 percent of the population of the community lives below the poverty line and greater than 80 percent of the students in the District qualify for free and reduced lunch. More than 80 percent of students in the District are Hispanic and greater than half of the students in the District are limited in their English proficiency (LEP)⁴ with greater than 90 percent of LEP students speaking Spanish. We note that historically, Central Elementary and Hanson Elementary Schools had the greatest numbers of bilingual and Hispanic staff and students in the District. During the course of our investigation, the District removed the former Superintendent in June 2012 and subsequently hired the current Superintendent, Patrick Sánchez.

The District is comprised of 11 schools: seven elementary schools, two middle schools, two high schools. We collected evidence from the Complainant, the District and other individuals and sources not provided by the Complainant or the District. We interviewed and/or gathered information from more than 60 individuals.

During the course of the investigation, we encountered individuals who had information for us, but expressed a fear of retaliation from the District. Some provided information to us even though they felt that they were risking retaliation. Based on evidence that is discussed later in this letter, we became concerned that District administrators might retaliate against staff members who participated in OCR's investigation. We investigated allegations from the end of the 2008-09 school year through the end of the 2011-12 school year. During that time, the District refused to provide us direct access to students or their parents. The District identified three witnesses to support their position regarding the allegations: the former Superintendent, the former Chief Communications and Strategy Officer, and the former Chief Academic Officer.⁵ We interviewed all three individuals offered by the District and requested that the District make other administrators available for interviews. We also interviewed District teachers and staff who contacted OCR directly.

Issue 1: Hostile Environment

Legal Authority

To establish a violation of Title VI under a hostile environment analysis, we must find that: (a) a racially hostile environment existed; (b) the District had actual or constructive notice of the racially hostile environment; and (c) the District failed to respond adequately to redress the racially hostile environment. Whether conduct constitutes a hostile environment must be determined from the totality of the circumstances.⁶

⁴ In this document, LEP and ELL are used interchangeably to identify students who are English language learners or parents who are limited in their English proficiency.

⁵ In this document, the Chief Communications and Strategy Officer is xxxx, and the Chief Academic Officer is xxxx.

⁶ The applicable legal standards described herein are more fully discussed in OCR's "Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance" which is available at: <http://www2.ed.gov/about/offices/list/ocr/docs/race394.html> (March 10, 1994): *See also*, "Education and Title VI of the Civil Rights Act of 1964: Title VI and Race, Color and National Origin Discrimination", which is available at: <http://www2.ed.gov/about/offices/list/ocr/docs/hq43e4.html>.

In determining whether a hostile environment based on national origin (Hispanic) has been created, we evaluate whether the conduct was sufficiently serious to deny or limit an individual's ability to participate in or benefit from the services, activities or privileges provided by a District.⁷ We examine all the circumstances, including: the type of harassment (e.g. whether it was verbal or physical); the frequency and severity of the conduct; the age, race, and relationship of the parties (student on student harassment v. adult to student harassment or supervisor to subordinate harassment, etc.); the setting and context in which the harassment occurred; whether other incidents have occurred at the school; and other relevant factors.

When we evaluate the severity of racial harassment, the unique setting and mission of an educational institution must be taken into account. An educational institution has a duty to provide a nondiscriminatory environment that is conducive to learning. This is especially true for younger, less mature children, who are generally more impressionable than older students or adults. Thus, an incident that might not be considered extremely harmful to an older student might nevertheless be found severe and harmful to a younger student. For young children in their formative years of development, the severe, pervasive or persistent standard must be understood in light of the age and impressionability of the students involved and with the special nature and purposes of the educational setting in mind.

In determining whether a hostile environment exists, we also are alert to the possible existence at the District of racial incidents other than those alleged in the complaint and will obtain evidence about them to determine whether they contributed to a racially hostile environment or corroborate the allegations.

If we find that a hostile environment existed we will proceed to determine whether the District received notice of the hostile environment, and whether the District took reasonable steps to respond to it.

A District can receive notice in many different ways. For example, a student may complain to a favorite teacher or counselor about a specific teacher's harassing statements. Students or staff may complain to members of the Board of Education. A paraprofessional may tell a central office administrator of harassing conduct toward students by a building administrator. A principal or other administrator may witness a Hispanic staff member being mistreated by another administrator or teacher. The District may receive notice in an indirect manner, from sources such as a member of a school staff, a member of the educational community, or local advocates.

In cases where the District did not have actual notice, the District may have constructive notice. A District 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 District could have found out about the harassment had it made a proper inquiry, and if the District should have made such an inquiry, knowledge of the harassment will be imputed to the District. A District also may be charged with constructive notice if it has notice of some, but not all, of the incidents involved in a particular complaint.

In some cases, the pervasiveness, persistence, or severity of the racial harassment may be enough to infer that the District had notice of the hostile environment (e.g., a racially motivated assault on a group of students). A finding that a District had constructive notice of a hostile

⁷ In this document, race, color and national origin are used interchangeably.

environment meets the notice requirement of the analysis. If the alleged harasser is an agent, employee or administrator of a District, acting within the scope of his or her official duties (i.e., such that the individual has actual or apparent authority over the students and staff involved like a principal, Chief Officer, or Superintendent of the District), then the individual will be considered to be acting in an agency capacity and the District will be deemed to have constructive notice of the harassment.

Once a District has notice of a racially hostile environment, the District has a legal duty to take reasonable steps to eliminate it. Thus, if we find that the District took responsive action, we will evaluate the appropriateness of the responsive action by examining reasonableness, timeliness, and effectiveness. The appropriate response to a racially hostile environment must be tailored to redress fully the specific problems experienced at the institution as a result of the harassment. In addition, the responsive action must be reasonably calculated to prevent recurrence and ensure that participants are not restricted in their participation or benefits as a result of a racially hostile environment created by students or non-employees.

Analysis and Findings

The District's overall defense to the hostile environment allegation is that the District is not a racially hostile environment. The District claimed that the allegations were from a small group of teachers that were disgruntled because of the District's move to an "all English" alternative language program and were also teachers under District review for performance issues. We did not find this to be the case.

The Complainant is not a District employee and our sources of information were more expansive than a few disgruntled teachers as the District characterized. We looked at instances of harassment asserted to be against Hispanic students and staff. The former District administration had full and ongoing opportunities to address all issues raised. The former Superintendent, through her legal counsel, also provided OCR additional information after her departure from the District that we fully considered.

Students

First, we looked at alleged actions taken toward Hispanic students particularly in relation to the use of Spanish in the District. The Complainant alleged that the District was ordering students to speak English in all settings including non-academic and social settings; and children were instructed to remove Spanish language instructional materials from classrooms and buildings. There was a specific allegation that an elementary age student was denied medical assistance until he was able to access a Spanish-speaking teacher, more than an hour after he was injured and in need of medical attention.

The District maintained that a small group of teachers, who were discontent with changes to "all English" for direct instruction of ELL students, raised these allegations. The District denied these allegations. The Superintendent also stated that the District's decision to change to an "all English" model was based on a recommendation by the Colorado Association of School Board Executives, and her understanding of recommendations made by the Comprehensive Appraisal for District Improvement (*CADI* Report).⁸

⁸ The former Superintendent explained that the changes to the District's alternative language program were in response to a recommendation that the District change its policy concerning English language learners from the Colorado Association of School Board Executives (CASBE). We note that the District adopted a more neutral

During their interviews, building principals and District central administrators pointed us to the District's written rubric entitled, "Appropriate Use of Students' Native Language in an ESOL Program". The rubric provides guidance for appropriate opportunities for the use of native language in an ESOL model of instruction. We find that the District's written policy demonstrates provisions for students to use native language, and notes that the first language is foundational to the learning of English. All administrators stated that the District values students' native languages and pointed to the District encouraging the use of the native language in social settings such as the lunchroom or playground and at home as stated in the written rubric.

Two administrators reported to OCR that they had discussed language usage with staff. One administrator reported sending an email message to a staff member clarifying the conditions in which Spanish may be used with a student and a parent for communication. One other administrator identified a situation where that administrator coached a teacher after the teacher removed students from a classroom for speaking Spanish.

While the administrators' descriptions of their actions and the District's rubric regarding students' use of their native language appear appropriate on their face, our investigation revealed other practices and actions that differ significantly. As detailed here, this information indicated that District administration targeted the use of Spanish by students and staff for criticism, discipline, unfair treatment, and "eradication" regardless of the circumstances, situations or venue in contradiction to its written and stated policy. We reviewed specific examples from seven schools: Hanson, Central, Monaco, Alsup, Kearny Middle School, Adams City High School, and Community Leadership Academy.

A building administrator at Adams City High School admitted that in 2010, a teacher removed Hispanic students from the classroom and almost caused a riot in the class. According to the building administrator, the students were speaking Spanish and the teacher did not know what the students were saying, so the teacher removed the students from the class. In that case, the building administrator was able to work with the students and the teacher to resolve the situation. There was no evidence that the District further investigated this situation.

We learned from four teachers, one paraprofessional and a community member that the principal at Hanson Elementary School demanded that staff speak English in all circumstances regardless of the situation, including communication with kindergarten and early childhood students in a social setting, the lunchroom. These demands were made to teachers and paraprofessionals during staff meetings, and to students during the course of everyday activities. The expectation was communicated consistently and regularly from the time that the principal started at Hanson in the fall of 2009. Specifically, we learned from a teacher and a paraprofessional that at Hanson Elementary School early in the fall of 2009, the principal yelled at students, including kindergarten students in the lunchroom telling them to speak in English in order to ask for assistance and food even though the kindergarten students were reported to OCR to be monolingual Spanish speaking students, who had no formal school experience. It was reported to us that when Spanish-speaking staff tried to intervene and assist these young students in Spanish the principal stopped them.

District policy on the instruction for second language learners. The policy does not address the model of instruction that is to be used by the District and is broad enough to encompass any alternative language program. The *CADI* report is discussed further later in this letter.

The principal at Hanson Elementary School⁹, denied preventing students from speaking Spanish. Yet, he specified during his interview, in response to other questions, that, with the change in the alternative language program from a bilingual education model to an ESOL model, one of the goals was to “eradicate” the native language.

We learned from four teachers, one community member, a District administrator, and a member of the Board of Education about an incident in the spring of 2009, at Central Elementary School regarding a Hispanic student who was injured on the playground.¹⁰ It was reported to OCR that a male, Spanish speaking, kindergarten student, who spoke very little English, went to an English-speaking teacher on the playground to tell the teacher that he fell and hurt his head. It was described to OCR that the teacher on the playground did not speak Spanish and dismissed the student’s complaint when he did not explain his injury to the teacher in English. We interviewed the playground teacher who had no recollection of the incident. OCR learned from a neighboring classroom teacher that over an hour later when the student returned to a Spanish-speaking teacher¹¹ he told the teacher that his head was hurt, in Spanish. The Spanish-speaking teacher asked him why he did not tell the teacher on the playground and the student told the teacher that he did, but the teacher told him to speak in English, which he was unable to do. The teacher looked at the student’s head and found a gash that had dried blood around it. The Spanish-speaking teacher asked the neighboring classroom teacher to watch her children while she took the child to the office for help. The teacher called the parent and the child was taken to the hospital by the parent where he received stitches to close the wound. When the student returned to school the parent complained because it had been several hours before the child received help.

In response to our request for incident/injury reports from Central Elementary School, the District did not provide OCR with the incident report of this injury. However, upon further review by OCR, the Spanish speaking teacher’s attendance records demonstrated that the Hispanic male student was released from the classroom and sent to the hospital. A member of the Board of Education testified under oath in a deposition for a different tribunal in September 2010, that he knew of this incident at Central Elementary School. We note also that the parent of this child brought his concerns to the current Superintendent, Patrick Sánchez shortly after he arrived in the District in 2012.

The principal at Central Elementary said during her interview in May 2011, that she did not hear of a Hispanic student that did not receive timely medical attention in her building. Yet, there is written evidence, from the District, that the District was given notice of this incident in a complaint filed with the Colorado Department of Education in April 2010, that was provided to the District. We found that this incident was consistently described in detail by a variety of credible witnesses who were in the building during the time, one of whom actually participated in taking care of the child when he was able to communicate in Spanish.¹²

At Monaco Elementary School, we had two independent reports of the former principal telling the Spanish-speaking teachers in the spring of 2009 that they were not to speak in Spanish with

⁹ The principal at Hanson Elementary School identified in this letter, unless otherwise noted, was xxxx.

¹⁰ The principal at Central Elementary School identified in this letter, unless otherwise noted was xxxx.

¹¹ OCR attempted to contact the Spanish-speaking teacher to interview her about this incident, but she is no longer employed by the District and did not respond to our requests.

¹² We note that this witness lead us to the information from the District that demonstrated that the Spanish speaking classroom teacher made a written record of the child being sent to the hospital in the computerized attendance record maintained and kept by the District.

students or parents under any circumstances.¹³ While the former principal refused to speak with us, the District maintained that there were no complaints of discrimination at Monaco Elementary School or against this former principal. The former principal's only statement to OCR was to tell us that there was no discrimination at Monaco. She stated that she "did all I could to take care of those people." It was reported to OCR that the former principal told these Hispanic teachers that they were to direct all questions by Spanish speaking parents to the principal. We did not find any evidence that a similar demand and restriction was put into effect regarding English speaking parents and staff.

In our interviews with two teachers, two former administrators, and, two support staff, we were told that:

- in the spring of 2011, the most recent former principal at Monaco Elementary School¹⁴;
- in the spring of 2010, the principal before him at Monaco,¹⁵ and
- in the fall of 2009, the principal at Hanson Elementary School

directed staff to remove and destroy Spanish language instructional materials from their buildings. Interviewees described that rather than wait until after students left school for the day, the principals, in two of the situations, ordered Spanish language materials to be taken down from walls and removed from classrooms while primary age students were present. Some materials were placed in the trash for disposal, other materials were released to parents and other materials were donated to a local charity for resale.

When the principal at Hanson Elementary School was asked whether he ordered staff to remove Spanish language materials at his school in a specific classroom, he stated that it was an interesting question and complicated because there was a shift from Spanish language instruction to all English instruction. He then told OCR that in the fall of 2009, a Hispanic Spanish speaking teacher resigned and was replaced by an Anglo monolingual English speaking teacher. The principal admitted that while he did not order the removal of Spanish language materials, he was aware that the new teacher did remove Spanish language materials from the room and most likely from the walls as well. He stated that the removal was consistent with an ESOL approach to instruction. He also stated in his explanation that with the shift in programs, he had the task of "eradicating the native language." He went on to state that he was not in the classroom during that time, but if it happened when children were present, he knew who had told us that.

At Alsup Elementary School, a former central office administrator described for us that this administrator personally observed students in the spring of 2009 removing Spanish language materials at Alsup Elementary School. When the administrator asked students what they were doing, a student stated that they were taking down the Spanish materials because they didn't need Spanish anymore.

We find further credible evidence that:

- A building administrator at Adams City High School admitted that in the 2009-2010 school year, secondary students came to the building administrator two separate times to complain that a teacher, during a class conflict, told students that they could go back to Mexico. This building administrator brought students' concerns to the attention of the

¹³ In this incident, the former principal at Monaco Elementary School at the time was xxxx.

¹⁴ This most recent former principal at Monaco Elementary School identified here is xxxx.

¹⁵ This former principal identified here is xxxx.

principal (the administrator's supervisor), who later left the District.¹⁶ The building administrator shared that the principal took no corrective action. On the contrary, the building administrator explained that it became necessary to personally remove students from class one particular day during the 2009-10 school year, to keep students from becoming violent toward the teacher. OCR did not ask the former principal about these specific incidents directly because the building administrator and the principal were still working at the District in their roles and we were concerned for the building administrator's professional well-being. Despite this admission by the building administrator, the former principal stated clearly to OCR in his interview in May 2011, that there were no complaints of discrimination by students at Adams City High School. The former principal resigned under community pressure within days of his interview with our office.

- Ten teachers, administrators, and support staff reported to OCR that the principal at Central Elementary was rude, unprofessional, and cruel to Hispanic students, parents and staff. People reported the principal making derogatory comments about Hispanic students and parents regarding their cultural differences and poverty. One explicit example was that the principal, in the fall of 2009, stated to a Hispanic staff member to not worry about Hispanic students making messes in the bathrooms because Mexicans are poor, that Mexicans didn't use toilet paper, there were few restrooms in Mexico and Mexican children did not know how to use a restroom. It was reported by the staff member that this incident happened in front of another administrator in the building.

Staff Members

The Complainant alleged that staff members throughout the District were reprimanded and disciplined for using Spanish or for challenging the directive to speak only in English in all situations. Further, the Complainant claimed that Hispanic staff were targeted for criticism, forced reassignments to unfamiliar grade levels and pushed to leave the District, including principals telling Spanish-speaking staff to seek teaching jobs outside of the District. The Complainant alleged that at several schools, staff members with Spanish accents were restricted in the type of teaching assignment and instruction they were allowed to provide regardless of their certification by the State of Colorado; whereas monolingual English teachers were not restricted in their teaching assignments or in their instruction, and that the District gave staff with Spanish accents negative evaluations.

Generally, the District administration denied that any staff members were restricted in their teaching assignments or in the instruction that they were allowed to provide, given negative evaluations because they had Spanish accents, pushed to seek teaching jobs outside of the District, reprimanded, disciplined, forced to resign or non-renewed because of being Hispanic. The District's overall defense again was that the allegations were from a small group of teachers that were under review for poor teaching.

We received evidence from nearly 40 individuals regarding incidents at Hanson Elementary School, Rose Hill Elementary School, Central Elementary School, Monaco Elementary School, Dupont Elementary School, Alsop Elementary School, Kearny Middle School, and Adams City High School.

¹⁶ The principal at Adams City High School at this time was xxxx.

The District denied allegations concerning whether Hispanic staff members were involuntarily moved to unfamiliar positions, pushed to seek teaching jobs outside of the District, reprimanded, disciplined, forced to resign or non-renewed because of being Hispanic.

In contrast, we discovered that at least six Hispanic teachers brought to the District under visa contracts were notified by the District in the spring 2009 and again in 2010 and 2011, that it terminated the visa contract program and that visa teachers would have to return to their countries of origin. This included highly qualified, licensed and non-probationary teachers who were fully licensed by the State of Colorado. In most cases, these were teachers who had been in the District for more than five years and had master's degrees in education obtained in the state of Colorado. We were given an email from the former director of Human Resources that was sent to one of the visa teachers in February 2009, telling the teacher that her visa would no longer be supported by the District, and she was to return to her "country of origin." The documentation shows that in 2009, one teacher was released with no explanation even before her visa expired. Some of the teachers returned to their home countries while others were hired by other school districts.

When we questioned the former Superintendent, the former Chief Academic Officer, and the former Chief Communications and Strategy Officer about the termination of the visa contract program and the removal of the six Hispanic teachers in May 2011, they offered no explanation for the decision. The former Director of Human Resources stated in his May 2011 interview, that there were plenty of bilingual teachers in the United States, and there was no need to seek teachers from other countries through the visa program. However, in contradiction, an internal email message sent between two District administrators in February 2009 stated the position of a bilingual, middle school science teacher at Kearney Middle school was a "...critical position for which a teacher is difficult to find." Additionally, when discussing the District's Hispanic/bilingual staff, and staffing needs, the former Superintendent and her cabinet published a written statement released on its web-site in May 2010 stating that it is difficult and cost prohibitive to find highly qualified Hispanic/bilingual teachers.

In discussing Spanish speaking teachers in the District, during formal findings for a teacher dismissal hearing released in January 2011, an independent Hearing Officer found that despite the large number of Hispanic, Spanish speaking students in the District, it is almost a "liability" to be a bilingual teacher in the District, and bilingual teachers had become an "expendable commodity" for the District. The independent Hearing Office also stated that "[u]ltimately, the district would seek dismissal of those deemed to be incompatible with the new strategy of education."¹⁷

A staff member at Monaco reported that from the 2007-08 school year and continuing into the fall of 2010 when the former principal separated from the District, the former principal at Monaco Elementary School removed or threatened removal of 11 Hispanic teachers and paraprofessionals for various reasons.¹⁸ The staff member reported that by the fall of 2010, there was only one Hispanic teacher remaining at Monaco. This was corroborated by employment lists provided by the District.

¹⁷ These quotes were from page 18 of the *Findings of Fact and Recommendation of Hearing Officer*, in a District dismissal hearing that contained allegations of race discrimination involving the proposed dismissal of a Hispanic classroom teacher. The *Findings* are signed by the independent Hearing Officer on January 18, 2011. The Hearing Officer recommended at the conclusion that the teacher be returned to the classroom.

¹⁸ See, footnote 13.

The District claimed that there were no allegations of discrimination against this former principal on the basis of national origin. However, we discovered that the former principal received an employment appeal from a Hispanic teacher that the former principal had attempted to dismiss in the fall of 2010. The Hispanic teacher raised discrimination on the basis of national origin in the appeal. The former principal refused to be interviewed by OCR.

During this investigation, we requested District-wide employment records from the District to analyze trends, statements and allegations with regard to the District's retention and removal of Hispanic employees at several school sites including Monaco Elementary, Hanson Elementary, Central Elementary, Kearny Middle School and Adams City High School. However, the data provided by the District concerning staff separations from the District was incomplete and inaccurate and therefore, prevented OCR from fully reviewing and analyzing each staff member's departure from the District. We found a number of Hispanic individuals we knew to have separated from the District were missing from the list.

A former District administrator told OCR in the spring of 2011, that it was a well-known and utilized pattern and practice for the District to move staff involuntarily to unfamiliar grades and subject areas in an effort to increase teachers' personal prep time, workloads to set teachers up for failure, and ultimately intimidate teachers to leave. The former administrator admitted that Hispanic staff were being targeted in this manner by the District's administration.

Another former administrator disclosed that the principal at Central Elementary asked this administrator to come to Central Elementary School in the early spring of 2009, to tell her Hispanic teachers that the District did not need them any longer and that they should go somewhere else to work. The administrator refused to do this.

The former principal at Central Elementary denied taking any negative actions toward Hispanic/bilingual staff. However, she did concede that she had five recent discrimination complaints from Hispanic staff. While the principal did not discuss these complaints further, OCR learned independently that five Hispanic teachers had filed complaints against the principal with the Equal Employment Opportunity Commission (EEOC) alleging discrimination on the basis of national origin (Hispanic). Further, we learned that a sixth teacher had filed a District grievance against this principal in 2011 also alleging discrimination on the basis of national origin (Hispanic).

We received information from seventeen District teachers, former teachers, former District administrators, and other staff members at Central Elementary School regarding the former principal. In addition to establishing that there were six race discrimination complaints against the former principal at Central, we also established that at least fourteen Hispanic staff were removed or left during her tenure (2007- 2012) at the school. Witnesses told us that during her tenure, the former principal forced the reassignment of a long time Hispanic 3rd grade teacher to 5th grade. The former principal also involuntarily moved four Hispanic teachers to Kindergarten.¹⁹ At least eight teachers and former teachers from Central shared that the principal at Central told Hispanic staff that they were no longer needed and that they should go somewhere else to work.

The former principal denied taking this action. However, later in our investigation, we discovered in District records, a signed affidavit from the principal from 2010 in which she

¹⁹ The Hispanic teachers joked that once they were moved to Kindergarten it was "out the door".

stated that she encouraged bilingual teachers to find teaching positions in other school districts where they may be more comfortable and may better use their skills. We found corroboration to this evidence as noted previously in this letter, that this same former principal asked a central office administrator in the spring of 2009 to relay the message to Hispanic/bilingual staff that they were no longer wanted and that they should look elsewhere to teach.²⁰

During the course of our investigation, the Complainant, four teachers, three former teachers, and two former administrators raised concerns that the District was also targeting teachers with accents by restricting teaching assignments, increasing scrutiny in evaluations and pressuring them to leave the District.

The District was given the opportunity to address specifically its policy and practice concerning teachers with Spanish accents. The District maintained that it does not have a policy concerning teachers with accents. The former Superintendent stated that there was no mechanism for looking at accents in the evaluation process. Other central administrators claimed that no one in the District had taken negative action towards staff with Spanish accents. Several principals stated that no consideration has been given to whether an individual has an accent. One even mentioned an administrator with a southern accent and how it would be unreasonable to target an individual based on his/her southern accent.

During an interview in the spring of 2011, an elementary administrator disclosed reluctantly to OCR that she was pressured by District administration to find reasons to remove Spanish-speaking staff from the classroom and to also modify and limit teaching opportunities for staff with Spanish accents. This administrator claimed that although she was pressured, she did not take accents into account during evaluations. We did not find any evidence to refute this claim.

During their 2011 interviews, the principals at Central Elementary School and Hanson Elementary School²¹ admitted to using accents as an indicator in the teacher evaluation process for Spanish speaking staff.

The principal at Hanson explained that the removal of staff and the use of accents in the evaluation process was because there was a shift in the “skill sets” required for staff in a strictly ESOL program model, insinuating that bilingual staff lacked the abilities and training (skills) of monolingual English teachers. When questioned about the statement that bilingual staff had the wrong “skill sets” the principal could not define or quantify the different skill sets that are needed in an ESOL model that are not possessed by a teacher with bilingual certification by the State of Colorado. We note in contradiction, before a different tribunal, the former Superintendent testified under oath that the certification requirements for a regular classroom teacher and a bilingual classroom teacher were the same for content area instruction.²²

The principal at Central explained that she wanted Spanish-speaking students to have equal access and the best English role models while learning English. She described how starting in 2009, she restricted the instruction that she would allow from the four Hispanic teachers with accents in her school. She went into great detail as to how she restricted the instruction that she allowed these Hispanic teachers to give, such as describing that she would not allow teachers

²⁰ This included staff members who were long-time successful employees, many with master’s degrees, and identified as highly qualified by Colorado State Department of Education standards.

²¹ Identified as xxxx and xxxx.

²² This sworn testimony by the former Superintendent was during a formal teacher dismissal hearing in December 2010.

with Spanish accents to teach reading and language arts. All Spanish speaking and native English-speaking teachers were teaching in English. However, when asked if she similarly restricted the instruction of English speaking teachers to ensure that students receive the best English role models, she stated that she did not. The principal acknowledged that she used accents in her evaluations, but then stated that she did not mark teachers down because of their accents but used it as a point of discussion.

At least three former administrators, five former teachers, and four District staff members demonstrated that **prior** to 2009, Hispanic Spanish speaking teachers, all who had been teaching in the District for three to eight years were not restricted from teaching English reading or language. The Hispanic Spanish speaking teachers were also the visa teachers whom the District was trying to remove from the District and send back to their countries of origin. Three former administrators confirmed in 2010 and 2011 that the teachers brought from other countries were fully certified and qualified by the State of Colorado to teach in Colorado. Each teacher was required to pass English proficiency exams before even being interviewed for a teaching position in the District.

We were informed by the Complainant, three former administrators, and six current and former staff members at Hanson that the District's central administration targeted Hispanic staff for removal at Hanson Elementary School in order to intimidate other staff. Again, the District denied any discrimination toward Hispanics. Yet, we found confirmation from the District itself demonstrating that during the spring of 2009, the Hispanic lead secretary at Hanson Elementary School, who had consistent positive evaluations and had been at the school for at least 15 years was moved to a new school against her will, demoted, and placed as a paraprofessional at the former Chief Academic Officer and former Human Resource Director's direction. Afterwards, she was not considered for any secretarial positions that she applied for in the District. OCR was provided a letter given to the lead secretary by the former Chief Academic Officer and the former Human Resource Director.²³ The letter stated that the lead secretary was not a good fit for the new principal. Yet, this action by the District took place before the new principal had even been hired for the school.

We were informed by the Complainant, a former teacher and another staff member at Hanson that the principal at Hanson forced the resignation of a highly qualified Hispanic/bilingual teacher in August of 2009. The District denied this. The principal at Hanson stated that the teacher voluntarily resigned because she felt that she could not work in the new District framework. The Hispanic, bilingual teacher (with a Spanish accent) stated that she was forced to resign after she questioned the demand that staff use English exclusively in classrooms, specifically in primary classrooms with monolingual Spanish speaking children. The Hispanic teacher also provided evidence that demonstrated that the District posted her position days before her resignation. Another witness at Hanson corroborated her statement that the principal hounded the Hispanic teacher daily until she resigned. The teacher and the eyewitness separately recounted that the principal came into the teacher's primary grade classroom three times in one day to ask for her resignation, called her on the phone and came in twice when students were present, stood at the front of the room, and in their words "harassed" the teacher to resign. The teacher told the principal, in the presence of the other staff member that she did not want to resign. The teacher ultimately resigned.

²³ The former Director of Human Resource was xxxx.

Throughout this investigation, OCR received ongoing information from the Complainant, teachers, and community members concerning the removal of Hispanic staff at Hanson Elementary. The Complainant gave us a list of 10 Hispanic staff members who reportedly were removed or left under pressure from the principal from the fall of 2009 forward. We confirmed the departure of the staff members through data provided by the District and through individual interviews.

District evidence demonstrated that another Hispanic teacher at Hanson, in the teacher visa program, complained to the Superintendent and Board of Education on May 25, 2010, that she was harassed by the principal at Hanson for being a “strong Hispanic” and that she was subsequently non-renewed when she refused to acquiesce to the principal’s demands that she resign.

We first interviewed the principal at Hanson Elementary School in May 2011. Within a few days of his interview, we learned that the principal of Hanson took employment related action against three Hispanic teachers in his school. Specifically, it was reported to us that subsequent to our initial interview with the principal about the allegations of this complaint, he attempted to change the renewal status of three Hispanic teachers from non-probationary to probationary status. We re-interviewed the principal and questioned him when this came to our attention. The principal at Hanson acknowledged that he changed the renewal status of three Hispanic teachers from non-probationary back to probationary. The principal admitted to taking this action within days of his initial interview with us. He claimed that the reason he took this action was that he wanted to help the Hispanic teachers be the best teachers that they could be. He admitted that he talked to the Director of Human Resources before taking this action²⁴, and that the Board of Education had not approved his proposed changes as required by District policy. After further inquiry into this situation, we learned that the principal at Hanson Elementary attempted to change these teachers status even after the Board of Education had approved them to be in a non-probationary status. In his defense, he stated that he was unaware that he could continue probationary teachers for a fourth year of probation until after his initial recommendation (and subsequent Board of Education approval) for non-probationary status for these three teachers. After our second interview with the principal at Hanson, the District accepted the non-probationary contracts of the three Hispanic teachers.

We learned from a former staff member at Kearney Middle School (a Hispanic bilingual science teacher), that while still employed by the District she felt harassed by the former Superintendent during a “Rock Stars” teacher appreciation luncheon in the spring of 2010. This Hispanic bilingual science teacher was attending the event because she had been identified as a successful science teacher at her school. She recounted that the former Superintendent was visibly shocked to see her at the luncheon. The former Superintendent reportedly approached the Hispanic science teacher and asked, “Who are you?” and “Where do you teach?” During the same luncheon, the Former Director of Human Resources²⁵ reportedly asked the teacher, “What do you teach?” The Hispanic bilingual science teacher explained that she answered all questions that she was asked. Within a week or two of the luncheon, the principal of Kearney Middle School reportedly began pursuing options to eliminate the ESL science program at Kearney Middle School.²⁶ After that incident and others, the Hispanic bilingual science teacher felt compelled to separate from the District even though her visa was not set to expire for another year. While the principal left the District and we were unable to speak with her, we were able to

²⁴ The Director of Human Resources identified in this incident was xxxx.

²⁵ Identified by the former staff member as xxxx.

²⁶ The principal at Kearney Middle School was xxxx.

identify through District records that there were internal email messages between the principal and the Director of Human Resources and other messages with the Hispanic bilingual science teacher demonstrating that the District was expecting and encouraging her to resign in the summer of 2010. The Director of Human Resources wrote in one internal email message that he intended to penalize the teacher monetarily for every day she did not resign.

The Complainant, and others during the course of our investigation, stated that the former Superintendent intimidated Hispanic/Bilingual staff from participating in the ELL Design Committee²⁷ by terminating the employment of the District's only Hispanic principal, at Hanson Elementary School on or about February 11, 2009. It was reported to us that this former principal was terminated from her job because of her unwillingness to provide the names of individuals who had called and reminded Hispanic staff at one school of an ELL Design Committee planning meeting (that was reported to be open to everyone to attend and participate) in late January 2009.²⁸

When we interviewed the former Superintendent and asked her about the termination of the Hispanic principal at Hanson Elementary School, she did not deny that she requested the names of individuals who informed Hispanic staff about the meeting. When we asked her specifically why she needed to know who told the Hispanic principal about the open meeting she stated that it was her job to have her "hand on the pulse" of the District. She did not elaborate what she was going to do with the information or why she terminated the Hispanic principal's employment for not providing the information. The principal who was terminated, told us that the former Superintendent was angry during this confrontation and that she concluded the former Superintendent had negative intentions toward the individuals who notified the principal of the meeting. The principal refused to identify these individuals to the former Superintendent because she feared they would be retaliated against.

From 2008 through 2012, eight Hispanic administrators (principals, central administration staff and central administrators) left the District. The District replaced them with Anglo individuals with the exception of one Hispanic who was hired to replace an Anglo administrator.

We noted that contemporaneous with our investigation of this complaint, the District entered into settlement agreements that required Hispanic individuals and others involved with the English learner programs to remain silent as to their allegations regarding the District. As a result, these individuals were unable to speak with us because of agreements to "not disparage the District".

Overall, in 18 interviews with current and former District teachers, staff members and administrators, in 2010, 2011, and 2012, Hispanic individuals communicated consistently to OCR that they and others feared for their jobs and feared retaliation from District administration for their participation in this investigation.

Based on the evidence, we determined that a hostile environment against Hispanic students, teachers, and administrators existed at the District. Specifically, we conclude that the preponderance of the evidence establishes that Hispanic students, teachers, and administrators experienced national origin harassment that was sufficiently serious to deny or limit an

²⁷ In 2009, the District created an ELL Design Committee to study the strengths and weaknesses of the District's alternative language models for instruction in response to the 2008 *CADI* Report. The evidence from the District also demonstrated that all current District alternative language administration and support staff (at the time of the ELL Design Committee) were excluded from participation on the ELL Design Committee.

²⁸ The principal at Hanson Elementary School who was terminated was identified as xx.

individual's ability to participate in or benefit from the services, activities or privileges provided by the District.

Notice of Harassment/Hostile Environment and Responsive Action

We next address whether the District received notice and took reasonable steps to respond to the hostile environment. The District's Board of Education Policies include several non-discrimination/equal opportunity policies. These policies state that the District is committed to "providing a safe learning and working environment where all members of the school community are treated with dignity and respect. The Board policies prohibit harassment based on race, color, national origin, ancestry, creed, religion, sex, marital status, sexual orientation, age, disability or a need for special education services. The Board policies set forth steps an individual may take when reporting harassment. The Board policies do not offer guidance for individuals to complain about the actions of an executive administrator such as the Superintendent or other chief officers.²⁹

When the former Superintendent and other central administrators were asked whether the District had notice of harassment and a hostile environment against Hispanics, they offered the names of several teachers who filed complaints of discrimination with the Equal Employment Opportunity Commission. One teacher was at Monaco Elementary, the others identified were all at Central Elementary. The former Superintendent and Human Resource Director also mentioned that in 2011 a District complaint surfaced concerning the principal at Central Elementary School. During our investigation, the District reported that it had initiated an investigation of an individual allegation of race discrimination by this principal. The Director of Human Resources indicated in his interview that an independent investigator had been retained to investigate allegations of race discrimination that had been raised by an employee at Central Elementary School in the spring of 2011. We learned from further investigation that the former Superintendent directed the investigator to look only at whether the individual who complained was discriminated against on the basis of race by the principal at Central Elementary School, not any other allegations of discrimination that may be raised during the investigation.

While the private investigator hired by the District for this investigation had interview statements that consistently stated that the principal at Central Elementary School discriminated against Hispanics, the investigator found that the person who filed the discrimination complaint and others were most likely discriminated against for disagreeing with the principal, and not on the basis of race. The investigator left the final determination as to discrimination findings to the District to make. The District did not respond to the multitude of race allegations³⁰ that were raised during that investigation.

We found that the District did not make a final determination in the matter, and took no further action regarding the principal and did not address any of the other concerns raised in the investigation. The former Superintendent, her chief officers and other building administrators

²⁹ See, Adams County School District #14 Board Policies AC, JB, AC-R1, and AC-R2.

³⁰ Allegations included: the principal telling Hispanic staff that they were no longer wanted and they should look for work elsewhere; visa teachers were let go; during the last school year the principal hired no Hispanic teachers although the student makeup was 85% Hispanic; three Hispanic teachers were moved to new, unfamiliar assignments after speaking at the board meeting on May 25, 2010; Hispanics and those who advocated for them were being mistreated, and the District was pushing Hispanics out.

denied receiving any other complaints by Hispanics or on behalf of Hispanics in the District including Hispanic students or Hispanic parents.

Contrary to the District's assertions, and as detailed below, we found multiple examples that the educational community brought complaints of discrimination regarding the treatment of Hispanics to District administrators or the Board of Education on more than one occasion and in more than one forum. With regard to District administrators being notified, we found:

- In the fall of 2009, a building administrator witnessed the principal at Central make derogatory statements about Mexican children in the school. No further action was taken.
- The District reported that in April 2010, the Colorado Department of Education (CDE) made the District aware of a complaint that was filed with the CDE. The allegations included:
 - teachers not being allowed to speak to parents in Spanish;
 - bilingual teachers being forced to leave or being retaliated against;
 - the (former) Superintendent telling a child at Kemp Elementary School to speak in English at home;
 - A Spanish speaking child who was injured on the playground and no one could communicate with him to find out the extent of his injuries due to the direction by the (former) Superintendent not to use Spanish in the schools;
 - Staff being instructed that any daily communication is to be done in English, leaving non-English speaking parents at a disadvantage, and
 - Administration giving principals the directive to dispose of all bilingual materials.

The CDE had no mechanism to investigate the complaint, so CDE forwarded the complaint to the District. The District notified OCR of the complaint³¹ and stated that the allegations were unfounded. When we reviewed the handling of this complaint, in the context of this investigation, we discovered that the District conducted no investigation into the concerns raised with CDE.

More significantly, we learned that the following complaints were brought to the District's Board of Education on May 25, 2010.

- A Hispanic teacher at Hanson, in the teacher visa program, complained to the former Superintendent and Board of Education that she was harassed by the principal at Hanson for being a "strong Hispanic" and non-renewed when she refused to acquiesce to the principal's demands that she resign.
- A Hispanic community member complained that Spanish-speaking parents were left out of the English language learner study groups. He complained that the entire application process was conducted in English and was electronic. He further complained that the District had systematically removed all its Hispanic administration.

³¹ The District told OCR of the complaint as a courtesy. It was not considered as a part of the monitoring of OCR case number 08-09-1230. It was not an OCR complaint, so OCR took no action on the notice at that time.

- A former principal raised issues that Hispanic staff were being systematically targeted for removal. She complained that Hispanic staff were being told that they were no longer needed. She complained that Spanish-speaking students were being told to speak only in English; staff were being targeted because of their accents; parents were being told that they should bring their own children to parent teacher conferences to translate if they did not understand; and stated that there was intimidation, retaliation and disrespect of parents, students and teachers.
- A Hispanic parent and employee at Central complained about the use of Teach4Success and how it was being used to target and remove teachers unfairly.
- A former employee and representative for a local parent advocacy group, complained at the meeting of the following:
 - That the Principal at Hanson Elementary School created a hostile environment toward Hispanic staff;
 - That the Hanson Principal stated, “We no longer need Hispanics.”
 - That the Hanson Principal told Spanish-speaking teachers that, “Your accent is keeping students back and they are not progressing.”
 - That District teachers were being retaliated against for speaking out concerning the alternative language program; and
 - The removal of the last Hispanic principal who was at Hanson.
- A Hispanic parent complained that teachers from Hanson were being removed by the principal.
- A Hispanic parent complained that the District was taking away good teachers who understood the culture of the parents and students.

The former Superintendent acknowledged that complaints were raised in this forum and then claimed that these complaints were not valid. One reason she stated they were not valid was because individuals raising the allegations did not work with the District. She said that complaints brought by employees (even complaining as a parent) should have gone to the Director of Human Resources. When looking at all the complaints identified in the District minutes of the meeting, the former Superintendent then stated that she would only investigate the complaints if directed by the President of the Board of Education to do so.³² When asked specifically if the President of the Board of Education had directed her to investigate any of the complaints, she responded “no.” We find that there were clear allegations of racial discrimination levied at the District on May 25, 2010, and that many of the allegations concerned incidents that we investigated and found to be evidence of a hostile environment.

The complaints of May 25, 2010 alone, were summarily dismissed by the former Superintendent as being made by individuals who “were not in the District” or by employees who should follow the District’s union process for employment concerns. The former Superintendent acknowledged that in all but one (a concern raised by a Hispanic parent of a student with a disability) of the issues brought to the Board of Education on May 25, 2010, no action was taken to investigate the issues or to take corrective action. We also find credible evidence that complaints of harassment and discrimination against Hispanic students and staff members were

³² The president of the Board of Education during the identified meeting was xxxx.

brought to administrators, union representatives, members of the Board of Education, and to the state board of education, some even during the investigation of this complaint. While we noted previously that the District attempted to investigate allegations of national origin harassment by the former principal at Central Elementary, the District provided no evidence to demonstrate that any complaints were ever fully addressed by the District or that the hostile environment toward Hispanics in the District was stopped or remedied.

Conclusion

Given the consistency between witness statements and other evidence provided by the District, we find by a preponderance of the evidence that the District had knowledge of and actually created and maintained a hostile environment toward Hispanic individuals in the District. We find that because the actions taken against Hispanic students and staff were in large part directed and carried out by members of District administration acting within the scope of their duties, it is impossible for the District to maintain that it was unaware of the hostile environment. While the former Superintendent and her cabinet maintained that the concerns were brought forth by a few Hispanic staff members with poor evaluations and a few individuals upset with the changes to the alternative language program, the evidence demonstrated that the District, including building administrators, the former Superintendent and her cabinet, and the Board of Education knew of ongoing complaints of discrimination against Hispanics and failed to properly investigate or to take corrective action from the 2008-09 through the 2011-12 school years. As a result, we conclude that there is sufficient evidence to support a conclusion of noncompliance.

During the course of this investigation, the Board of Education took action to remove the former Superintendent from her position in June 2012. Most of her administrative cabinet left shortly after she did and most of the principals present during the investigation are no longer employed in the District.

The current Superintendent, Patrick Sánchez, and the current Board of Education agreed to take steps to remedy the hostile environment as detailed in the enclosed Settlement Agreement and to prevent its recurrence. Superintendent Sánchez and the current Board of Education have committed to fostering an environment where individuals within the District are not restricted in their participation or benefits as a result of a racially hostile environment.

Issue 2: LEP Parent Communication

Legal Authority

To establish that a District failed to communicate with LEP parents in a language and manner that parents understand we determine whether the District furnishes parental notices and communications to all parents and if those notices and communications are provided effectively to LEP parents as with English speaking parents.³³

OCR's May 1970 memorandum requires districts to provide the parents of language minority students with notices containing the same information that is provided to the parents of other students. To be adequate, such notices must be furnished in a language appropriate to the parents. The intent of the May 1970 memorandum is to clarify each district's responsibility to communicate as effectively with language-minority parents as it would with other parents,

³³ While evidence provided by the District addressed Spanish speaking LEP parents, our findings include all language minorities in the District.

despite any language barrier. The burden of ensuring effective communication is the District's; the District may not transfer the burden to language-minority families.³⁴

We reviewed evidence provided by the District. We interviewed witnesses provided by the Complainant and the District. We also reviewed evidence and interviewed witnesses developed from sources independent of the Complainant or District.

Analysis and Findings

The Complainant alleged that District communications including District notices, school notices, parent teacher conferences, discipline issues and day-to-day building communications are not provided in a language or manner that LEP parents understand.

The District provided many examples of school newsletters that are provided to parents in English and Spanish. District administration indicated that the District now has in place a District translator who translates all District communication for parents into Spanish. The District also indicated that upon request, ahead of time, Board of Education meetings are now translated into Spanish. Our review of District materials demonstrated that in large part, school sites were providing school newsletters in English and Spanish. District administration shared and we find that beginning in the 2010-11 school year the District placed parent liaisons in every building to increase parent communication. Some of the liaisons have Spanish language abilities to varying degrees. The District also has a District level Spanish translator available at the District administration building for translations.

In spite of these efforts, principals confirmed that while they attempt to provide all parent newsletters in English and Spanish, it was not happening consistently. District administration indicated that translators and parent liaisons were generally available to assist parents during the day-to-day events at the school. However, principals acknowledged during interviews that there was no consistency at school sites. District staff said that at some schools, parents were not offered assistance in Spanish when they enter the school and there were times that parents had to seek out someone to translate for them.

Most administrators acknowledged that they do not have enough translators to conduct parent teacher conferences. Some administrators admitted in order to provide translation resources to parents, parents have had to wait longer times for conferences until a translator is available. The former Superintendent stated, during her interview, that students were good resources to translate for parents and staff when needed during parent teacher conferences. In addition to these admissions, we find that discipline forms and report card information are not consistently provided to ELL parents in a language or manner that parents understand.

We also learned from a staff member at Monaco, that in the 2008-09 school year and in the beginning of the 2009 –10 school year, the former principal at Monaco refused to handle discipline issues with Spanish speaking students and parents and would communicate and work only with English speaking families. Spanish speaking parents were treated differently and made to interact with non-administrative staff to handle discipline issues, most often the Spanish-speaking teachers.³⁵

³⁴ See, OCR's May 1970 Lau Memorandum; which can be found at: <http://www2.ed.gov/about/offices/list/ocr.docs/lau1970.html>

³⁵ We note that this finding contradicts the earlier finding that the principal at Monaco directed bilingual Hispanic teachers to send Spanish speaking parents to the principal if they had any concerns, rather than talk directly with the

Through our investigation, we learned that in the spring of 2008, while the former Superintendent was Chief Academic Officer, the District participated in a Comprehensive Appraisal for District Improvement (*CADI* Report). The appraisal was completed from April 7 – 15, 2008. The District received the District Report on May 30, 2008. The report raised items for improvement related to the treatment and inclusion of Hispanic parents, staff, and the community. The report specifically identified for the District that:

- [It is recommended that the District b]roaden the level of staff and stakeholder participation in school accreditation plans to promote best thinking, improve buy in and increase accountability... [Page 20]
- Research shows that people want to be valued, respected, and recognized for what they contribute to the organization. They need to know that they are included in the overall process of the work and have an understanding of what role they play in the operation. Thus, throughout the district, it will be important to continuously grow a culture of trust and respect that permits openness, ability to share ideas, and be accepting of different approaches and beliefs. Establishing and following agreed upon norms of conduct and behaviors for all stakeholders is one way to build trust... [Pages 25-26]
- Look at equity throughout the district, with an eye towards hiring personnel with whom the ELL parent/community population can identify and feel comfortable. Parents become involved in schools where they feel welcomed and valued. Staff cultural competence can foster these positive feelings. Strong parent involvement leads to increased student motivation, participation and achievement... [Page 46]

We note that had the District implemented the specific equity related recommendations of the *CADI* Report, the District could have had more effective communication and involvement of parents and staff.

Further, it was undisputed that before changing to a strictly ESOL model for instruction, the District created an ELL Design Committee to study the strengths and weaknesses of the District's alternative language models for instruction. The Complainant alleged that the District used Design Committee meetings as a means to ensure Hispanic, bilingual parents and Hispanic, bilingual staff and community did not participate in the conversations or decisions concerning the District's ELL programs.

The former Superintendent and her cabinet acknowledged that there were no ELL parents on the ELL Design Committee. The former Superintendent and other central administrators suggested that parents had equal opportunities to apply online for the Committee and those materials were available in Spanish. However, the Chief Communications and Strategy Officer conceded that less than half of the families in the District have access to computers. However, despite these claims, the District did not provide examples of application materials that were accessible to national origin, language minority parents in a language and manner that they understand. The Chief Communications and Strategy Officer stated that there were ELL parents that applied to be on the Committee. The District was unable to provide the names of any ELL parents who

parents. We learned that the principal did not speak Spanish and concluded that although the two pieces of evidence contradict one another they both are indicative of an environment where the District was not effectively communicating with parents who speak a language other than English and also could be viewed as hostile towards Hispanics.

applied or their applications. The former Superintendent offered no explanation for why ELL parents were not included. Administration was able to demonstrate that after the Design Committee made its decision to end the District's bilingual education program and to move to an exclusive ESOL program, bilingual meetings were held throughout the District, and that the District sent an invitation in English and Spanish speaking families via a phone blast to all parents.

Based on several District administrators admitting that there are insufficient translation services available and additional evidence that the District did not effectively communicate with LEP parents similarly to its communications with English speaking parents, we find that the District fails to communicate effectively with LEP parents in a language and manner that parents understand.

Conclusion

OCR finds by a preponderance of evidence that the District is a hostile environment toward Hispanic students and staff and that the District failed to communicate effectively with LEP parents in a language and manner that they understand.

The District agreed to voluntarily resolve the violations found in this investigation and entered into a Settlement Agreement, a signed copy of which is enclosed and briefly described hereafter.

Settlement Agreement

In the Settlement Agreement, the District agrees to:

- Promptly investigate all incidents of harassment on the basis of race, color, or national origin;
- Adequately notify national origin-minority group parents of school programs and activities that are called to the attention of other parents.
- Draft and publish a letter to the staff and community explaining the allegations and findings in the complaint; identify the steps it will take to ensure compliance with Federal civil rights laws; an explanation that the District does not tolerate acts of harassment, including harassment based on race, color or national origin, including harassment based on being Hispanic. The letter will be in English and Spanish;
- Develop and administer student, parent, and staff surveys to gauge the District's climate and needs as related to race, color, or national origin harassment/discrimination;
- Identify an external consultant[s] to administer and assist in the review of the District's climate/need surveys, assist the District in determining any corrective actions the District should take as a result of the surveys, participate in the review and revision of District anti-discrimination/harassment policies, to review and make recommendations on the use of teacher mentoring programs and their contribution to harassment/hostile environment based on race, color or national origin, and to participate in the community focus group.
- Create a central database or separate electronic file system to track all complaints of race, color or national origin harassment/discrimination in the District;

- Review and revise as necessary its anti-discrimination, anti-harassment and grievance policies and procedures;
- Develop training for all District students (age and grade appropriate), and District staff (teachers, administrators, central office staff and the Superintendent's cabinet, the District Board of Education, counselors, resource officers, coaches, school aides, and any other District personnel charged with supervising students or staff) on the revised policies and procedures;
- Develop a model, design and plan for teacher mentoring in District classrooms;
- Establish a student committee with responsibility for providing a forum for students to discuss matters concerning discrimination or harassment on the basis of race, national origin or color, increase student awareness of the District's anti-harassment program, and suggest measures for improving the effectiveness of the District's program;
- Establish a staff working group to provide a forum for staff to discuss matters concerning discrimination or harassment on the basis of race, national origin or color, increase staff awareness of the District's anti-harassment program, and suggest measures for improving the effectiveness of the District's program;
- Conduct a community meeting to create a focus group of community members and community organizations to partner with the District to increase community awareness of the District's anti-harassment program, and suggest measures for improving the effectiveness of the District's program.
- The Superintendent and Assistant Superintendent for the District will complete an audit of the work, employment history, employment files, and removal of identified former employees; and if the District finds national origin harassment/discrimination it will take steps reasonably designed to effectively address, prevent, and respond to the harassment/discrimination, and
- Conduct an annual assessment of the effectiveness of its anti-harassment efforts.

OCR will closely monitor the District's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the District's policies and practices are administered in a nondiscriminatory manner. A failure to implement the Agreement according to its terms would require us to reopen the case for further proceedings.

This letter addresses only the issues raised in this complaint and should not be interpreted as a determination of the District's compliance or noncompliance with Title VI or other Federal civil rights laws in any other regard. Please note that the Complainant may have the right to file a private suit in federal court regardless of whether OCR finds a violation.

OCR routinely advises recipients of Federal funds and public educational entities that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR and those participating in a complaint investigation. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will protect personal information to the extent provided by law.

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.

If you have any questions, you may contact xxxx, Attorney Advisor assigned to this case, at xxxx.

Sincerely,

/s/

J. Aaron Romine
Regional Director

Enclosure

Cc: Honorable Robert Hammond
Commissioner of Education