



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200  
SAN FRANCISCO, CA 94105

REGION IX  
CALIFORNIA

August 3, 2015

Anna Ramirez  
Superintendent  
Raisin City Elementary School District  
6425 W. Bowles  
Raisin City, CA 93652

(In reply, please refer to case no. 09-15-1248.)

Dear Superintendent Ramirez:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its resolution of the above-referenced complaint against Raisin City Elementary School District (District). The complaint alleged that the District subjected certain parents to discrimination on the basis of national origin. Specifically the complaint alleged the District denied limited English proficient (LEP) parents the opportunity to participate meaningfully in District Board meetings by failing to provide adequate oral interpretation at the meetings. In addition, the complaint alleged the District Superintendent filed for Temporary Restraining Orders (TRO) against "Complainant A" in retaliation for complaints Complainant A made against the Superintendent.

OCR initiated its investigation of the complaint under the authority of Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations. Title VI prohibits discrimination on the basis of race, color, and national origin in programs and activities operated by recipients of Federal financial assistance. The District receives funds from the Department, is a public education entity, and is subject to the requirements of Title VI and its implementing regulations.

The Title VI implementing regulations, at 34 C.F.R. § 100.3(a) and (b), provide that a recipient of Federal financial assistance may not, directly or through contractual or other arrangements, on the ground of race, color or national origin, exclude persons from participation in its programs, deny them any service or benefits of its programs, or provide any service or benefit which is different or provided in a different manner from that provided to others. Section 100.3(b)(2) provides that, in determining the types of services or benefits that will be provided, recipients may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin.

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

On May 25, 1970, pursuant to its authority under Title VI, the Department of Education issued a memorandum entitled “Identification of Discrimination and Denial of Services on the Basis of National Origin” (35 Fed.Reg. 11,595). The memorandum clarified OCR policy under Title VI on issues concerning the responsibility of school agencies to provide equal educational opportunity to limited English proficient national origin minority students.

The May 25th memorandum states that school districts must adequately notify national origin minority group parents of information that is called to the attention of other parents, and that such notice may have to be provided in a language other than English in order to be adequate. OCR analyzes this issue consistent with the U.S. Department of Justice (DOJ) “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” (67 Fed.Reg. 41,455, June 18, 2002). Under the DOJ Guidance, the extent of a recipient’s obligation to provide language assistance to LEP individuals is determined by balancing four factors: 1) the number or proportion of LEP individuals likely to encounter the program; 2) the frequency with which LEP individuals come in contact with the program; 3) the nature and importance of the services provided by the program; and 4) the resources available to the recipient.

Under Section 302 of OCR’s Complaint Processing Manual, a complaint may be resolved at any time when, before the conclusion of an investigation, a school district expresses an interest in resolving the complaint. During the investigation, the District expressed an interest in resolving the first allegation in this complaint. The District thereafter entered into the enclosed Resolution Agreement. Accordingly, OCR did not complete its investigation or reach a conclusion as to whether the District complied or failed to comply with Title VI with respect to the first issue raised by this complaint.

The attached Resolution Agreement requires the District to develop a procedure to ensure that LEP parents in the District are able to understand and participate effectively in meetings of the District’s School Board, including the translation of agendas, notices and calendars of Board meetings, and notices describing how LEP parents can request interpreting services at Board meetings in Spanish and English. The procedure will describe how the District will provide qualified interpreters at Board meetings, and how interpreters are expected to enable LEP parents who attend to understand the proceedings and/or to make statements or presentations to the Board. The District will also describe the procedure during the next School Board meeting held after the procedure is officially adopted.

OCR will monitor the District’s implementation of the Resolution Agreement.

To investigate the second allegation, OCR spoke with Complainant A and the Superintendent, and reviewed documentation provided by the District. Based on the evidence, OCR concluded that the evidence was insufficient to support a conclusion of noncompliance with Title VI. The facts OCR gathered relevant to the second allegation,

the applicable legal standard, and the reasons for OCR's determination are summarized below.

The Title VI regulations, at 34 C.F.R. §100.7(e), prohibit school districts from intimidating, coercing, or retaliating against individuals because they engage in activities protected by Title VI. When OCR investigates an allegation of retaliation, it examines whether the alleged victim engaged in a protected activity and was subsequently subjected to adverse action by the school district, under circumstances that suggest a connection between the protected activity and the adverse action. If a preliminary connection is found, OCR asks whether the school district can provide a nondiscriminatory reason for the adverse action. OCR then determines whether the reason provided is merely a pretext and whether the preponderance of the evidence establishes that the adverse action was in fact retaliation.

With regard to the second allegation, the preponderance of the evidence supports a conclusion that the District did not discriminate against Complainant A when the Superintendent filed for TROs to protect the Superintendent and District staff from Complainant A. The Fresno County Sheriff Crime Report, dated August 21, 2014, stated that District staff alleged Complainant A repeatedly harassed and threatened staff on the phone after staff informed her that the Superintendent was not available. According to the District, the Superintendent filed with the Fresno County Superior Court for three TROs to protect staff and students. The Court issued the first TRO protecting the Superintendent from Complainant A on August 28, 2014, which was in effect until January 5, 2015, based on video footage and witness testimony demonstrating that Complainant A threatened and harassed District staff. Subsequently, the Court granted another TRO covering February 25 through March 16, 2015, protecting the Superintendent from Complainant A due to the Superintendent's allegations that Complainant A continued to harass District staff members. After the Superintendent filed for a third TRO on February 23, 2015, Complainant A and the Superintendent signed a Mutual Stay Away Agreement on April 29, 2015, with a follow up hearing scheduled for April 25, 2016, due to continued harassment of District staff by Complainant A. The Agreement stipulates that Complainant A is allowed to participate in all parent involvement activities and board meetings. According to the District, Complainant A continues to harass District staff despite the Agreement. There is no evidence that Complainant A engaged in a protected activity connected to the Mutual Stay Away Agreement or TROs.

Based on the commitments made in the Resolution Agreement for the first allegation and OCR's determination that there is insufficient evidence of a violation for the second allegation, OCR is closing the investigation of this complaint as of the date of this letter. The complainant is concurrently being notified.

This letter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as

such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, such individuals may file a complaint with OCR 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.

If you have any questions about this letter, please contact Gemini McCasland, Attorney, at (415) 486-5536.

Sincerely,

/s/

James M. Wood  
Team Leader

Enclosure

cc: Peter E. Denno, Esq.  
Atkinson, Andelson, Loya, Ruud & Romo