



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

March 20, 2017

Mathew Holton
Superintendent
Chaffey Joint Union High School District
211 West Fifth Street
Ontario, California 91762

(In reply, please refer to OCR Docket Number 09-15-1359.)

Dear Superintendent Holton:

In a letter dated June 25, 2015, the U.S. Department of Education, Office for Civil Rights (OCR), notified the Chaffey Joint Union High School District (District) of the above-referenced complaint alleging discrimination on the basis of national origin filed by the Complainant on behalf of his daughter, Student A.¹ On November 4, 2016, OCR notified the District of a second allegation. Specifically, OCR opened the following allegations for investigation:

1. Whether the District failed to respond adequately to the Complainant's internal complaint that Student A was subjected to discriminatory harassment based on her national origin (XXXXXXXX) by National Honor Society (NHS) club members;² and
2. Whether the District failed to respond adequately to notice of harassment of students at XXX XXXX High School (School) on the basis of their race, color and/or national origin, and whether the District's failure to respond created a hostile environment for students at the School.

OCR investigated the complaint under the authority of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, and its implementing regulation, 34 C.F.R. Part 100. Title VI prohibits discrimination on the bases of race, color or national origin by recipients of Federal financial assistance. The District receives funds from the Department and is subject to Title VI and the regulation.

OCR reviewed documents and other information provided by the Complainant and the District, and interviewed a School administrator, the Complainant, and Student A. Prior to OCR completing its investigation and making a compliance determination, pursuant to section 302 of OCR's Case Processing Manual (CPM), the District voluntarily agreed to address the deficiencies identified by OCR with respect to both allegations. This letter summarizes the applicable legal standards, the relevant facts obtained during the investigation, and the terms of the resolution agreement (Agreement) reached with the District.

¹ OCR identified the Complainant and Student A in our notification letter to the District and is withholding their names from this letter to protect their privacy.

² OCR has amended this allegation to more accurately reflect the Complainant's allegation.

Legal Standard

The regulations implementing Title VI, at 34 C.F.R. §100.3(a) and (b), prohibit discrimination based on race, color or national origin by recipients of Federal financial assistance. School districts are responsible under Title VI and the regulation for providing students with a nondiscriminatory educational environment. Harassment of a student based on race, color or national origin can result in the denial or limitation of the student's ability to participate in or receive education benefits, services, or opportunities.

A district violates Title VI and the regulation if the evidence shows that: (1) the harassing conduct (physical, verbal, graphic, or written) on the basis of race, color, or national origin is sufficiently serious so as to limit or deny a student's ability to participate in or benefit from the services, activities or privileges provided by a district; (2) the district had actual or constructive notice of the harassment; and (3) the district failed to take appropriate, effective, and timely responsive action that is within its authority to end the harassment, eliminate any hostile environment that has been created, prevent its recurrence, and, where appropriate, remedy the effects.

Under Title VI and the regulations, once a district has notice of harassment of a student on the basis of race, color or national origin by another student that took place in a district program, it is responsible for determining what occurred and responding appropriately. The district is not responsible for the actions of the student, but rather for its own discrimination in failing to respond adequately. Once the district has notice of harassment, the responsibility to take appropriate and effective action is the district's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the district to take action. So long as an agent or responsible employee of the district or school received notice, that notice will be imputed to the district.

In analyzing claims of harassment under Title VI, OCR first considers the totality of the circumstances to determine whether a hostile environment has been created, *i.e.*, whether the harassing conduct is sufficiently severe, persistent or pervasive that it denies or limits a student's ability to participate in or benefit from the recipient's program. These circumstances include the type of harassment, context, nature, scope, frequency and severity, age, race, duration, and location of the harassment incidents, as well as the identity, number, and relationships of the persons involved. It also considers whether other incidents motivated by race, color or national origin have occurred at the school to this student or others.

If OCR determines that a hostile environment has been created, OCR then evaluates the appropriateness of the responsive action by assessing whether it was timely, appropriate, and effective. What constitutes a reasonable response to harassment will differ depending upon the circumstances. The response must be tailored to stop the harassment from recurring, eliminate the hostile environment, and remedy the effects. Other actions may be necessary to repair the educational environment. In all cases the district must promptly conduct an impartial inquiry designed to reliably determine what occurred.

Title VI and its implementing regulations are intended to protect students from discrimination on the basis of race, color or national origin, not to regulate the content of speech. In cases of alleged harassment, OCR considers the protections of the First Amendment of the U.S. Constitution where issues of speech or expression by students or employees are concerned.

Allegation One: Whether the District failed to respond adequately to the Complainant's internal complaint that Student A was subjected to discriminatory harassment based on her national origin (XXXXXXX) by NHS club members.

Allegation Two: Whether the District failed to respond adequately to notice of harassment of students at the School on the basis of their race, color and/or national origin, and whether the District's failure to respond created a hostile environment for students at the School.

The following facts are relevant to OCR's analysis:

The District is located in San Bernardino County, California. The District's schools include eight comprehensive high schools, including the School, a continuation school, and an online high school.³ According to the California Department of Education ("CDE"), during the 2015-2016 school year, the School's total enrollment was 3,198 students, and its ethnic demographics were approximately as follows: 37.5% White students; 35% Hispanic students; 14.2% Asian students; 8.1% African American students; 2.5% Filipino students; less than 1% of both American Indian/Alaskan Native students and Pacific Islander students; and 1.4% students who are two or more races.⁴

The School has a chapter of the NHS (hereinafter NHS club). During the 2014-2015 school year, the School's NHS club was comprised of 64 students with the following racial demographics: 25 Asian; 19 White; 7 Latino; 6 Other Asian; 3 Black; 3 Indian; and 1 Bi-Racial.⁵ According to Student A, NHS club officers for the 2014-2015 school year were predominantly Asian and White. On the national website, NHS describes itself as the "nation's premier organization established to recognize outstanding high school students."⁶

Student A is XXXXXXXX.⁷ In fall 2014, Student A applied for membership in the School's NHS club. Although, according to the Complainant, Student A met the GPA requirement, her application for membership to the School's NHS club was not accepted.

On or about November XX, 2014, the Complainant met with the School's Principal ("Principal") and NHS club advisor ("Club Advisor") to inquire about the reasons Student A was not accepted into the NHS club. The Complainant raised concerns that the selection criteria and procedures did not align with the national guidelines, including the involvement of current student members in selecting new members and the NHS club not having any bylaws. Subsequently, the School allowed students whose applications for membership were denied in fall 2014 an opportunity to appeal the determination. Student A appealed and was notified by the Principal that her application for membership to the School's NHS club would commence on January X, 2015.

On January XX, 2015, the Complainant reported to the Assistant Principal ("AP") that a White student ("Student B") in the NHS club approached Student A and stated that, according to the AP, she was admitted into the club because she complained about the NHS club's selection process. The AP denied making that statement and offered to look into the matter. However, at that time, Complainant did not

³ <http://cjuhsd-ca.schoolloop.com/schools>

⁴ CDE's 2015-2016 DataQuest: School Enrollment by Ethnicity

⁵ The demographic information is included here as it appears in the document provided by the District.

⁶ <https://www.nhs.us>

⁷ The issues raised by the Complainant and Student A in this letter are referred to as "Incident One" in the Agreement.

wish to identify Student B. Student A told OCR that she felt that Student B made the harassing statements to her because of her national origin based on her observation that Student B accepted the membership of people of certain races, but not of others.

On January XX, 2015, the AP called Student A to his office so that she could meet with two of the NHS club officers prior to beginning in the NHS club. According to Student A, the officers provided her with information about the NHS club's requirements. At the end of the summary, a NHS club officer, who was Asian, stated that members were required to scrape gum if they missed a meeting. Once Student A questioned the practice, the AP instructed the students to discontinue it. Student A told OCR that she felt that the NHS club officer highlighted this particular punishment with the intent to exclude her or make her feel unwelcome on the basis of her national origin.

On April XX, 2015, the Complainant and Student A each met separately with the AP to inform him of several concerns about the treatment of Student A by NHS club members. They informed the AP that on or about April XX, 2015, Student B told Student A that she should not run for any officer position in the NHS club because "they" had already agreed that she would not win or be considered if she ran, since she did not belong in NHS in the first place, and did not deserve to be an officer. Student A told OCR that "they" was intended to include NHS club officers who were Asian and White. She believed that Student B said this to her because she is XXXXXXXX and her opponent in the election was Asian.

On April XX, 2015, they also told the AP that Student A felt she was being targeted because she was XXXXXXXX, and that some NHS club members were not happy she was in the NHS club because she was not Asian. The Complainant raised concerns about the demographics of the NHS club not reflecting the proportion of XXXXXXXX students at the School, and a desire to see more XXXXXXXX students in NHS. The AP said that he would look into the complaint about Student B. During a subsequent meeting with the AP, Student A was informed that Student B was told to stay away from her. The District's data showed that on or about April XX, 2015, Student B's parents were also called. Student A decided to run for the election in spite of Student B's statement.

The day after the meeting, on April XX, the Complainant informed the AP that the officers and the Club Advisor failed to notify Student A, but not other students, that NHS club election interviews were postponed. Student A told OCR that one of the NHS club officers who was conducting the interviews had Student A's phone number, and Student A had previously received text messages from that officer. Student A told OCR that she felt she was excluded from the communication because she is XXXXXXXX. Ultimately, Student A was not selected for an NHS club officer position.

On April XX, 2015, the Complainant sent the AP an email stating, in part, that "in light of the climate with NHS," he was asking the AP to ensure that an adult was present at the NHS club meeting scheduled for the following day. The Complainant had previously informed the AP that no adult was present at the last several NHS club meetings.

In spring 2015, Student A's NHS library tutoring card disappeared from the box in the library where the cards were stored. The tutoring card was the document on which Student A was required to record the time she spent tutoring students as part of her service requirement to maintain her membership in the NHS club.

On May X, 2015, the Complainant sent the AP a letter which, among other things, raised concerns about "discrimination" and "different treatment" by NHS club members and the School's role in these events. It included information about the failure to notify Student A about the canceled interview and her

missing NHS library tutoring card. The letter stated that the AP told the Complainant during a prior meeting that the NHS club would continue as is and that he would address the concerns next year. On May X, 2015, the AP emailed the Complainant to schedule a meeting to discuss the issues raised. The data gathered to date does not include information about a subsequent meeting.

On May XX, 2015, Student A emailed the Club Advisor expressing her frustration at how other NHS club members were treating her. Student A stated that she felt she was being singled out again and questioned by NHS club officers about "everything I do." Student A informed the Club Advisor about the failure to receive notice of the canceled election interviews, and about her missing NHS library tutoring card, and that she was the only member of the NHS club whose required community service hours were not properly recorded by the NHS club officer who was Asian. The Club Advisor stated that he would pass along her community service hours for inclusion. The Club Advisor responded that if Student A ever felt singled out, he hoped she knew it was nothing that he encouraged or supported. The Club Advisor noted that other competing commitments had made it difficult for him to advise the NHS club during the 2014-2015 school year.

On April XX, 2016, at the annual NHS club banquet ("NHS Banquet"), the Complainant alleged that NHS club officers handed out racially demeaning awards to the three African-American female students in the NHS club. Student A attended this NHS Banquet and was so offended and disgusted by this that she left the event. The Complainant told OCR that the Club Advisor was present at the NHS Banquet but did not stop the behavior and laughed when the awards were presented. Within a week of the NHS Banquet, the Complainant complained to a District administrator about the event.

In May 2016, Student A's name was omitted from the NHS club membership list corresponding to the picture featured in the School's 2015-2016 yearbook ("Yearbook"). The District informed OCR that it had investigated the incident and determined that the Student's name was initially submitted, and then deleted from the list by a student who stated that he/she did not know Student A. No documentation of this investigation was received by OCR. According to the Complainant, one of the Yearbook editors was an NHS club officer. The Complainant stated that the only other student who was left off the NHS list was a student whose membership was revoked earlier in the year. At the same time, Student A learned that a student of Middle-Eastern descent was misidentified in the School's Yearbook as "Isis XXXXXXXX." The Yearbook picture shows the student smiling and wearing a hijab (a traditional veil worn by Muslim women).

In June 2016, the Complainant informed OCR that he met with the District's Assistant Superintendent (AS) to discuss the racial discrimination at the NHS Banquet and the deletion of Student A's name in the Yearbook. The Complainant stated that the AS suggested some potential responsive actions that the District could take regarding the NHS club. The District did not provide OCR with any documentary evidence showing that a complaint had been made about the NHS Banquet incident or that an investigation or any responsive action was taken.

The Complainant told OCR that over the course of Student A's membership in the NHS club, Student A felt picked on, harassed, and shunned based on her national origin. As a result, Student A reported experiencing increased anxiety and heightened stress, which negatively impacted her health and resulted in her missing days of school.

The District provided OCR with documentation related to 13 oral reports and written complaints of harassment on the basis of race, color, or national origin made by students and/or parent(s) of students

at the School from fall 2014 to November 2016, and the District's response to these incidents. The District also provided OCR with a discipline data spreadsheet from fall 2014 to November 2016 summarizing School student disciplinary referrals and any remedial actions taken in a number of categories. Seven of the referrals included sufficient information to indicate that the incident involved race, color, or national origin harassment. The following are examples of harassment incidents identified in the documents provided by the District:

Incident Two: On May XX, 2016, the parent of an African-American student (Student C) notified the District's Superintendent via email of two different complaints: 1) one of Student C's teacher allegedly made insensitive remarks about African Americans in class, such as African-American males are very likely to be beaten up by police, and African Americans suffer from "post-traumatic slave disorder;" and 2) that after a student of Middle Eastern origin (Student D) was misidentified as "Isis XXXXXXXX" in the Yearbook, Student C was criticized on social media and followed by male students on campus because she reached out to Student D to support her. Student C's parent told the District that Student C was scared, and ran into a teacher's classroom when she was being followed; the parent stated that after this incident, the District told her that the best solution was for Student C to stay home for the rest of her senior year and contact her teachers to arrange for her to take her finals in the office.

With respect to the first complaint, the Deputy Superintendent, Personnel ("Deputy Superintendent") responded to the parent on the following day and said that she would work with the School to investigate the matter and would respond as soon as possible. On May XX, 2016, the Deputy Superintendent informed the parent that she had contacted the School's Principal to conduct an investigation into Student C's interaction with the teacher, and that the Principal was aware of a situation that involved the use of inappropriate language by the teacher. (The District's internal documents provided to OCR indicated that the teacher directed a derogatory curse word at Student C on a previous occasion.) The Deputy Superintendent stated that the investigation had not been concluded. No further information was provided about the results of the District's investigation.

The District provided OCR with internal documentation stating that in April 2016, prior to the parent sending her email to the Superintendent, a School administrator met with Student C and her parent about the teacher's racial comments. During this meeting, the administrator asked Student C whether she wanted to return to the teacher's class. The next day, Student C asked the counselor to place her in independent study for that class.

With respect to the second complaint, the District's internal documents stated that the School's Assistant Principal of Discipline ("AP of Discipline") met with Student C and her parent on May X, 2016 to discuss if Student C could be allowed to stay home for the remainder of the year after she was followed on campus on account of her support for Student D. The AP of Discipline stated that the School could make arrangements for Student C to take her finals in the office, if desired. The District did not provide any documentation showing that it took steps to: 1) investigate whether Student C was harassed and followed for her support of Student D; 2) provide notice of the outcome of the inquiry to Student C's parent; or 3) address any effects of the harassment.

Incident Three: The District did not provide OCR with a separate investigative file about the underlying incident involving Student D. The District informed OCR that a new page with Student D's name was printed and corrected for all student yearbooks, and that it provided Student D with a free corrected yearbook. The District told OCR that it also provided Student D with accommodations related to class attendance and finals, and counseling support through the end of the school year. The District did not

provide any documentation regarding its investigation of this Incident or any assessment of whether it created a hostile environment on the basis of national origin for Student D.

Incident Four: In 2016, a parent sent a letter to the Superintendent, stating that on her daughter's (Student E) first day of school at the School, on her way to class, she was shoved violently against a wall by another student she did not know, and told to "Go back to Mexico!" Student E hit her head on the wall and started crying; she called her mother to pick her up. The parent further told the Superintendent that she removed Student E from the School based on racism and raised questions about the School's environment and its recordkeeping. The District provided OCR with an internal memorandum stating that Student E withdrew before the District had knowledge of the Incident. This memorandum also stated that the School's principal and the Deputy Superintendent contacted the parent to convey their "apologies and offer assistance." The District did not provide any documentation showing that an investigation was conducted.

Incident Five: The disciplinary records provided by the District include a student who, in 2016, used a rock to carve "Nigger" in large letters on the ground near one of the buildings. The data spreadsheet stated that this "caused racial tension on campus," and had a "very serious effect" on the "campus and community climate." The School noted that it took four attempts and application of concrete paint to remove the carving. The District/School suspended the student and determined that the student would pay for the cost of repairs; a return from suspension meeting was held with the student's parent and School representatives.

Incident Six: In 2015, an African-American student and his parents complained that two Asian students were making racial comments and racial jokes about the African-American student's hair and using the "N word." A School administrator met with the two Asian students to discuss the seriousness of the comments and the consequences if they reoccur.

Incident Seven: In 2015, a White student told her friend, another School student who is Filipino and White, to create a picture of a "large wrestler" and superimpose a student's (Student F) head on it. The picture also had the words "Jihad" and "Allah Akbar" written on it, and, in Arabic, "F--- Americans." The Filipino/White student sent the picture to the White student, who sent it to another School student of Indian descent and asked him to send it to Student F. The Indian student then sent it to Student F. The picture was also sent to other School students. The District sat in during interviews of the students involved, and called the students' parents about their involvement in this Incident.

Incident Eight: In 2015, a White student wore a shirt with a Confederate Flag on the front and the slogan "Southern Lives Matter" on the back while sitting outside the cafeteria before school started. Students got into an argument over the shirt. Several students repeatedly used the "N word." The School noted a growing number of "upset" students and disruption on campus. School administrators conducted a mediation between four of the students, including the White student who wore the shirt. The White student changed clothes. Parents of the students were contacted.

Incident Nine: In 2016, a student's PE teacher sent an email to the AP of Discipline informing her that a White student was overheard telling his friend that "I don't keep company with N-----" (slang word for the "N word"). The following day, the AP of Discipline met with this student, and the student said that he uses that word with his black friends and did not think it was wrong. The AP of Discipline discussed the behavior, the effect it has on those hearing it, the background of the word and history that makes it

offensive. The student was later issued a class suspension when a teacher overheard the student bragging that he had not gotten into trouble.

Incident Ten: In 2014-2015, the disciplinary records provided by the District included a student making comments about “killing everyone who is not white;”⁸ a student repeatedly making racist statements (e.g., she “f----- hate[s] black people”) in two of her classes;⁹ and two students getting into a physical fight after one student called another student the “N word.” With respect to the first two incidents, the District’s responses to both incidents included: issuing warnings; suspending the students; requiring a return from suspension meeting or a Student Success Team meeting with the students’ parents and other District/School representatives; and requiring the students to sign behavior agreements. With respect to the students who got into the physical fight, the District held a mediation for the two students, contacted their parents, and spoke with the student who used the “N word” about why the word is never appropriate to say.

Analysis

With respect to allegation one, OCR first looks at the totality of the circumstances to determine whether a hostile environment on the basis of national origin existed. Based on the information gathered to date, OCR found that the Student A, who is XXXXXXXX, was originally denied admission to the NHS club in a process that was not consistent with NHS national guidelines. After disputing the denial, she began her membership as one of XXXXX XXXXXXXX students out of a total of 64 students in the NHS club.

Prior to attending her first meeting for the NHS club in January 2015, Student A alleged that she was subjected to a harassing remark by Student B, a White student, when he questioned the reasons for her admission into the club. She was advised by an Asian NHS club officer that if she missed a meeting, she would be required to scrape gum. In April 2015, Student B, told Student A she should not run for an NHS club officer position because she would not win or be considered if she ran, since she did not belong in NHS. In the same month, neither the NHS club officers nor Club Advisor notified her of the postponement of the election interviews, although they notified others; ultimately, she was not elected to an officer position. In May 2015, Student A reported to the Club Advisor that: her library tutoring card, where hours required to maintain NHS membership status were recorded, was missing from a public box; she was the only NHS club member who did not have required service hours accurately and timely posted by the NHS club officer; and she alleged that she continued to be treated poorly and questioned by other club officers. In May 2016, Student A’s name was omitted from the NHS club membership list in the School’s Yearbook.

In determining whether a hostile environment exists, OCR also assesses whether there are harassing incidents on the grounds of race or national origin other than those alleged in the complaint and whether they contributed to a hostile environment or corroborate the allegations. Such acts need not be targeted at the complainant in order to create such an environment or be on the grounds of the complainant’s race or national origin, so long as they are racially motivated. OCR reviewed documentation showing that on April XX, 2016, NHS club officers handed out racially demeaning awards to the three African-American female students in NHS. The Complainant stated that upon Student A witnessing the presentation to her peers and the NHS Club Advisor’s response, she was so disgusted

⁸ In addition to the other actions listed, this student also received a detention and was recommended for counseling.

⁹ In addition to other actions listed, this student’s behavior agreement included an agreement that the student would not make any statements about ethnicity or race.

that she did not feel comfortable remaining at the School event, and so she left. In May, 2016, Student A also learned that the name of another student of Middle-Eastern descent (Student D) was misidentified in the Yearbook. The Complainant stated to OCR that based on the aforementioned incidents, Student A experienced increased anxiety and stress, which negatively impacted her health and caused to her miss school days. When reviewing all of the alleged incidents together and assessing the effect on Student A, OCR's investigation to date raised a concern that Student A may have been subjected to persistent harassment by peers based on her national origin, and that this may have limited her ability to participate in her education.

The District's duty to conduct a reliable and impartial inquiry under Title VI is triggered upon actual or constructive notice of harassment. The Complainant and/or Student A informed a School administrator that Student A believed she was being harassed or discriminated against on multiple occasions, including on January XX, 2015, April XX, 2015, and again on May X, 2015, when the Complainant identified his concerns about discrimination by club members and disparate treatment by club officers. In June 2016, the Complainant met with the AS about the NHS Banquet incident and Student A's name being excluded from the Yearbook. Through these communications, the Complainant and/or Student A informed the School that Student A felt discriminated against, harassed, excluded and singled out by her peers. In addition, the District received actual notice of the NHS Banquet incident because of the Club Advisor's attendance at the event.

The documentation submitted provides evidence that the District conducted an inquiry and/or took responsive action with respect to several reported incidents, namely the District admonished the NHS club officer who advised Student A that she would be required to scrape gum if she missed a meeting, contacted Student B's parents and advised him not to have further contact with Student A, and ensured that the community services hours were counted. However, OCR identified a deficiency in the adequacy of the response because the Complainant reported that the AP's response to being advised that Student A was still being subjected to discrimination was that he would address it in the subsequent school year; the District did not provide any other documentation regarding its response to the Complainant's written complaint in May 2015. In addition, the NHS Club Advisor acknowledged that he had not been able to fulfill his oversight duties in the 2014-2105 school year because of other commitments. OCR's investigation also identified a deficiency related to the effectiveness of the response to prevent further harassment because Student A reported additional alleged harassing conduct in the 2015-2016 school year.

Prior to completing the investigation, the District expressed an interest in voluntarily resolving this allegation under section 302 of OCR's case processing manual, and OCR agreed it was appropriate to do so. Accordingly, OCR has not made a compliance determination.

Based on the facts gathered to date, OCR's investigation also raised concerns that there are other School students, including Students C, D, E, and F, who may have been subjected to a hostile environment on the basis of race, color, or national origin.

OCR also found that the District was put on notice of other incidents of race based or national origin based harassment, including the awards presented at the NHS Banquet and the Yearbook incident regarding Student D (Incident Three), but these incidents are not reflected in the data the District provided OCR in response to all complaints, reports, and investigative files. As such, OCR identified a deficiency regarding the adequacy of the District's recordkeeping with respect to these two discrimination complaints.

OCR also identified a deficiency as to whether the District's response to the incidents involving Students C and E was adequate and appropriate. With respect to Incident Two, even though the District was aware that Student C was scared about returning to the School after she was followed in response to her support of Student D, the District's documentation does not reflect any investigation of that incident. No documentary evidence was provided that Student C's parent were provided with notice of the outcome of the District's investigation or any remedy. With respect to the remarks made in class to Student C by a teacher, which resulted in Student C requesting to be placed on independent study, the District did not provide any documentation showing that it completed its investigation or reached a conclusion as to whether Student C was subjected to a hostile environment in the class.

With respect to Incident Four, although Student E's parent reported to the District that Student E was slammed into a wall at the School after being told to "Go back to Mexico," the District's documentation does not reflect that it investigated the Incident or took any actions after it received notice. With respect to Incident Five, the District acknowledged in its discipline data spreadsheet that "racial tensions" resulted and that there was a "serious effect" on the campus, but no documentation was provided showing the steps it took to determine if this Incident created a hostile environment for any students or, as needed, to remedy the effects. With respect to the other Incidents, OCR did not receive any documentation showing that the District assessed whether a hostile environment had been created for affected students. For example, the documentation does not include the impact on students who may have overheard a student orally threaten to kill every student who is not White.

Prior to completing the investigation, the District expressed an interest in voluntarily resolving allegation two pursuant to section 302 of OCR's case processing manual, and OCR determined it was appropriate to do so.

Conclusion

Based on the commitments made in the enclosed 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 Agreement is intended to address the allegations in this investigation. OCR will monitor the implementation of the Agreement until the District is in compliance with the statute(s) and regulations at issue in the case.

The Agreement is aligned with the complaint allegations and the deficiencies identified by OCR during its investigation. It requires that the District: (i) disseminate an anti-harassment statement to faculty, students, and parents; (ii) investigate Incidents One through Five and issue a notice of outcome to each complainant; (iii) draft written guidance regarding the District's obligations under Title VI; (iv) provide training to all District administrators and School administrators and staff on its policies and procedures prohibiting discrimination, including harassment based on race, color and national origin; (v) develop an anti-harassment training plan for District administrators and all School administrators, supervisors and staff, including faculty advisors/supervisors of the School's NHS club and Yearbook; (vi) provide information sessions on preventing harassment based on race, color and national origin to School students; (vii) conduct a climate survey for School students and staff; (viii) develop and implement a monitoring program to assess the effectiveness of its harassment-prevention efforts; and (ix) provide training to School parents and guardians regarding Title VI and the District's commitments under this Agreement.

OCR's determination in this matter 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, retaliate, 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 about this letter, please contact the OCR attorneys assigned to this case: Christina Medina at Christina.Medina@ed.gov, (415) 486-5548, or Naghmeh Ordikhani at Naghmeh.Ordikhani@ed.gov, (415) 486-5588.

Sincerely,

/s/

Mary Beth McLeod
Program Manager

Enclosures

cc: Todd Robbins, Legal Counsel for the District (by email only)