



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION XI
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WASHINGTON, DC

April 16, 2019

Via Email mhaas@k12albemarle.org

Dr. Matthew S. Haas
Superintendent of Schools
Albemarle County Public Schools
401 McIntire Road, Room 345
Charlottesville, VA 22902

RE: OCR Complaint No. 11-19-1032
Resolution Letter

Dear Dr. Haas:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) received on October 19, 2018 against Albemarle County Public Schools (the Division). The complaint alleged that during the 2018-2019 school year, the Student was subjected to a hostile environment, which violated Title VI, when the Division failed to promptly and effectively respond to incidents wherein other students at XXXXX School (the School), particularly those on the Student's bus, in the Student's class and at lunch/recess, harassed the Student, including through the use of epithets, insults and physical aggression.

OCR enforces Title VI and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance from the Department. Because the Division receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Title VI.

During the investigation, OCR reviewed documents and other information provided by the Complainant and interviewed the Complainant. OCR also reviewed documents provided by the Division and obtained information in discussions with the Division's legal counsel. Before OCR completed its investigation, the Division expressed a willingness to resolve the allegations pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the Division expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. The following is a summary of the evidence obtained by OCR during the investigation to date.

Legal Standard

A Division's failure to respond promptly and effectively to race, color and/or national origin-based harassment that it knew or should have known about, and that is sufficiently serious that it creates a hostile environment, is a form of discrimination prohibited by Title VI. If discriminatory harassment has occurred, a Division must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

Summary of Investigation

The Student is in the XXX grade at the School. During the 2017-2018 school year, the Complainant alleges that the Student's peers subjected the Student to a hostile environment on the basis of race, XXXXX and School staff failed to appropriately address the peer harassment. During the 2018-2019 school year, the Complainant alleged that the Student's peers again subjected the Student to a hostile environment on the basis of race, XXXXX, including in the Student's XXXX and XXXX. The Complainant alleges that the harassment consisted of racial and XXXXX slurs, comments and insults on almost a daily basis and acts of physical aggression/assault. The Complainant alleges that he met with the School's Principal on multiple occasions during the Fall of 2018 requesting action regarding these incidents. The Complainant stated that, as a result of this harassment, the Student was XXXXX, did not want to attend school, XXXXX, and was "acting out" in response to the incidents.

The Complainant alleges that School staff and the Division did not take appropriate action following his multiple complaints. The information provided shows that the Complainant began requesting action from the Principal regarding the alleged harassment beginning in XXXXX 2018 and has continued requesting action from the Principal and the Division regarding the harassment during the 2018-2019 school year. For example, the Complainant alleges that during the 2018-2019 school year, he met with and/or emailed the Principal in XXXXX, and on numerous occasions in XXXXX regarding continuing harassment.

The Complainant also alleges that he met with the Principal and the Division's Deputy Superintendent on XXXXX regarding a XXXXX incident where a student repeatedly XXXXX. The Complainant alleged that when the Student reported the incident to the teacher, she minimized it and did not take appropriate action. The documentation shows that the Complainant also subsequently emailed the Deputy Superintendent in November 2018 requesting an investigation of the alleged continuing race, color and national origin peer harassment. The documentation shows that the Deputy Superintendent referred the Complainant's allegations to the Compliance Officer on XXXXX. The Compliance Officer indicated in an email on XXXXX, that he would investigate and issue a written report XXXXX. The Division has not provided any information that this investigation was completed or that a report has been issued regarding the Complainant's complaints.

OCR reviewed the Division's policies and procedures, Prohibition Against Harassment and Retaliation (Procedures). According to the Procedures: "a Complainant should file a report of harassment with either the building principal or a designated Compliance Officer" In addition,

the Procedures state that “Any school personnel who has notice that a student or other school personnel may have been a victim of prohibited harassment shall immediately report the alleged harassment to one of the Compliance Officers designated in this policy.” The Procedures indicate that complaints can be oral or written and the Principal is required to forward reports of harassment to the Division’s Compliance Officer. The Procedures provide timelines for investigation, an explanation of any delay in following the timelines for the investigation, and notice to the complainant of the outcome of the investigation.

Prior to the conclusion of OCR’s investigation, the Division expressed an interest in voluntarily resolving the allegation. On April 15, 2019, the Division signed the enclosed Resolution Agreement which, when fully implemented, will address the allegation investigated. The provisions of the Agreement are aligned with the allegation and the information obtained during OCR’s investigation, and are consistent with applicable law and regulation. The Agreement requires the Division to: (1) provide training to all staff; and (2) investigate the race, color and nation origin harassment complaints and take appropriate action. Please review the enclosed Agreement for further details. OCR will monitor the Division’s implementation of the Agreement until the Division has fulfilled the terms of the Agreement.

This concludes OCR’s investigation of the complaint. This letter should not be interpreted to address the Division’s compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR’s determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR’s formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the Division must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the Division's cooperation in the resolution of this complaint. If you have any questions, please contact Jan Gray, the OCR attorney assigned to this complaint, at 202-453-6028 or Jan.Gray@ed.gov.

Sincerely,

Kristi R. Harris
Team Leader, Team IV
District of Columbia Office
Office for Civil Rights

Enclosure

cc via email: Division's Counsel, XXXX