



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

December 5, 2017

**VIA ELECTRONIC MAIL**

Anthony W. Knight, Ed. D.  
Superintendent  
Oak Park Unified School District  
5801 Conifer Street  
Oak Park, CA 91377

(In reply, please refer to # 09-17-1508)

Dear Superintendent Knight:

On June 8, 2017, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against Oak Park Unified School District (District). The Complainant, on behalf of the Student, alleged discrimination on the basis of race.<sup>1</sup> Specifically, OCR investigated whether the District failed to provide the same level of response to a death threat against the Student that it provided to a similarly situated white student including but not limited to failing to notify the Complainant, refusing to speak to the Complainant when she inquired about it, assuming that the Student was the aggressor, and failing to develop a safety action plan as thoroughly and promptly as it did for the other student.

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.

OCR gathered evidence by interviewing the Complainant and Student and reviewing documents and other information provided by the Complainant, the Student, and the District. Prior to OCR completing its investigation, the District voluntarily agreed to enter into a Resolution Agreement (Agreement), which when fully implemented is intended to resolve the areas of concern identified by OCR with respect to the issue investigated. This letter summarizes the applicable legal standards, the relevant information gathered during the investigation, and the terms of the resolution reached with the District.

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<sup>1</sup> OCR informed the District of the identities of the Complainant and Student in our letter notifying it of the complaint. We are withholding their names here to protect their privacy.

## Legal Standard

Under the Title VI regulations, at 34 C.F.R. §100.3(a) and (b), a district may not treat individuals differently on the basis of race, color, or national origin with regard to any aspect of services, benefits, or opportunities it provides. Section (b)(1) states that a district may not, directly or through contractual or other arrangements, on the basis of race, color or national origin,

(ii) provide an individual any service, financial aid or other benefit that is different, or is provided in a different manner, from that provided to others.

(iv) restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit.

(vi) deny an individual an opportunity to participate, or afford an opportunity to participate which is different from that afforded others.

To determine whether a student has been discriminated against on the basis of race under Title VI, OCR looks at whether there is evidence that the student was treated differently than students of other races under similar circumstances, and whether the treatment has resulted the denial or limitation of services, benefits, or opportunities. If there is such evidence, OCR examines whether the Recipient provided a nondiscriminatory reason for its actions and whether there is evidence that the stated reason is a pretext for discrimination. For OCR to find a violation, the preponderance of the evidence must establish that the Recipient's actions were based on the student's race.

## Facts Gathered to Date

At the time of the incident at issue in this OCR complaint, the Student was in the XXX grade at a District elementary school (School). The Complainant identified the Student's race as biracial XXXXXXXX XXXXXXXXX XXX XXXXX. The three other girls in the Student's class who were involved in the incident at issue, Students A, B, and C, are white. In an interview with OCR, the Complainant stated that Students A, B, and C were very good friends XXX XXXXX XX XXX XXXX XXXXX XXXXXXXXXX. The Complainant told OCR that while the Student was friendly with Students A, B, and C, she was not very close to them.

On May XX, 2017 (XXX XXXXXXX XX XXXX XXX XX XXXXXXX), the mother of Student A brought a journal to the attention of the School's principal (Principal). She told the Principal that there were messages written by another student about Student A. The messages were written with "invisible ink", which could only be seen when viewed under a UV light.

According to the District, the Principal and Student A's mother reviewed the journal under a UV light and were able to make out a statement that appeared to be a threat to kill Student A. The District maintains that the Principal did not see any other writing, letters, or markings in the journal, and was not aware that a second student's name was included in the threat. Student

A's mother told District staff that the journal had been given to Student A by Student C, but that it belonged to Student B. The Principal asked to keep the journal, and promised to speak to the Counselor because she had been working with Student B and several other girls in the class regarding friendship issues.

Later that same day, Student A's mother approached the Counselor to discuss the journal incident. The District acknowledges that Student A's mother mentioned the Student during the discussion, but according to the District, the Counselor found that the Student's involvement was "unclear and vague." The Counselor and Student A's mother discussed strategies to address any safety concerns for Student A. The counselor also spoke to Student A to ensure she felt comfortable with the plan for the day.

The Complainant told OCR that she learned about the incident the same day (May XX, 2017) when Student A's mother reached out to her to inform her that the Student's name was listed in the journal. Student A's mother also sent the Complainant a video/photo of the journal that showed the Student's name and Student A's name listed as part of a death threat. In her interview with OCR, the Complainant said she believed that Student A's mother also notified the School that the Student's name was included in the threat. The Complainant told OCR that when she spoke to Student A's mother, she told her that she informed staff that the Student's name was in the book. The Complainant also expressed doubt that District staff did not see the Student's name in the notebook because she said it was very clearly visible. OCR was not able to view a copy of the journal to ascertain the placement of the names.

On May XX, 2017 (XXX XXXX XXX XX XXXXXX), the Principal and Counselor met with Students B and C. According to the District, at this time they were unaware that the Student was involved "in any manner." However, OCR notes that this statement is contradicted by the District's admission that Student A's mother mentioned the Student's name to the Counselor.

Before the Counselor had an opportunity to meet with Students B and C, the Complainant arrived at the School and asked to speak with the Principal. He was unavailable, so the Counselor met with the Complainant. The Complainant showed the Counselor a video of the writing in the journal, which read "Kill [Student A] and [the Student]." According to the District, this was the first time that anyone saw or was made aware of the inclusion of the Student's name in the journal. The Complainant expressed her disappointment that she had not been contacted the previous day and arrangements had not been made to address the Student's safety. The Complainant reported to OCR that when she spoke with the Counselor, the Counselor told the Complainant that she didn't make a safety plan for the Student because she assumed that the Student was the aggressor. Out of concern for the Student's safety, the Complainant kept the Student home XXX XXX XXXX XXX XX XXXXXX.

Later that morning, a County Sheriff's Deputy (Officer) arrived at the school to investigate the incident. He and the Counselor interviewed Students A, B, and C. Based on the interviews, they concluded that the writing in the journal had occurred several months earlier, and that it was written during a playdate between Students B and C. During the interview, Student B indicated

that she may have written in the journal, and she apologized. Following the interview, both the Officer and the Counselor determined that there was no credible safety threat to any student related to the writing in the journal.

At the conclusion of the student interviews, the Counselor and Officer spoke with Student A's mother in person regarding the outcome of the interviews. The Counselor instructed Students B and C to stay away from Student A for the remainder of the day. Beyond these actions, the District did not establish a further safety plan for Student A because the District had determined that no credible safety threat existed.

After speaking with Student A's mother, the Counselor contacted the Complainant by phone. The Complainant wanted to know if any disciplinary actions would be taken against Students B and C. The Counselor told the Complainant she could not share information regarding the other students for privacy reasons. She also told the Complainant that the Student's safety was not compromised, and that if she had additional concerns she could use the bullying reporting process on the school's website.

Ultimately, the Principal and Counselor determined that Students B and C would attend a relational aggression group during the upcoming school year. As to the Student, the Principal and Counselor recommended that she be provided with close supervision during the first month of school, daily check-ins with a staff member to gauge her level of comfort at school, and free access to the counseling staff whenever she needed to talk. No additional provisions were put in place for Student A.

OCR notes that on June X, 2017, the Complainant and her attorney met with the District to discuss concerns and proposed solutions. As a result of that meeting, the District offered to provide the following interventions for the Student:

- Placement of the Student in a different class than Students B and C;
- Make every effort to avoid contact between the Student and Students A, B, and C;
- Consider the placement of the Student with the teacher requested by the Complainant;
- Provide six individual 30 minute counseling sessions during the summer by a counselor to enhance the Student's conflict resolution and self-advocacy skills;
- Designate a point person at the school to facilitate responsive communication between the Complainant, Student, and District;
- Provide alternate activities during lunchtime.

In a later meeting, the District agreed that the Counselor would no longer work with the Student, and instead the School Psychologist would be made available to the Student should future issues arise.

## **Analysis**

Under Section 302 of OCR's Complaint Processing Manual (CPM), OCR complaints may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest and OCR determines that it is appropriate to resolve the complaint with an agreement reached during the course of the investigation.

Prior to the conclusion of this investigation, the District indicated an interest in resolving this matter under Section 302 of the CPM. OCR determined that this complaint was appropriate for resolution under Section 302 because the facts gathered by OCR thus far raised compliance concerns, but OCR needed additional evidence to conclude the investigation and reach a finding. Specifically, OCR was concerned that the District may have treated the Student differently in its response to the death threat incident on account of her race. However, to complete the investigation, OCR would need to clarify when the District had notice of the Student's name being written in the journal, and whether any comments were made regarding the Student being the likely aggressor. This would require OCR to: (1) obtain further documentation regarding the District's response to the investigation, including (but not limited to) reviewing the journal and (2) conduct interviews with District staff and other witnesses, including (but not limited to) the Principal, the Counselor, and Student's A's mother. Accordingly, this matter remains unresolved.

Prior to the conclusion of OCR's investigation, the District, without admitting to any violation of law, entered into the enclosed Agreement to Resolve (Agreement). The Agreement is aligned with the complaint allegations and the information obtained by OCR during its investigation, and it addresses the concerns identified by OCR during the investigation to date.

## **Summary of Resolution and Conclusion**

Under the Agreement, the District will conduct a meeting with Complainant and Student to ensure Student feels safe and any future safety incidents are appropriately handled. The District will also provide written guidance and training to school site staff regarding safety protocol and discipline for death threats on school campuses.

Based on the commitments made in the Agreement, OCR is closing the investigation of this complaint as of the date of this letter. When fully implemented, the Agreement is intended to address all of OCR's compliance concerns in this investigation. OCR will monitor the implementation of Agreement until the District is in compliance with Title VI, and its respective implementing regulations, which were at issue in the 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.

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.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Abony Alexander, Civil Rights Attorney, at [Abony.Alexander@ed.gov](mailto:Abony.Alexander@ed.gov).

Sincerely,

/s/

Zachary Pelchat  
Team Leader

Enclosures

cc: Siobhan H. Cullen, Counsel for the District (by e-mail only)