



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

REGION IX  
CALIFORNIA

50 UNITED NATIONS PLAZA  
MAIL BOX 1200; ROOM 1545  
SAN FRANCISCO, CA 94102

September 20, 2016

Darin Brawley  
Superintendent  
Compton Unified School District  
501 S. Santa Fe  
Compton, CA 90221

(In reply, please refer to OCR Docket Number 09-15-1334.)

Dear Superintendent Brawley:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the Compton Unified School District (District). The Complainant alleged that the District discriminated against her on the basis of national origin.<sup>1</sup> Specifically, OCR investigated the following issues<sup>2</sup>:

1. The District denies Spanish speaking LEP parents the opportunity to participate meaningfully in the education program by failing to provide oral interpretation and/or written translation of important information and documents in Spanish.
2. The District retaliated against the Complainant after she complained that it fails to provide oral interpretation and written translation of important documents in Spanish to LEP parents, when the District prohibited her from participating as a Parent Volunteer and from entering the School.

OCR investigated the complaint under the authority of Title VI of the Civil Rights Act of 1964 and its implementing regulation. Title VI prohibits discrimination on the bases of race, color, or national origin in programs and activities operated by recipients of Federal financial assistance. The District receives funds from the Department and is subject to Title VI and the regulation.

To investigate this complaint, OCR conducted interviews and reviewed documents and other information provided by the Complainant and the District. Prior to OCR completing its

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<sup>1</sup> OCR previously provided the District with the identity of the complainant and student. We are withholding their names from this letter to protect their privacy.

<sup>2</sup> OCR initially also notified the District and Complainant that we would investigate an allegation of different treatment on the basis of race and national origin. After opening the investigation, OCR determined that the Complainant's concerns actually were raised in the retaliation allegation.

investigation, the District voluntarily agreed to address the areas of concern identified by OCR with respect to the issues investigated. This letter summarizes the applicable legal standards, the relevant facts obtained during the investigation, and the terms of the resolution reached with the District. The legal standards, facts gathered, and the reasons for OCR's determinations are summarized below.

**Issue 1: Whether the District denies Spanish speaking LEP parents the opportunity to participate meaningfully in the education program by failing to provide oral interpretation and/or written translation of important information and documents in Spanish.**

**Legal Standard**

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.

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 regarding the responsibility of school agencies to provide equal educational opportunity to limited English proficient national origin minority students. It states that school districts must take affirmative steps to address the language needs of limited English proficient students (English learners).

Finally, 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 limited English proficient (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.

On January 7, 2015, OCR issued guidance with the DOJ that clarifies a District's obligation to provide services to English language learners including the obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity, that is brought to the attention of non-LEP parents.

## **Facts**

The following facts are relevant to OCR's analysis of this issue.

- At the time of the complaint, the Complainant had a XXX grade student enrolled at Edison McNair Elementary School (School) in the Compton Unified School District. During the course of her time as a parent at the School, the Complainant participated as a volunteer and served as a member of the School Site Council, Parent Teacher Association, the Parents Center Committee and the English Learner Advisory Committee (ELAC).
- The Complainant's primary language is Spanish.
- Approximately 22,000 students are enrolled in the District of which 65% of the District enrollment speaks Spanish at home.
- On March 10, 2015, the Complainant submitted a Uniform Complaint to the District. Among other requests and complaints listed therein, the Complainant requested translated copies of the following three documents for the 2014-2015 and 2015-2016 school years:
  - The Single Plan for Student Achievement
  - The School Safety Plan
  - A budget document (used by members of the School Site Council).
- While serving as a member of the School Site Council the Complainant and other parents, received copies of the Single Plan for Student Achievement and the specified budget document in English.
- The District's 2014-2015 Parent and Student Handbook states that a copy of the School Safety Plan is available to read at each school office.
- In a separate OCR case, the District described an ad hoc process for providing interpretation and translation services for LEP parents. The process described that on an as-needed basis, the District would translate documents. There is no District-level person that ensures that at School sites, appropriate documents are translated or interpreter services are provided.
- Prior to the conclusion of the investigation, the District provided OCR with evidence that the District provided the Complainant with the documents she requested for a school year, and evidence that it was in the process of ensuring that she received the documents for both the years she requested.

## **Analysis of Issue 1:**

OCR found that the District has a high percentage of Spanish-speaking parents in the District. Consistent with the requirements of Title VI, the District is required to provide translation of important documents for parents as part of its obligation to ensure meaningful communication

with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity that is brought to the attention of non-LEP parents.

OCR found that the Complainant, a Spanish-speaking parent of a student in the District, submitted a written request to receive translated copies of documents which the District had provided to English-speaking parents. The Complainant submitted her request as part of the Uniform Complaint which she filed with the District in March 10, 2015. Two of the three documents she requested, the Single Plan for Student Achievement and the budget document, were provided to the Complainant in English during the time she served as a member of the School Site Council. The third requested document, the School Safety Plan, is referenced in the District's parent/student handbook as something that is available for review at each school site.

The District has made a good faith attempt to provide the documents to the Complainant prior to the conclusion of OCR's investigation. Furthermore, prior to the conclusion of OCR's investigation, the District expressed an interest in addressing the concerns raised by the Complainant's allegation. To address this allegation, the District, without admitting to any violation of law, entered into the enclosed resolution agreement which is aligned with the complaint allegations and any concerns that OCR has. In the agreement, the District agreed to translate the documents requested by the Complainant in her Uniform Complaint dated March 10, 2015.<sup>3</sup>

**Issue 2: Whether the District retaliated against the Complainant after she complained that it fails to provide oral interpretation and written translation of important documents in Spanish to LEP parents, when the District prohibited her from participating as a Parent Volunteer and from entering the School.**

### **Legal Standard**

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 and non-retaliatory 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 or intimidation or coercion.

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<sup>3</sup> Systemic remedies to address the School's policy for interpretation and translation are addressed in OCR case number 09-15-1401.

## **Facts**

The following facts are relevant to OCR's analysis of this issue.

- The Complainant alleged that she had been subjected to retaliation in a number of ways including, being prevented from volunteering at the school, being threatened and intimidated by the School security and District police, and being confronted about the various complaints she filed with the District.
- The Complainant stated that she had been requesting further assistance with interpretation services since 2013 and that this is one of the reasons the Principal retaliated against her.
- The Complainant described various incidents of alleged retaliation including:
  - being prohibited from volunteering at the School's Parent Center on September X, 2014 which was denied by the Principal;
  - being told by the Principal on September XX, 2014 that she was prohibited from speaking with the School Board about her concerns which was also denied by the Principal;
  - being told on a number of occasions beginning in November 2014 by school staff and school district police that she was a criminal and was not permitted on school grounds which was denied by the District;
  - having a restraining order filed by the District involving another parent which mentions the Complainant;
  - having other parents and staff coerced or misled into signing a petition against her which requested that she be banned from the School;
  - having the police called on her or being escorted off the School campus by school security or school police;
  - being confronted by school security when she filed a complaint with the District about the school security officer which the District denies; and
  - being confronted by parents and staff at a meeting organized by the District in which people were brought together to complain about her; which the District denies.
- The primary person that the Complainant alleged engaged in and coordinated retaliatory acts against her was the School Principal. The Principal was not able to describe to OCR an understanding of retaliation. She asserted to OCR that she had no recollection of many of the incidents described by the Complainant. The Principal was aware that a staff member told the Complainant that she would call the police when the Complainant allegedly became aggressive regarding an incident in which her son was disciplined. The Principal also asserts that the School security told her that he greeted the Complainant but never confronted her about her complaint against him.

- The District asserts that it did convene a meeting to address parent concerns, but that this meeting was not organized to confront the Complainant, and though she attended, the meeting was not about her.
- OCR found that a declaration was signed by the District Superintendent and submitted to the Los Angeles Superior Court in support of an application for a restraining order against another parent. Among other things, the Declaration stated that school parents and staff had submitted a formal petition to the District on or about September XX, 2014 requesting that the Complainant and another parent be banned from the school.

**Analysis of Issue 2:**

The facts obtained in the investigation of the Complainant's allegation of retaliation thus far indicate that the Complainant engaged in certain protected activities and that she believes she was subjected to adverse actions, the occurrence of which are disputed. The Complainant engaged in activities such as requesting information in her preferred language, filing complaints with the District about various things including alleged discrimination. These are all protected activities. The facts gathered by OCR so far reflect that the Principal at the time did not have a strong understanding of what constitutes retaliation which raises a concern for OCR. The Principal is no longer employed at the School. OCR also found that it was not clear to the Complainant what the role of the School security and the District police are. The District proffered different factual accounts of some of the incidents alleged by the Complainant. Further investigation would need to be conducted in order to determine whether the adverse actions as alleged by the Complainant occurred, and if so, whether the District is able to offer a legitimate non-retaliatory reason for the actions.

However, prior to the conclusion of OCR's investigation, the District expressed an interest in addressing the concerns raised by the Complainant's retaliation allegations. To address the issues raised with regard to the retaliation allegations, the District, without admitting to any violation of law, entered into the enclosed resolution agreement which is aligned with the complaint allegations and any concerns that OCR has.

In the agreement, the District agreed to develop and implement a protocol at the School to ensure that the use of campus security and District police with regard to members of the public is consistent with Title VI and the regulations.

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the Complainant concurrently. When fully implemented, the resolution agreement is intended to address OCR's concerns raised in this investigation. OCR will monitor the implementation of the agreement until the District is in compliance with the statutes and regulations at issue in this case.

This concludes OCR's investigation of the complaint and 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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

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, the Complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by the law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Civil Rights Attorney, Christina Medina at (415) 486-5548.

Sincerely,

/s/

Mary Beth McLeod  
Team Leader