



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

July 20, 2018

Mr. Charles Tracy
Superintendent
Hamilton Unified School District
Post Office Box 488
Hamilton City, California 95951

(In reply, please refer to case no. 09-16-1023.)

Dear Superintendent Tracy:

This letter is to advise you of the disposition of the above-referenced complaint against Hamilton Unified School District (District), which alleged discrimination based on national origin. OCR began an investigation of whether the District has designed and implemented a program for English Learner (EL) students that is reasonably calculated to teach them English and provide them access to the District's educational programs.

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 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.

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 recipient expresses an interest in resolving the complaint. Prior to the completion of OCR's investigation, the District informed OCR that it was amenable to resolving the complaint in this manner. OCR and the District entered into the attached resolution agreement (agreement) to resolve the complaint. Accordingly, OCR did not complete its investigation of the complaint or reach conclusions regarding the District's compliance with Title VI. The applicable legal standards, the facts OCR gathered during its preliminary investigation, and the disposition of the allegations are summarized below.

Legal Standards

The Title VI regulation, at 34 C.F.R. §100.3(a), states that no person shall, on the grounds of national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving federal financial assistance. The regulation, at 34 C.F.R. §100.3(b)(1)(i)-(vi), further states, in relevant part, that a recipient may not, on the grounds of national origin, deny an individual any service or benefit of its programs; provide any services or benefits to an individual which are different or provided in a different

manner; treat an individual differently in determining continued enrollment in its programs; or, deny an individual an opportunity to participate in a program through the provision of services which is different from that afforded others under the program. The regulation, at 34 C.F.R. §100.3(b)(2), also provides that a recipient may not utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination on the basis of national origin, or have the effect of substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular national origin.

On May 25, 1970, pursuant to its authority under Title VI, the U.S. Department of Health, Education, and Welfare issued a memorandum entitled “Identification of Discrimination and Denial of Services on the Basis of National Origin,” reprinted in 35 Fed. Reg. 11,595 (July 18, 1970) (hereinafter May 25th memorandum). 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 memorandum states, in part, that school districts must take affirmative steps to address the language needs of English learners.

Title VI and the May 25th memorandum require school districts to select a sound educational theory for their programs for English learners, and to use practices, resources and personnel reasonably calculated to effectively implement their educational theory. Districts are expected to ensure their educational program produces results indicating that the students’ language barriers are actually being overcome in a reasonable period of time, and to modify programs that are not successful.

Districts have a dual responsibility to teach students English and to provide them with access to the curriculum, taking steps to ensure that students are not left with academic deficits. This dual obligation requires school districts to design and implement EL programs that are reasonably calculated to enable EL students to attain both English proficiency and parity of participation in the standard instructional program within a reasonable period of time.

Districts must validly, reliably and annually measure EL students’ performance on the state English language proficiency assessment and in academic content areas. Monitoring systems should include benchmarks for expected growth and ensure that EL students are making appropriate progress with respect to acquiring English and content knowledge while in the EL program. Districts should take appropriate steps to assist students who are not adequately progressing towards those goals and modify EL programs as necessary, if the dual obligation is not being met.

Relevant Facts

OCR’s preliminary investigation showed the following:

The District is a small district in the town of Hamilton City, California. According to the California Department of Education (CDE), 690 students were enrolled in the District during the 2017-2018 school year, 22.9% of whom were English Learner (EL) students. The complainant¹

¹ OCR previously notified the District of the complainant’s name and is withholding the complainant’s name from this letter for privacy reasons.

alleged in her OCR complaint that the District did not adequately support staff who provided instruction to EL students, and expressed concern about the District's implementation of its program for EL students.

The District's data response included a description of its Master Plan and English Language Development (ELD) program. As articulated in the District's Master Plan, students are grouped for language instruction based on their English proficiency levels, are given benchmark assessments every eight weeks, and progress to the next level once they score 80% or higher on a benchmark assessment. The District's Master Plan also requires District staff to monitor the progress of EL students. As part of this progress monitoring, District staff explained to OCR that following board approval, the District developed and began using written plans for Reclassified Fluent English Proficient (RFEP) students and Long-Term English Learner (LTEL) students at the start of the 2016-2017 school year to assess these students' progress and recommend interventions to support their academic success. The Superintendent told OCR that the District continues to refine its Master Plan, particularly with respect to progress-monitoring for LTEL and RFEP students; as well as its criteria for (1) referring EL students or RFEP students not making sufficient progress for interventions, (2) determining and recommending interventions for them and (3) assessing the effectiveness of the recommended interventions.

Resolution and Conclusion

Prior to OCR's completion of the investigation, the District entered into the attached agreement, signed June 20, 2018, which, when fully implemented, will address all the allegations in this case. The agreement requires the District to develop a plan designed to identify EL and RFEP students at all grade levels and proficiency levels who are not making expected progress, and provide evidence of implementation of the plan. OCR did not complete its investigation or reach conclusions regarding the District's compliance with Title VI with respect to the issue investigated. OCR will monitor the District's implementation of the agreement until the District has satisfied its terms.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District 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 a 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, 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 individual may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if

released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR thanks you for your courtesy and cooperation during OCR's investigation. If you have any questions, please contact the case resolution team.

Sincerely,

/s/

Zachary Pelchat
Team Leader

Enclosure