



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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May 8, 2015

Ms. Carole Smith
Superintendent
Portland School District 1J
P.O. Box 3107
Portland, Oregon 97208-3107

Re: Portland School District 1J
OCR Reference No. 10151010

Dear Superintendent Smith:

The U.S. Department of Education, Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint of race discrimination against the Portland School District 1J (the district). The complaint alleged that a student and 3 of his African-American classmates were subjected to race-based different treatment, by the principal, when they were called out of their classroom on September 19, 2014, and questioned as part of an investigation of a stolen purse.

OCR conducted its investigation under title VI of the Civil Rights Act of 1964 (Title VI). This law prohibits discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance from the U.S. Department of Education. Because the district receives federal financial assistance from this Department, the district is subject to the requirements of Title VI.

We have determined that the findings in the investigation support a conclusion that the district failed to comply with Title VI. Our findings and conclusions, set forth below, are based on a review and analysis of written information provided by the student's mother and the district, and interviews with the student's mother, the principal, and the assistant principal.

Findings of Fact

1. XXXXXXXX School is a XXXXXX school in the Portland School district.
2. On Friday, September 12, 2014, a teacher at XXXXXXXXX School realized that her purse was missing from her classroom at the end of the school day. The teacher notified the principal that her purse was missing, and the teacher, the principal, and building custodian searched for the purse. The custodian found the teacher's purse in a girls' restroom. After taking inventory of the contents of the purse, the teacher determined that \$120 dollars was missing from the purse.

3. After the recovery of the purse, the principal and the teacher met with a police officer to discuss the theft of the purse that afternoon. The teacher remembered seeing her purse before her 7th period class, which was the last period of the school day. The teacher and the principal concluded that it was likely that the purse was taken during the teacher's 7th period class.
4. The teacher reported to the principal that she saw a female student (African-American) enter her classroom to talk with friends, and enter and leave the girls' restroom during her 7th period class. The female student was not in the teacher's class. The female student's mother had previously spoken with the principal about the student's ongoing challenge with stealing. Based on this information, the principal and the assistant principal interviewed the female student that afternoon and searched her belongings. The principal and assistant principal did not find the money with the female student.
5. The principal also interviewed 2 male students (1 multi-racial and 1 white) who were in the teacher's 7th period class on the playground after school that day about the theft of the purse. Neither had any information about the incident.
6. After interviewing the 3 students after school, the principal and the assistant principal had a discussion about racial biases in police investigations. The principal expressed concern about not wanting the students of color feel profiled or targeted.
7. After the discussion with the assistant principal, the principal formulated a plan to interview students regarding the theft of the purse. He determined that first he would first speak with the white students in the teacher's 7th period class, then the multi-racial students, and then the African-American students.
8. Throughout the week of September 15, 2014, the principal carried out the investigation to try to determine who took the teacher's purse. The principal interviewed 19 students in the teacher's 7th period class and asked each student if he or she had any information about the theft of the purse. These students were interviewed during various class periods. He interviewed 1 student from the class on the playground during lunch recess and also spoke with 2 additional students not in the teacher's class.
9. On September 19, 2014, the principal individually pulled out four African-American students from the teacher's 7th period class to ask each of them about the theft of the purse.
10. The principal interviewed a total of 25 students as part of the investigation. The principal interviewed 13 white students, 7 multi-racial students, and 5 African-American students.
11. On September 19, 2014, the student told his father that he was pulled from his 7th period class by the principal and questioned about the theft of the purse. The student's father asked the student who else was pulled from his class that day, and the student provided him the names of the other students. The student's father determined that all of the students pulled from class that day, by the principal were African-American and e-mailed the principal to express concerns about the investigation.
12. On September 23, 2014, the student's father and mother met with the principal and the assistant principal to discuss the investigation. The principal explained to the student's father and mother that during the week, he first spoke to white students about the theft of the purse, then multi-racial students, then African-American students. The student's father and the complainant expressed that it was not appropriate to conduct the investigation in that manner.

13. The investigation did not reveal who stole the teacher's purse.

Analysis and Conclusion

The issue OCR investigated was whether the district discriminated against the student and his 3 African-American classmates, on the basis of race, when they were called out of their classroom on September 19, 2014, and questioned as part of an investigation of a stolen purse.

The Title VI regulation at 34 CFR 100.3(a) states that no person shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination. The Title IV regulation at 34 CFR 100.3(b)(iii) states that a recipient may not, on ground of race, color, or national origin subject an individual to segregation or separate treatment under any of the recipient's programs or activities.

OCR found that the principal, after concluding that the initial suspect did not take the purse, determined that he would interview students in an order that he set based on the race of the students. The principal used race as the criteria for determining the order of interviewing students about the stolen purse. This practice grouped students by race without a legitimate non-discriminatory reason or justification. The principal had available race neutral alternatives to interview all the students in the class, such as interviewing by alphabetical order, seating chart location, or randomly. Because the students in the class were separated by race for the purpose of investigating a theft, OCR concludes that the district failed to comply with Title VI with regard to this issue.

Based on the foregoing, OCR concludes that the district failed to comply with the regulations implementing Title VI. The district voluntarily agreed to resolve these compliance issues by submitting the enclosed Settlement Agreement (agreement). OCR will monitor the district's implementation of the agreement.

This letter sets forth OCR's determination in an individual OCR case and should not be interpreted to address the district's compliance with any other regulatory provisions or to address any issues other than those addressed in this letter. 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.

This concludes OCR's investigation of the complaint. 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, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, 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.

Page 4 – OCR Reference No. 10151010

Thank you and your staff for your cooperation during the investigation of this complaint. If you have any questions regarding this letter, please contact Caitlin Burks, Attorney, by telephone at (206) 607-1620, or by e-mail at caitlin.burks@ed.gov.

Sincerely,

Paul Goodwin
Supervisory Attorney

Enclosure: Settlement Agreement

cc: Rob Saxton, Deputy Superintendent of Public Instruction