



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200
SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

June 12, 2014

Dr. Bill Brand
Interim Superintendent
Monterey Peninsula Unified School District
700 Pacific Street
Monterey, CA 93940

(In reply, please refer to Case No. 09-13-1309)

Dear Superintendent Brand:

On June 14, 2013, the U.S. Department of Education, Office for Civil Rights (OCR) notified your office that OCR had accepted for investigation a complaint against Monterey Peninsula Unified School District (District). The Complainant¹ alleged that a school discriminated against two students on the basis of race when it failed to appropriately and effectively respond to notice of peer based racial harassment.

OCR investigated the complaint under the authority of Title VI of the Civil Rights Act of 1964, and its implementing regulations. Title VI prohibits discrimination on the basis 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 regulations.

OCR gathered preliminary evidence through interviews with the Complainant and a school site administrator. OCR also reviewed documents and records submitted by the District and the Complainant.

Under OCR's complaint resolution procedures, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. During the course of OCR's investigation process, the District expressed an interest in resolving the complaint informally. On May 8, 2014, the District submitted a Resolution Agreement (RA) which, when implemented, will resolve the allegation of this complaint. For this reason, OCR did not complete its investigation or reach findings or conclusions as to whether the District had failed to comply with Title VI.

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

¹ OCR notified the District of the Complainant and Students' identities when the investigation began. OCR is withholding their names from this letter to protect their privacy.

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.

Under Title VI and the regulations, once a school has notice of possible harassment between students on the basis of race, color or national origin, it is responsible for determining what occurred and responding appropriately. The district is not responsible for the actions of a harassing student, but rather for its own discrimination in failing to respond adequately. A district may violate Title VI and the regulations if: (1) the harassing conduct is sufficiently serious to deny or limit the student's ability to participate in or benefit from the educational program; (2) the district knew or reasonably should have known about the harassment; and (3) the district fails to take appropriate responsive action. These steps are the school's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action.

OCR evaluates the appropriateness of the responsive action by assessing whether it was prompt, thorough, and effective. What constitutes a reasonable response to harassment will differ depending upon the circumstances. However, in all cases the district must promptly conduct an impartial inquiry designed to reliably determine what occurred. The response must be tailored to stop the harassment, eliminate the hostile environment, and remedy the effects of the harassment on the student who was harassed. The district must also take steps to prevent the harassment from recurring, including disciplining the harasser where appropriate.

OCR's investigation gathered the following relevant facts:

- During the 2012-13 school year, the Complainant had two sons in middle school at the District. Student A was in XXX grade and Student B was in XXX grade. Both students still attend school in the District; Student B remains at the middle school. This was the first year the students were enrolled in the District schools.
- The Complainant made two complaints to the District alleging bullying and the use of racially derogatory comments by other students.
- On XXXXXXXX X, 2012, the Complainant e-mailed the District to complain of bullying on the school bus. The email stated that other students were "making racially derogatory comments," as well as using foul language and attacking Student B.
- On XXX X, 2013, the Complainant sent another letter to the District. In this letter he again stated that Student A and B were subjected to racial slurs. Specifically, he stated that Student A had constantly been told he "cannot do that because you're white, not Mexican." The Complaint also stated that he had attended school field trips and witnessed Student B being subjected to bullying and racial slurs.

- The District provided OCR with partial documentation concerning the District's response to the two complaints.
- The Complainant has not identified any current issue of peer based racial harassment and has stated that the current school administrators are adequately responsive to any issues or concerns.

School districts are required, under Title VI, to provide their students with an educational environment that is free from discrimination on the basis of race or national origin. For this reason, when they are informed that a student has allegedly been subjected to race-based bullying or harassment, they are required to complete a prompt and thorough investigation to determine whether the alleged harassment took place and, if so, whether it created a racially hostile educational environment. If race or national origin based harassment is found to have occurred and to have created a hostile environment, the district must take steps to end the harassment, remedy its effects, and ensure that it does not recur.

In this case, OCR determined that the Complainant provided notice to the District of his belief that his sons had been subjected to racially motivated bullying and harassment. The initial documentation provided by the District indicated that these allegations were investigated, but did not fully explain the extent of the investigations or their results. Prior to the conclusion of OCR's investigation, and before OCR reviewed additional documents or interviewed staff witnesses, the District offered to proactively address the issues via a voluntary Resolution Agreement (Agreement). For this reason, OCR did not complete its investigation or reach conclusions as to whether the District's response to the complaints fully complied with the requirements of Title VI.

The District, without admitting any violation of the law, signed the enclosed Agreement. As indicated in the Agreement, the District will provide training and professional development on harassment based on race or national origin, and the responsibility of school site administrators to respond promptly and effectively to notice of such harassment, to all staff responsible for investigating and resolving complaints of discrimination.

OCR has determined that the actions in Agreement, when implemented, will resolve the issues in this complaint and is closing this matter as of the date of this letter. OCR will monitor the implementation of the enclosed Agreement and may reopen the investigation if the District does not implement the provisions of the Agreement. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

This letter set 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, 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 records on request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR would like to thank you and your staff for your cooperation and courtesy in resolving this matter. If you have any questions about this letter, please contact Michael S. Hing, Civil Rights Attorney, at (415) 486-5514.

Sincerely,

/s/

MaryBeth McLeod
Team Leader

Enclosure

cc: XXX XXXXX XXXXXX XX