



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION IX
CALIFORNIA

November 14, 2017

VIA ELECTRONIC MAIL

Christopher J. Steinhauser
Superintendent
Long Beach Unified School District
1515 Hughes Way
Long Beach, CA 90810

(In reply, please refer to case no. 09-16-1258.)

Dear Superintendent Steinhauser:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed against the Long Beach Unified School District (District). The Complainant alleged that the District discriminated against his son (the Student) on the basis of race.¹ Specifically, OCR investigated whether the District:

1. subjected the Student to harassment based on race by other students when racial slurs were written on his locker and notes forged to appear signed by the Student were sent to three instructors and the District failed to respond appropriately to notice of discrimination; and,
2. retaliated against the Student after the Complainant complained about race harassment when the Student was removed from Student Council based on false behavior charges and received low grades due to behavior.

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.

Summary of Investigation and Findings

OCR conducted in-person and telephone interviews with the Complainant, the Student's Mother and Student regarding their allegations, and also reviewed documentation submitted by the Complainant. OCR requested, received and reviewed documentation from the District regarding the issues under investigation, including District correspondence with the Complainant, internal correspondence amongst staff, student records, student and staff demographics, XXXXXXXX

¹ OCR previously provided the District with the identity of the Complainant, the Student, and the Student's Mother. We are withholding their names from this letter to protect their privacy.

XXXXXX School (School) climate surveys and the District's response to alleged racial harassment of the Student. OCR conducted a two-day onsite to interview School administrators, teachers and staff, including the Principal, sixth, seventh and eighth grade teachers, the Student Council Advisor (Advisor), the Student's Counselor (Counselor), and other staff.

After careful review of the information gathered in the investigation, OCR concluded that the District violated Title VI and its implementing regulation with regard to Issue 1, which the District agreed to resolve by implementing the provisions of the enclosed Resolution Agreement (Agreement). OCR concluded that the District was in compliance with Title VI and its implementing regulation with regard to Issue 2. The legal standards, facts gathered, and the reasons for OCR's determinations are summarized below.

Issue 1: Whether the District subjected the Student to harassment based on race by other students when racial slurs were written on his locker and notes forged to appear signed by the Student were sent to three instructors and the District failed to respond appropriately to notice of discrimination.

Legal Standards

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 regulations 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 -- severe, persistent, or pervasive -- 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 about the harassment; and (3) the district failed to take an appropriate, reasonable, timely, and effective 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 of the harassment on the student who was harassed.

Under the 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 if it fails to respond adequately. Once the district has notice of harassment, the responsibility to take appropriate, timely, responsive, and effective action is the district's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action. So long as an agent or responsible employee of the district 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. OCR also considers whether other incidents motivated by race, color or national origin have occurred at the school to this complainant or others.

OCR evaluates the appropriateness of the responsive action by assessing whether it was timely and effective. What constitutes a reasonable response to harassment will differ depending upon the circumstances. However, in all cases the district must timely conduct an impartial inquiry designed to reliably determine what occurred. If a district's grievance procedures encompass race, color, and national origin discrimination, it must apply such procedures consistently and in a manner that does not constitute Title VI discrimination.

The response must be tailored to stop the harassment from recurring, eliminate the hostile environment, and remedy the effects of the harassment on the student who was harassed. The steps taken should be reasonable, timely, age-appropriate, tailored to the specific situation, and effective. A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.

Other actions may be necessary to ensure a nondiscriminatory educational environment. These may include special training or other interventions, the dissemination of information, new policies, and/or other steps that are designed to clearly communicate the message that the district does not tolerate harassment and will be responsive to any student reports of harassment. The district also should take steps to prevent any retaliation against the student who made the complaint or those who provided information.

Findings of Fact

Background

X---paragraph redacted---X.² X---paragraph redacted---X.³

During the 2015-2016 school year, the Student was a XXXXX grader at the School. The Student had previously been the XXXX XXXXXXXXXXXX of his Student Council in elementary school, was chosen to serve on the School's Student Council, was a high academic performer, and had received a XXXXX scholarship to participate XX XXX XXXXXXXXXXXX XXXX program.

OCR conducted an onsite visit to the School and observed that the Student's locker was located XXXX XXX XXXXX XXXXXX XXXXX XX XXX XXXXXXXXXXXX XX XXX XXXXXX XXXX, in a highly trafficked main thoroughfare of the School, exposed to other students, teachers XXX XXXXXXXXXXXX XXXXXXXXXXXX XX XXX XXXXXXXXXXXX

² XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

³ Id.

XXXXXXXXXXXXXXXXXXXX XXXXXX. The hallway was also near XXX XXXXXXXXXXX XXXXX XXXXXXXXXXX XXX XXXXXXXX. OCR observed that the hallway in which the Student's locker was located was heavily traversed by students and teachers throughout the day.

XXX XXXXXXX XXX XXXXX XXXXXXX XXXXXXX, XXX XXXXX XXXXX XXXXXXX, XXXXXXXXXXX XX XXX XXXXX XXXX XXXXXXXXXXX XXXXXXX, XXXXXXX, XXXXXXXXXXX XX XXXXX XXXX. During any passing period, School administrators and staff confirmed to OCR that approximately 150 to 200 students pass through the main hallway, where the Student's locker was located.

District Complaint Procedure

The District has a Uniform Complaint Procedure (UCP), Board Policy (BP) 1312. It can be found on the District's webpage and in the Annual Notice. However, the UCP cannot be located directly on the School's website. The UCP provides, in part, the following grievance procedure for complaints of discrimination, including race harassment:

- Complaints must be filed in writing with the Director of Human Services;
- Within five days of receipt of the complaint, the appropriate District office will acknowledge receipt of the complaint, provide the complainant a copy of relevant District policy and his/her appeal rights, and determine whether the complainant and District opt for mediation;
- Within 60 days, the District will investigate the complaint, provide an opportunity for the complainant to present information, obtain statements from witnesses and others who can provide relevant information, review relevant documents, prepare a written report of the investigation findings, corrective actions, suggested resolution, and rationale for the findings, along with supporting documentation; and,
- Ten days following the disposition of the complaint, the District will provide a copy of the report to the complainant, with notification regarding appeal rights.

To accompany BP 1312, the District has adopted a Nondiscrimination/Harassment policy (BP 5145.3) which, as relevant to this case, "prohibits, at any district school, or school activity, unlawful discrimination, harassment, intimidation, and bullying of any student based on the student's actual race, color, . . . the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics."

Racial Epithets Written on the Student's Locker and Spoken to the Student by Peers

In September 2015, the n-word and profanity were written on the Student's locker several times. According to the Student's father (Complainant), and the Student's Mother, there were three separate instances in which the n-word was written on the Student's locker. According to the District, there were two confirmed incidents. According to the Student, there were four separate incidences in which the n-word was written on his locker. The Student's Mother and Student informed OCR the first two instances occurred within a day or two of each other, shortly after the September XXXXX XXX XXXXXXX, and the third incident occurred approximately a week later. The Student told OCR that the fourth incident occurred in January 2016, after his

locker was relocated. OCR requested specific dates for these incidents, but the Complainant, the Student's Mother, the Student and the District were not able to provide them.

First Incident

In the first incident,⁴ the Student told OCR that he found the n-word and b-word written in small letters, in an arc, across the top of his locker from side to side with a thin pen. The Student told OCR that he found the racial epithet and profanity during his second period when he left his classroom to retrieve a textbook from his locker. The Student stated he notified a teacher, whose classroom was next to his locker, who called a janitor to remove it. The Student's Mother stated to OCR that the Student took it upon himself to find a janitor to remove it. When the Student returned to his locker after lunch, approximately three hours later, he found the janitor washing it off. By the time the Student returned to his locker after his last period, the racial epithet was removed.

The Student's Mother became aware of the incident when the Student informed her after school that day. OCR asked the Principal to provide the name of the janitor who cleaned the racial epithet and profanity off the Student's locker; however the Principal was unable to do so, as there was no documentation of the incident or which janitor responded to it.⁵

The Student's Mother told OCR that the Student was "in complete shock and surprise" to have found the racial epithet written on his locker and wondered who would do that to him. The Student's Mother knew the Student was upset because it was the first thing he told her when he got in the car. At the time, the Student's Mother did not report the incident to the Principal because she was proud of the way the Student handled the situation.

The Student told OCR after the first incident, he wanted to hide. The Student identified, by name, 11 of his XXXXX XXXXX friends who told him that they had seen the racial epithet and profanity on his locker and asked if he had seen what was written. The Student expressed to OCR and his family that the defacement hurt him and embarrassed him.

The day after the first incident, two XXXXXXXX XXXXX students, who the Student identified by name, approached him and said "you stupid n---er." The Student told OCR he notified the Assistant Principal that these two students approached him and called him the n-word. The Student told OCR that the Principal called them into his office, but the Student does not know what happened afterward. The Principal informed OCR he did not receive a report that two students called the Student a stupid n-word. The Student informed OCR these "bullies" called him the n-word before and after the locker incident, but that he did not inform administrators about the comments made before the incident.

Second Incident

⁴ OCR notes the Student's recollection of the first and second incidents are reversed from the Student's Mother and Complainant's recollection, though the facts provided are otherwise the same.

⁵ No one OCR spoke with during the course of the investigation could identify the janitor.

The Student's Mother told OCR that the second incident occurred in September 2015 within a day or two of the first incident. The Student told OCR that this time he and a friend found the racial epithet during the lunch period, XXXXX XXXXX XXXXX XXXXX XXXXXX XXXXXX, and they immediately used their spit and fingers to remove the racial epithet. The Student described the racial epithet and profanity as the n-word with "er" and the f-word, neatly written in the same handwriting as the first incident with a thick black marker.

The Student's Mother stated to OCR that the Student notified a teacher, whose classroom was next to the Student's locker, of the racial epithet. The Student recalled the teacher was a tall man with XXXXXXXXXXXXXXXX hair and told OCR he thought he was the XXXXXX XXXXX XXXXXXXX teacher. The teacher's class was in session, and there were students in the classroom. The Student's Mother reported that the Student told her that the teacher wore a XXXXXXXXXXX XXXXXXXX XX XXXXXXXX. The Student's Mother told OCR that the Student told her that the teacher saw the racial epithet on the Student's locker and notified a janitor to clean the Student's locker again.

OCR interviewed three teachers produced by the District and one identified by OCR based on the Student's and the Student's Mother's descriptions. None of the teachers recalled the Student (or any student) during the 2015-2016 school year reporting graffiti on a locker.

The Student's Mother told OCR that the Student reported the incident to her when she picked him up after school. She did not report it to a School administrator because she was proud of how the Student handled the situation, and she thought the teacher would report it.

After the second incident, the Student was more concerned than the first time because it happened again, he did not know who had defaced his locker, and because, according to the Student's Mother, he was very much aware that the n-word is "inappropriate, derogatory and offensive." The Student told OCR that he felt hurt on the inside and wanted to cry because he felt sad he was being targeted. The Student tried to fake being sick for three days so he would not have to go to school, but his parents required him to go to school anyway.

Third Incident

The Student's Mother witnessed the third incident in September 2015, approximately two weeks after the second incident. She saw the racial epithet written on the Student's locker when she picked up the Student after school. The Student and the Student's Mother went to the front office to report that the n-word was written on the Student's locker. The Student's Mother told OCR that the School Secretary and Principal were in the office, the Principal went with the Student and the Student's Mother to see the racial epithet, and the Principal had a janitor remove the racial epithet. The Student's Mother told the Principal that the racial epithet he was witnessing was the third to be found on the Student's locker. The Principal told OCR that he recalled the conversation but he did not consider this oral notice of the racial epithets to be a racial harassment complaint.

Based on the Student's Mother's request, the Principal assigned the Student a different locker in a different building the same day, and he assured the Student's Mother that the School would

keep a “close eye” on the situation. The Student’s Mother told OCR that the Student felt isolated by having to move lockers to a different hallway, away from the other XXXXX XXXXXXXX.

The Student told OCR that the Principal wrote the Student a note after his locker was moved, stating that the Principal would check-in with the Student on a weekly basis. The Principal confirmed to OCR that he did tell the Student he would check on him weekly. The Principal stated to OCR that less than two weeks after the Student’s locker was relocated to a different building, he asked the Student whether there were any additional racial epithets found on his locker, and that the Student told him there were not. The Student stated that the Principal checked-in with him approximately one week after the incident but did not check-in after that date. The Principal told OCR when the Student walked by his office the Principal would chat with the Student about his peer relationships, ask him how his day was going and if he was having any conflicts with his peers or had heard any rumors about who wrote on his locker.

Fourth Incident

The Student told OCR that after his locker was moved, there was a fourth incident in late January 2016, in which the n-word was written on his locker again. The Student found the n-word and “f--- you” at the top of his locker in the same handwriting as the previous three incidents, during his fifth period. The Student informed OCR that after seeing the racial slur and profanity, he walked past his locker, into his XXXXXXXX class, asked to use the bathroom and went back out into the hallway to wipe it off using spit and his thumb.

The Student told OCR that he decided not to report this fourth incident to the School or his parents. The Student told OCR he had many reasons for not reporting the fourth incident. The Student told OCR that his reasons for not reporting the fourth incident included that he wanted to protect his parents because he knew how upset they would be. He also knew it would cause him to have to leave the School. Additionally, he already told the School about previous incidents, yet they continued, so he did not think anything meaningful would happen by reporting the fourth incident.

District’s Response

The Principal told OCR that the day after talking to the Student’s Mother and the Student following the third incident, he asked a teacher who had a classroom in the same hallway as the Student’s locker if he had seen any students defacing the Student’s locker. The teacher had not witnessed the misconduct.

The District provided OCR with a photo of the words “[n-word] ass” written on the Student’s locker. District and School employees interviewed by OCR were not able to identify to which incident the photo corresponded. OCR requested all documentation relevant to the investigation of the racial epithets written on the Student’s locker. The District was unable to provide any documentation – such as witness interviews or an incident report. The District told OCR that they had not received any reports of racial epithets written on the lockers of other students.

The Student's Mother informed OCR that she thought that telling the Principal about the three racial epithets and showing the Principal the most recent racial epithet on the Student's locker in September 2015 was a formal race discrimination complaint. She told OCR that at no point did the Principal or any other School or District employee inform her or the Complainant that they did not consider the oral report a complaint of harassment, nor did anyone provide them with information regarding the District's racial harassment complaint procedures. The Student's Mother told OCR that she was unaware that oral notice of the racial harassment was not considered by the Principal to be sufficient to constitute a formal complaint of racial harassment.

The Principal told OCR that he did not follow the District's UCP in responding to the Complainant and Student's Mother's reports because he did not consider the complaints about the n-word on the Student's locker to be racial harassment complaints. For this same reason, he did not provide the Complainant or the Student's Mother with information about the UCP, or the need to file a written complaint for a formal complaint process, or document, or provide notice of the outcome of an investigation to the Student or his parents.

Forged Notes and XXXX Teacher's Class

The Complainant stated that in mid to late-October 2015 three or four notes were placed in the office mailboxes of the Student's teachers with the Student's forged signature. OCR interviewed the Student's XXXX and XXXX teachers, who both described finding forged notes in their mailboxes. The notes stated "I hate you" and were signed with the Student's name. The Complainant told OCR that the Student came home and told his parents that the XXXX Teacher had received a forged note, which prompted the Student's Mother to email the XXXX Teacher on October XX, 2015.

The XXXX Teacher stated to OCR that she did not believe that the Student had written the note, although she asked the Student about the note because she thought he might have an idea of who wrote it. The XXXX Teacher stated she "thought the note was simply middle school kids being middle school kids." The Student's Mother and XXXX Teacher told OCR that they suspected Student 2, who had multiple classes with the Student, was targeting him. During OCR's interview with the XXXX Teacher, she recalled "observing [Student 2] bullying or harassing the Student during class" and that "[Student 2] would sometimes pick on" other students including the Student. She did not report any of the incidents she witnessed to the School administration.

The Student and his parents thought these notes were part of further targeting and harassment of the Student, that started with the epithets and that were based on his race. The Student's Mother called the Counselor on October XX, 2015 to address concerns over the racial epithets written on the Student's locker and forged notes. She again identified Student 2 as the suspected student. According to the Student's Mother, the Counselor assured the Student's Mother the School would monitor the situation.

Neither the Complainant nor the Student's Mother heard from the Counselor after the October XX, 2014 conversation (from October XX, 2015 to mid-January 2016). On January XX, 2016, the Student's Mother called the Student's Counselor to again address concerns over the locker incidents and forged notes. The Counselor told OCR that Student 2's parents may have been

notified that Student 2 was suspected of writing forged notes, but the Counselor did not specifically remember speaking to them. During the January XX, 2016 phone call, the Student's Mother requested that the School change the Student's schedule so that he would not have classes with Student 2, and the Counselor responded the School would work on it. On January XX, 2016, the Counselor acknowledged to the Complainant (and later in an interview with OCR) that he "dropped the ball" on responding to the Complainant's prior request to change the Student's schedule.

The Counselor told OCR that he did not take any other steps to address the Complainant's concerns. He stated that he was not provided anything in writing from the District regarding how to respond to racial harassment, and he was unfamiliar with the steps he should take if he received a report of race discrimination. He did not believe the School or the District had a graffiti policy or procedure to address racial harassment.

The Counselor told OCR he felt that the racial epithets found on the Student's locker in September 2015 were "not that big of a deal," and he did not meet with the Student after the locker incidents or discuss with the Student how the incidents were impacting him. The Counselor stated that he was never told by the Student, the Student's Mother or the Complainant that the Student felt he was being harassed based on race (however, the evidence shows that the Counselor was informed in writing on January XX, 2016, as discussed below). He stated the Student did not separately meet with him to discuss the incident or its impact on the Student.

Student's Removal from Student Council

On January XX, 2016, before school, the Student was playing/horsing around in front of the school, XXXXX X XXXX XXXXXX XXX XX XXXXX. The Complainant told OCR that the Principal sent the Student to the office, and that the Student reported to his parents that he overheard the Principal refer to him as "the African American kid in Student Council." The Principal and the Student Council Advisor decided to remove the Student from Student Council, as a result of this incident and on account of several prior incidents of misbehavior discussed in relation to issue 2 below. Later that day, the Advisor emailed the Complainant informing him that the Student was removed from Student Council because she had previously warned the Student that he would be moved out of Student Council for the second semester if another incident occurred. The Student's parents had not received any prior warning that the Student was in danger of being removed from Student Council.

District Response (Continued)

On January XX, 2016, the Complainant emailed the Principal and the Counselor stating that the Complainant was "extremely bothered" that the School "is being tolerant of bullying, and racial discrimination. [The Student] has had racial slurs written on his locker more than once ... and is being targeted." In addition, in his email, the Complainant stated that the Student's Mother had emailed and spoken to the Counselor about the forged notes, which she believed were connected to the racial epithets. The Principal responded that the School does not permit racial epithets and that when it is able to identify the individual responsible, appropriate consequences are issued. A meeting was scheduled to discuss the Complainant's concerns.

The Complainant told OCR he met with the Principal and Counselor on January XX, 2016. The Complainant told OCR that the Principal asked the Complainant “what do you want me to do?” about the n-word being written on the Student’s locker. The Complainant inquired about the previously requested schedule change (initiated to separate the Student from Student 2 - the student suspected to have written the racial epithets on his locker), and both the Principal and the Counselor offered to change the Student’s schedule if the Student dropped XXXX, as it conflicted with the proposed schedule change. The Complainant told OCR that he did not want the Student to drop out of his XXXX class, because doing so would require the Student to forfeit the prominent XXXXXX scholarship he had previously received. The Principal and the Counselor told OCR they did not recall specifics discussed during this meeting.

On February X, 2016, the Complainant emailed the District Superintendent to inform him about the racial epithets and profanity on the Student’s locker on three separate occasions. The Complainant informed the Superintendent that the Student’s Mother had spoken with the Principal, and that the Principal had assured her that they would take every action to find out who was doing this to the Student. However, the School did not follow up with him or the Student’s Mother regarding the incident. The Complainant also described the forged notes sent to the Student’s teachers and that when the Student’s Mother spoke to the Student’s Counselor, he told her they had identified a student who might be responsible but the School lacked definitive proof. The Complainant and the Student’s Mother asked for the Student to have a schedule change, however, two months passed without any communication from the Student’s Counselor or the Principal or a schedule change.

The Superintendent responded to the Complainant on February X, 2016 and stated that he would forward the email to the Assistant Superintendent, and they should hear back in the next few days. Because the Complainant did not hear from the Assistant Superintendent in the timeframe set forth by the Superintendent, the Complainant emailed the Superintendent again on February XX, 2016, expressing concerns that “the issues were clearly not being addressed.”

On February XX, 2016, the Superintendent’s Administrative Assistant emailed the Student’s Mother and encouraged her to contact the Principal to work out a resolution. Afterward, on the same day, the Complainant emailed the Superintendent again stating they were never contacted by the Assistant Superintendent. Within two hours of sending the email to the Superintendent, the Assistant Superintendent called the Complainant. The Complainant told OCR that on the same day both he and the Assistant Superintendent missed several telephone calls from one another.

The next day, on February XX, 2016, the Student and the Student’s Mother met with the Counselor who stated that he and the XXXXXXX Teacher felt that the Student was a candidate for accelerated classes, which would allow for a schedule change.

Both the Complainant and the Assistant Superintendent told OCR that the Complainant and the Student’s Mother met with the Assistant Superintendent on February XX, 2016. The Complainant told OCR he and the Student’s Mother re-iterated that the Student had been racially harassed when racial epithets were written on his locker on three occasions and that the School

had not been responsive. The Complainant and the Student's Mother did not feel the Student was safe at School, and the Assistant Superintendent responded that he would speak with the School administration.

The Assistant Superintendent did not inform the Student's parents about the UCP process, or initiate a UCP investigation, despite the written information about racial harassment that the Complainant had provided via email on February X, 2016.

The Complainant provided documentation to OCR showing that on February XX, 2016, the Assistant Superintendent called the Student's Mother and stated that the Student would be able to move to accelerated classes and would be able to rejoin the Student Council if he wished, however his Advisor would remain the same.

Impact on Student

The Complainant and the Student's Mother told OCR that no District employee ever asked the Student about the impact that the racial incidents had on him or his ability to access the programs or activities of the School. OCR also did not find any evidence that any District employee interviewed the Student about the impact the incidents had on him.

The Student's Mother told OCR that the Student felt ashamed, cried at night and experienced trouble sleeping. The Student's Mother described the Student as "nervous, concerned, uncertain, fidgety and unsettled in class" with "anxiety and concern of what is going on outside of class." The Student's Mother told OCR that the racial harassment created an emotional toll on the entire family. The Student's Mother told OCR that she, the Complainant, and both the Student and his XXXXXXXX were upset and cried about the incidents. Additionally, the Student's Mother informed OCR that after the racial epithets in September 2015, in early Spring 2016, she overheard the Student making disparaging jokes about his own race when he was standing with a group of white students and she observed that he was "belittl[ing] himself."

The Student told OCR that countless students at the School saw all three September 2015 racial epithets on his locker. The Student told OCR that prior to the fourth incident, he would eat lunch with his friends; however after the fourth incident, the Student told OCR he stopped talking to everyone who was not a close friend. He described his lunchtime as isolating, sitting alone or with just two other students in a corner away from everyone; XXXXXX XXX XXXXXXXX XX XXX XXXXX, in the back of the School. The Student informed OCR he stopped walking around School by himself because he was afraid of being bullied and being beat up. The Student told OCR he didn't go anywhere by himself and would ensure he was in a group of friends when he walked around the School.

The Student told OCR that he felt targeted because of his race. Further, the Student felt he no longer belonged in Student Council after hearing the Principal's alleged comment, and he became acutely aware that he was the only African American student on Student Council.

On February XX, 2016, the Complainant emailed the Assistant Superintendent requesting to transfer the Student out of the School. On February XX, 2016, the Administrative Assistant to

the Assistant Superintendent emailed the Complainant to offer two different schools. The Complainant responded with the Student's parents' choice and asked how the transfer of schools would be coded to ensure that it was not marked as a disciplinary transfer. The Administrative Assistant assured the Complainant that the transfer would be considered an administrative transfer, which is different than a transfer for disciplinary reasons. The Complainant and the Student's Mother told OCR that as a result of the racial harassment and the District's failure to respond adequately, they transferred the Student out of the School on February XX, 2016.

Analysis & Conclusions of Law

Harassing Conduct

OCR found that the Student was credible in his descriptions of the racial epithets and profanity found on his locker on four separate occasions. The District acknowledged that the Student's locker was defaced on at least two occasions in September 2015. With respect to the Student's description of the third September 2015 incident and the subsequent fourth incident in January 2016, as well as being called the n-word by older students, OCR found the Student to be a credible witness because he provided specific details about each of the incidents; he shared information that was difficult to share because it was displeasing to his parents; and two of the incidents he described were corroborated by other evidence and District interviews. Accordingly, OCR found based on a preponderance of the evidence that the Student's locker was defaced on four separate occasions with a racial epithet and profanity, and that the Student was called the n-word on at least one occasion by two students.

OCR next assessed, based on the totality of the circumstances, whether the racial epithets written by another student on his locker created a racially hostile environment. First, in considering whether the incidents were severe, persistent or pervasive, OCR took into account that the n-word is recognized as highly offensive, demeaning word that is expressive of racial hatred and bigotry. OCR also noted the close proximity of the first three instances, which occurred within a three week period; the final incident occurred in late January, three months later.

Second, the severe, pervasive or persistent standard is understood in light of the age and impressionability of the students involved. OCR examines whether the harassment would have adversely affected the enjoyment of the District's educational program by a reasonable person, of the same age and race as the victim. Younger, less mature children are generally more impressionable than older students – an incident that might not be considered extremely harmful to an older student might nevertheless be found severe and harmful to a younger student. In this case, the Student was in XXXXX grade. As an impressionable XXXXX grader, the Student was among the youngest on campus, still learning the norms and culture of the School. The harassment began at the very beginning of the school year, at the entry point of the Student's middle school experience. Having the n-word written on his locker during the first few days of school resulted in the Student receiving a racially hostile introduction to middle school.

Harassment in the form of property damage is one of the more serious forms of harassment. The harassment in this case involved damage to personal property, i.e. the Student's locker - property which belonged to the School, but was assigned to the Student for use and care during the school

year. OCR also identified that the racial epithets occurred in an area heavily traversed by students, faculty and school administrators,⁶ resulting in a high percentage of students exposed to the racial epithets. The initial locker location was in the central artery of the School, XX XXX XXXX XXXXXXXX, XXXX XXX XXXXXXXX XXXXX XXXXXXXX, XXX XXXXX XXXXXXXX, XXX XXXXXXXX, XXX XXXXXXXX XXXXXXXXXXXX. The Student identified to OCR by name, 11 students who asked him if he had seen what was written on his locker, and two XXXXXXXX XXXXX students who called him the n-word. As such, the incidents were not limited to the Student viewing the epithets. Rather, the Student was subjected to re-experiencing the racial epithets when other students, including his friends, inquired about them. The Student was also aware and humiliated by the fact that many other students in the School had also seen the racial epithets on his locker.

OCR also assessed whether there was a hostile environment for the Student within the broader context of the Student's experience as a minority group student at the School. As an African-American student at the School, the Student was a member of a small minority group that accounted for less than XX% of the student body (XXX XXX XX XXXXX XXXXXXXX). According to the California Department of Education, the majority of certified staff at the School were white, while only XXX% were African-American.⁷ The Student told OCR that he felt isolated after the incidents and fearful that he was going to be beat up by other students. OCR determined that being one of a small population of African-American students at the School contributed to the impact of the racial incidents on the Student, particularly to the Student's feelings of being singled out and targeted based on race, as well as his social isolation after these incidents.

With regard to the forged notes, OCR did not find direct evidence of a racially harassing motive or evidence of a connection between the forged notes and the racial epithets on the Student's locker. However, the forged notes were sent to teachers within a month of three separate incidents of racially-based defacement. In addition, the Student and the Student's Mother believed that the same student who was harassing the Student in class and who they suspected had defaced the Student's locker was also responsible for these notes. Therefore, in the totality of the circumstances analysis, OCR found that it was reasonable at the time for the Student to believe that the forged notes were intended to target and harass him based on his race, and that this contributed to the pervasiveness of the harassment.

Denial/Limitation - Impact on Student

When considering how the harassment impacted the Student's ability to access the District's programs or activities, OCR found that the unwelcome actions made the Student feel ashamed, anxious, and concerned. The Student told OCR after the first incident, he wanted to hide and after being subjected to racial slurs on his locker on four separate incidents, he began to feel isolated at School. He withdrew socially and did not feel safe walking around campus by himself. The Student also reported faking that he was sick to try to avoid School; his mother identified that he was having trouble concentrating at School and remaining focused. His mother

⁶ In a typical day, between 150 and 200 students passed through the main hallway during XXXXX XXXXXXXX periods

⁷ XXXXXXXXXXXXXXXXXXXXXXXXXXXX

reported that after the incidents, he made self-deprecating comments when in a group of white peers. The Student cried at night and experienced trouble sleeping. In addition, the Student lost class time to deal with the incidents; he attempted to find a janitor after one incident and notified a teacher who then called a janitor after another, which caused the Student to shift his focus from going to his next class to having to ensure the racial epithets were removed from his locker. Finally, OCR notes that the relocation of the Student's locker meant his locker was further away from his first period class, and required a shift in the Student's school routine.

The Student's Mother told OCR that being subjected to racial epithets and profanity was so distressing for the Student that the Student's parents had him transferred to another school midway through XXX XXXXX XXXX XX middle school. OCR found that the transfer was a significant disruption to the Student's education. Indeed, the Student did not want to leave his School and told OCR he did not report the last incident of an epithet on his locker, in part, for that reason.

OCR also found that the extremely derogatory nature of the n-word toward the Student on his locker on four separate occasions (and orally by two older students), during a relatively short period of time, would adversely affect the ability of a reasonable African-American student of the same age, XX years old, to access the District's educational program. Accordingly, OCR found that the Student's ability to participate in the School's education program was limited on account of being subject to a racially hostile environment. In sum, OCR found that the racial harassment was sufficiently severe and pervasive so as to constitute a hostile environment which limited the Student's ability to benefit from the School's education program.

Notice

OCR found that the District received notice regarding three of the incidents during the 2015-2016 school year, through emails and phone calls to School staff and administrators in addition to District administrators, in which the Complainant and the Student's Mother detailed the racial epithets found on the Student's locker. The District did not acknowledge receiving notice of the first incident at the time; however, OCR found the Student's, the Complainant's and the Student's Mother's testimony to be credible that they informed the Principal of the first incident during the meeting held after the third incident.

The District does not dispute notice of the second and third incidents, as the Principal was told about the second incident in a meeting and subsequent email correspondence, and witnessed the third incident in September 2015. Evidence gathered showed email correspondence between the Complainant, Principal, Counselor, Assistant Superintendent and Superintendent from January XX, 2016 through February XX, 2016 discussing three of the racial harassment incidents. Specifically, the District knew the Student was subjected to racial harassment when the Complainant emailed the District's Superintendent on February X, 2016 to inform him about the racial epithets and profanity on the Student's locker on three separate occasions. Additionally, notice of the racial harassment was provided over the phone to the Counselor between October XX, 2015 and February XX, 2016. Accordingly, OCR found that the District had actual knowledge of racial harassment when the n-word was written on the Student's locker on three occasions in September 2015.

Response to Racial Harassment Complaint

The evidence gathered during OCR's investigation showed that the School and District staff were aware of racial harassment against the Student, yet their response was not reasonable and effective. The District's response to a racially hostile environment must be tailored to redress fully the specific problems experienced at the school 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 the racially hostile environments.

OCR found that the District failed to respond to the first September 2015 incident of racial harassment. The School did not take any other responsive action other than having a janitor clean off the Student's locker. The harassing conduct recurred and a racial epithet was written on the Student's locker a second time one or two days later. Several days later, a third racial epithet defaced the Student's locker. This third occurrence of a racial epithet written on the Student's locker was discovered by the Student and witnessed by the Student's Mother and the Principal.

The District has a policy and grievance procedure in place to address racial harassment, yet it did not apply this policy and procedure in response to the incidents. District policy and procedure require that for complaints of racial harassment reduced to writing, the District shall conduct an investigation within 60 days, which should include witness interviews and a discussion with the student affected regarding actions sought in response, a written report and findings, and, if harassment is found, implementation of responsive actions. Despite the oral reports and written complaints of racial harassment to School staff and District administrators by the Student, the Complainant and the Student's Mother, OCR found that the District did not follow the policy and procedure with respect to investigating the September 2015 incidents. In an interview with OCR, the Counselor stated he was unfamiliar with the steps he should take if he had knowledge of race discrimination. The Principal explained to OCR his knowledge of the District's UCP procedure but acknowledged that he did not follow it in this case. In addition, neither the Complainant nor the Student's Mother were provided with any information about the UCP or informed of the Principal's understanding that they needed to file a written complaint in order to trigger the District's obligations in its grievance procedure.

After the Student's Mother reported the third incident to the Principal, the Principal had a janitor clean the Student's locker and at the Student's Mother's request, relocated the Student's locker to another hallway. The Principal attempted to identify the individual who engaged in the conduct by asking the Student if he had any knowledge of who had written the racial epithet on his locker. The Principal also asked a teacher who had a classroom in the same hallway as the Student's locker if he had seen any students defacing the Student's locker. However, the Principal did not take other reasonable steps in the investigation, such as interviewing students with lockers close by or conducting an inquiry related to the prior incidents. The Principal kept no records, such as notes or other documentation of his interview with either the teacher or the suspected student.

The removal of the third racial epithet from the locker, the attempt to identify the individual who wrote that racial epithet and the relocation of the Student's locker occurred promptly. However, OCR determined that based on the limited investigation of only one of the three incidents of which the District had notice, the School did not take sufficient steps to investigate each incident that were designed to reliably determine who was responsible for the locker defacements and prevent their recurrence.

Further, the School did not take sufficient steps to stop further harassment and appropriately address the effects of the racial harassment on the Student. Based on the initial location of the Student's locker and the time of day that the defacements occurred, School administrators were aware that many students in the School would have seen the racial epithets. The Principal reported to OCR that when the Student walked by his office, he asked him how his day was going, if he was having any peer conflicts or heard rumors about who wrote on his locker. Nevertheless, in interviews with School administrators, OCR found that no staff member interviewed the Student to assess the impact that the incidents were having on his access to the District's programs and activities. The Student was not offered, nor did he receive any services or supports for any impact the racial harassment may have had on him. When it did not identify the alleged harasser, the District took no further actions to engage the student body about the prohibited conduct or provide education that might repair the environment for the Student and prevent further harassment. The Principal reported to OCR that he did not understand the oral report regarding the racial epithets written on the Student's locker to be a complaint of racial harassment. The Counselor also failed to make an appropriate inquiry about the impact on the Student after learning about the racial epithets on the Student's locker and did not conduct any follow up meetings with the Student.

In sum, OCR found that the Student was subjected to a racially hostile environment during the 2015-2016 school year. The District failed to respond appropriately to notice of harassment because it failed to conduct an adequate investigation to reach a reliable determination regarding whether the Student had been subjected to a hostile environment and with respect to who engaged in the harassment. It did not address the educational environment and impact on the Student, even though it had notice that a number of students witnessed the racial epithets on the Student's locker, or take sufficient action to prevent recurrence. Therefore, OCR concluded that the District violated Title VI and its implementing regulation with respect to this issue.

Issue 2: Whether the District retaliated against the Student after the Complainant complained about race harassment when the Student was removed from Student Council based on false behavior charges and received low grades due to behavior.

Legal Standards

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 an individual experienced an adverse action caused by the recipient, and the recipient knew that the individual engaged in a protected activity or believed the individual might engage in a protected activity in the future, and there is some evidence of a causal connection between the adverse action and the

protected activity so that OCR is able to conclude an inference of unlawful retaliation is raised. OCR will then determine if a school district has identified a facially legitimate, non-retaliatory reason for the adverse action. If a school district identifies a facially legitimate, non-retaliatory reason for the adverse action, OCR next conducts a pretext inquiry to determine whether this reason is genuine or is a cover for retaliation. OCR examines all available evidence to determine whether the recipient's proffered reasons are credible and whether the preponderance of the evidence establishes that the adverse action was in fact retaliation.

Findings of Fact

During the 2015-2016 school year, the Student was the only African-American student on Student Council. The Complainant alleged the District retaliated against the Student after the Complainant complained about racial harassment, when the School removed him from Student Council and a teacher gave him a low citizenship grade during the first semester.⁸ The District stated the reason for removing the Student from Student Council was the Student's exhibited behavior issues during the first semester of the 2015-2016 school year, although the Student's academic grades remained above average.

As discussed above, the Complainant made three oral complaints and two written complaints about racial harassment over the course of six months. The Student and the Student's Mother first spoke to the Principal about the racial harassment during a meeting in September 2015.

The Student's disciplinary records reflect that on October XX, 2015, one of the Student's teachers emailed the Student's Mother that the Student was having difficulty following class rules and disrupting class time. On October XX, 2015, the Student's Mother called the Counselor about the racial harassment and the District's lack of response. On November XX, 2015, the Student's XXXXXXXX Teacher notified the Student's Mother that she had given the Student lunch detention for excessive inappropriate comments he blurted out in class, which was an ongoing problem. In early January 2016, the Student prank called the main office, and the Advisor spoke to the Student and informed him if she had to have another conversation with him about his behavior, he would be removed from Student Council. At that time, the Advisor did not advise the Student's parents of this event or the warning. On January XX, 2016, the Student's Advisor informed the Student's Mother that she had had a conversation with the Student about responsibility and leadership, after the Student did not show up for detention.

On January XX, 2016, after an incident where the Student was XXXXXXXX XXXX X XXXX XXXXXXXX outside of the School, he was referred to the office by the Principal. On the same day, the Advisor called the Student's Mother to notify her of the incident, and the Student's consequences -- two lunch detentions and removal from Student Council. Later that day, the Advisor emailed the Complainant to further explain the decision, informing him that she had "spoken to [the Student] before about being a leader and being responsible in all classes and areas of school and he understood that if we needed to talk again, then he would be moved out of Student Council for second semester." The Student was upset by his removal from the

⁸ X---paragraph redacted---X.

leadership position. Later the same day (January XX, 2016), the Complainant met with the Principal and the Counselor about ongoing concerns related to the harassment.

The Principal and the Advisor informed OCR that there is no written selection criteria for Student Council. The Advisor told OCR that expectations for Student Council members include attending Student Council meetings at the beginning of the school year, having no disciplinary problems, acting responsibly and remaining active in events. The Advisor told OCR that Student Council members must maintain a “C” or better.

The Advisor told OCR that student misbehavior, which can lead to removal from Student Council, includes a student’s name being on the detention list or any other behavior problem brought to her attention. For either misbehavior or detention, the Advisor stated that the first offense warrants a conversation and the second offense warrants removal from Student Council. However, both the Principal and the Advisor told OCR that there is no formal process for removal, there is no written document outlining the grounds for removal, and nothing is provided in writing to students regarding the behaviors or actions that can lead to removal. The District did not provide any written information in response to a request for the same. The Advisor stated that the decision to remove a student from Student Council is a team decision between the Advisory Counselor and the Principal. In four years, only two students were removed from Student Council – the Student and another student who was of mixed ethnicity and removed for academic reasons. The Student was the only student removed during the 2015-2016 school year.

On February X, 2016, the Student’s parents received the Student’s grades for the Fall 2015 semester. The Student received an “N” indicating “needs improvement,” for behavior in XXXX. Documents submitted by the District and Complainant show that in the prior three quarterly grades, the Student received an “S” in the same class indicating “satisfactory” or “no unsatisfactory reports.” The Complainant stated the “N” was inconsistent with the quarterly behavior grade up to that point, which was explained by the Advisor to OCR and to the Complainant as cumulative. The Complainant emailed the Student’s XXXX Teacher inquiring how three of four quarters of satisfactory behavior resulted in an “N” for the semester. The XXXX Teacher responded that the Student’s conduct from the second quarter to the end of the semester had deteriorated because of his frequent use of the restroom in the middle of class, and being out of his seat/walking around. She also stated she knew that the Student’s XXXXXXXX Teacher wanted to meet with the Complainant and Student’s Mother regarding the Student’s behavior in XXXXXXXX class.

Communications on or around February XX, 2016 between the Complainant and the Student’s teachers described the Student’s behavior in class. On February XX, 2016, the Assistant Superintendent offered to have the Student rejoin the Student Council if he wished, but his Advisor would remain the same. Instead, the Complainant transferred the Student to another District school.

The Advisor told OCR that grades were never an issue with the Student in regards to his Student Council membership. At the time the Student transferred from the School on February XX, 2016, his GPA was 3.83.

Both the XXXX Teacher and Advisor told OCR that they were unaware that the n-word had been written on the Student's locker, and they were both unaware that the Student, the Student's Mother or the Complainant had complained about the Student being subjected to racial harassment, until they were contacted by the District's attorney regarding the OCR complaint.

OCR obtained and reviewed data from the District regarding incident reports/detention/disciplinary action taken against all other 2015-2016 Student Council members. The District did not record any incident reports/detention/disciplinary action for any other Student Council members during the 2015-2016 school year.

Analysis & Conclusions of Law

Protected Activity

First, OCR found that the Student, the Student's Mother and the Complainant communicated in person in mid-September and in writing on October XX, 2015, January XX, 2016 and January XX, 2016 that the Student had been subjected to racial harassment when racial epithets and profanity were written on the Student's locker on more than one occasion during the month of September 2015. Identifying that the Student had racial epithets written on his locker and requesting action from the School to address the epithets and their impact constitutes a protected activity under Title VI and its implementing regulations.

Adverse Action

Next, OCR found the actions of removing the Student from Student Council on January XX, 2016 and giving him a needs improvement behavior grade are adverse actions for purposes of a Title VI retaliation case. OCR found that the Student's removal from Student Council and reduction in citizenship grade from satisfactory to needs improvement could dissuade a reasonable person from making a charge of harassment. The Student, who was the only African-American student on Student Council, suffered the denial of a significant leadership opportunity on campus, and also had his citizenship grade reduced. A reasonable person in the Student's or Complainant's position would very well consider the Student's removal from Student Council and reduction in grade as adverse actions, particularly given the timing between the complaints of racial harassment and that neither the Complainant nor the Student's Mother had received any previous warning that the Student was in jeopardy of being removed from Student Council.

Causal Connection

OCR found that a causal connection was supported by the short time period between when the protected activity occurred (September 2015 – January XX, 2016) and the adverse action (January XX, 2016 for the removal from Student Council; and February X, 2016 for the lowered behavior grade in XXXX) occurred. However, the XXXX Teacher and the Student Council Advisor were unaware of the racial epithets on the Student's locker or of the racial harassment complaints. The Principal was aware of the racial harassment but OCR found it credible that he deferred the decision of removing the Student from Student Council to the Advisor. Because neither the Advisor nor the XXXX Teacher was aware of the protected activities, OCR did not

find sufficient evidence that the adverse actions for which they were respectively responsible were made on a retaliatory basis.

Nondiscriminatory / Non-retaliatory Reason / Pretext

Nevertheless, OCR also analyzed whether the District could provide a nondiscriminatory/non-retaliatory reason for the adverse actions. The District's legitimate, nondiscriminatory reason both for removing the Student from Student Council and for lowering his citizenship grade in XXXX was his behavior during the first semester of the 2015-2016 school year, which was communicated to the Student's Mother in emails during October and November 2015. Neither the School nor the District was able to produce written policies or criteria for selection to, or removal from, Student Council. Although the Student's Advisor emailed the Student's Mother on January XX, 2106 informing her she had a conversation with the Student about responsibility and leadership, the Advisor did not mention that the Student was in jeopardy of being removed from Student Council. However, during the first semester of 2015-2016, the Advisor had conversations with the Student about his behavior to make sure he was making good choices, as he had received a "Needs Improvement" citizenship grade in the first semester. The discipline records supported the citizenship grade, and OCR found credible the testimony from the Advisor and Principal that the Student was removed for disciplinary reasons. OCR also reviewed the discipline records for all other students on the Student Council and found no evidence that the other students had discipline actions recorded during the school year but were permitted to stay on the Student Council. Additionally, the District offered to have the Student re-join Student Council on February XX, 2016, though he was transferred to another District school instead. (The District did not inform OCR of a specific reason for why the Student was offered to rejoin Student Council.) Accordingly, OCR found the District's proffered reason for the adverse actions to be legitimate and non-retaliatory, and did not find evidence of pretext. In sum, OCR found that the District did not violate Title VI and its implementing regulation with regard to Issue 2.

However, OCR notes that the District should have assessed whether the Student's behavior changes may have resulted, in part, from the racial harassment incidents described above. The Student and the Student's Mother both identified that the Student was having greater difficulty concentrating and paying attention in school after these incidents because he was worried about his safety and whether the incidents would occur again.

As a matter of technical assistance, to help ensure non-discriminatory participation in Student Council, OCR advises the School to adopt and distribute written guidelines regarding the selection for, and removal from, Student Council.

Conclusion

To resolve the non-compliance found with respect to Issue 1, the District committed to take a number of actions. When fully implemented, the Agreement signed by the District on November 7, 2017, is intended to address all of OCR's compliance concerns in this investigation. It requires the District to: 1). send a letter to the Complainant and the Student identifying its obligations to ensure an educational environment free from discrimination for all of its students; 2). notify all parents/guardians, employees, and students at the School that the District does not

tolerate harassment, including acts of harassment based on race, color, or national origin; 3). issue a written guidance memorandum to School staff setting forth the District's commitment to a harassment-free environment, an explanation regarding staff responsibilities to immediately report allegations of possible harassment; and the names and contact information for the designated employee(s) to whom students and others may report allegations of harassment; 4). provide training to staff regarding the District's obligations under Title VI; 5). provide age-appropriate, training for all students at the School on race, color, and national origin discrimination; 6). administer a school climate assessment; and 7). maintain and provide documentation of racial harassment complaints and reports made and investigated. OCR will monitor the implementation of agreement until the District is in compliance with the Title VI and the regulations, with respect to the issues which were investigated 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. OCR is closing the investigation of this complaint as of the date of this letter, and notifying the Complainant concurrently.

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, 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 the law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Civil Rights Attorneys Rhonda Ngom at (415) 486-5540 or Rhonda.Ngom@ed.gov or Nezhia Rae Burkes at (415) 486-5592 or Nezhia.Burkes@ed.gov.

Sincerely,

/s/

Brian Lambert
Acting Team Leader

Enclosure

cc: XXXXX XXXXXXXXXXXX, Counsel