



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

July 21, 2014

Dr. Dana Bedden
Superintendent
Richmond Public Schools
301 North Ninth Street
Richmond, VA 23219

Re: OCR Complaint No. 11-14-1093
Resolution Letter

Dear Dr. Bedden:

The purpose of this letter is to inform you of the outcome of the complaint that was filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on January 23, 2014, against Richmond City Public Schools (the Division). The complaint was filed on behalf of limited English proficient (LEP) parents and guardians in the Division. Specifically, the complaint alleges that the Division discriminates against LEP parents and guardians on the basis of national origin by failing to ensure that they have meaningful access to information that is provided to parents and guardians in English.

OCR initiated an investigation of this allegation pursuant to its authority to enforce certain federal civil rights statutes and regulations, including Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in activities or programs that receive federal financial assistance. The Title VI regulations also prohibit school divisions from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color, or national origin. See 28 C.F.R. § 42.104(b)(2) and 34 C.F.R. § 100.3(b)(2). Because the Division is a recipient of federal financial assistance and is a public entity, it is subject to the provisions of Title VI.

On May 25, 1970, pursuant to its authority under Title VI, the Department of Education issued a memorandum entitled "Identification of Discrimination and Denial of Services on the Basis of National Origin" (35 Fed. Reg. 11,595). The memorandum clarified OCR policy under Title VI on issues concerning the responsibility of school agencies to provide equal educational opportunity to limited English proficient national origin minority students. The May 25th memorandum states

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

that school divisions must adequately notify national origin minority group parents of information that is called to the attention of other parents, and that such notice may have to be provided in a language other than English in order to be adequate.

On March 8, 2014, pursuant to its authority under Title VI, the Department issued a “Dear Colleague Letter” explaining that school divisions may not bar students from enrolling in school because they lack a birth certificate or have records that indicate a foreign place of birth, such as a foreign birth certificate. The letter also clarifies that while the Department -requires school divisions to collect and report information including the race and ethnicity of their student population, school divisions cannot use this acquired data to discriminate against students. Additionally, the letter states that while many school divisions request a student’s social security number at enrollment for use as a student identification number, schools divisions may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number (See 5 U.S.C. §552a), and that if school divisions choose to request social security numbers, they shall provide the statutory or other basis upon which they are seeking the number, inform individuals that the disclosure is voluntary, and explain what uses will be made of the data.

During the course of OCR’s investigation, the Division expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR’s Case Processing Manual, OCR discussed resolution options with the Division. On July 21, 2014, the Division signed the enclosed agreement to resolve the complaint. The provisions of the agreement are aligned with the issues raised in the complaint, with information obtained during the course of OCR’s investigation, and are consistent with the applicable regulations. OCR will monitor implementation of the agreement.

Please be advised that the Division may not retaliate against an individual who asserts a right under a law enforced by OCR or who files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR. Also, 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.

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. You may have the right to file a private suit in federal court whether or not OCR finds a violation.

We appreciate the Division’s cooperation, particularly the Division’s counsel Nicole Thompson, during the resolution of this complaint. If you have any questions, feel free to contact Sebastian Amar at (202) 453-6023 or Sebastian.Amar@ed.gov and Guy Johnson at (202) 453-6567 or at Guy.Johnson@ed.gov.

Sincerely,

/s/

Kay Bhagat
Team Leader
District of Columbia
Office for Civil Rights

cc: Nicole Thompson, Esq.

Enclosure