

Marshall W. Grate, Esq.  
Clark Hill PLC  
200 Ottawa Ave NW, Suite 500  
Grand Rapids, Michigan 49503

Re: OCR Docket #15-13-1112

Dear Mr. Grate:

This is to notify you of the disposition of the above-referenced complaint that was filed on February 1, 2013, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the Kentwood Public Schools (the District) alleging discrimination on the basis of national origin (Latino). Specifically, the complaint alleged that the District's requirement that parents or guardians present a valid Michigan state identification card (state ID) or driver's license before it will enroll their children has the effect of chilling, preventing or discouraging the enrollment of Latino students.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation, 34 C.F.R. Part 100. Title VI prohibits discrimination on the bases of race, color, and national origin by recipients of Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to Title VI. Therefore, OCR had jurisdiction to investigate this complaint.

OCR investigated this complaint by interviewing the Complainant, XXXX (the Parent), and a District staff person responsible for overseeing the District's enrollment process. OCR also reviewed documentation provided by the Complainant and the District, including the District's enrollment policies. Prior to the conclusion of OCR's investigation, the District took actions that OCR has determined has resolved the complaint allegation. In light of the District's actions, OCR is closing this case.

The Parent stated that, prior to the start of the XXXX school year, the Parent went to one of the District's schools to enroll her child (the Student). The Parent said she met with

the District's enrollment administrator and provided copies of XXXX. The Parent stated that, when she offered XXXX to verify her address, the enrollment administrator told her that XXXX was not acceptable and that she would have to provide the District with an unexpired license or state ID before the school would enroll the Student. The Parent said she then showed the enrollment administrator her XXXX as proof of her identification, but was again told that the District required a valid Michigan driver's license or state ID. The Parent then left the school.

The Parent said she later called the enrollment administrator and told her that she was unable to provide a valid driver's license or state ID. The Parent said that when she asked what she could do to enroll the Student the enrollment administrator told her that there was nothing she could do because the District required that she provide an unexpired license or state ID.

The Parent said that she called the school again and asked to speak with the principal. The principal was unavailable, so the Parent left a message for him explaining her situation and asking him to call her back. According to the Parent, the same enrollment administrator learned about the message, called the Parent back, and reiterated that there was nothing the Parent could do to enroll the Student aside from providing the school with an unexpired driver's license or state ID.

X-paragraph redacted-X

The Parent said she then went to the District's administrative offices and spoke with at least three different people. Each time she had to re-tell her story. The Parent stated that she brought several forms of documentation to prove that she lived within the District, including XXXX. She said that the staff at the administrative offices told her that the District's policy required a valid, unexpired state ID or driver's license and that there were no exceptions. According to the Parent, one of the staff members assisting her at the administrative offices told her that she would speak with her boss about the Parent's situation. When the person came back, she told the Parent that the District would make a one-time exception for the XXXX school year, but that the Parent would need to resolve the situation in order to enroll the Student the

following year. XXXX

The Complainant provided OCR with a copy of a letter from the Student's school outlining the District's enrollment policy, as well as a checklist of documents needed to register returning students.

According to the letter from the school to families, dated August XXXX, all students in the District were required to register for the XXXX school year, regardless of whether they attended school in the District the previous year. The letter also emphasized the "proof of residency requirements" needed to register students in the District, stating: **"Parents will need to provide their lease or mortgage document, driver's license with current address, and 2 utility bills dated within 30 days."** The letter did not mention any exceptions to the "proof of residency requirements." The checklist of required registration documents listed similar requirements, and specifically stated that, among other specified documents, the following documents were **"REQUIRED of ALL students EVERY year"**:

- Parent/Guardian's Driver's License (or State Identification Card)
  - Must show current address
  - Must not be an expired license
  - Photocopy (both front and back) may be used

OCR contacted the District, which informed OCR that its overriding policy is to err on the side of enrolling potentially eligible students and that the District was not aware of any student who had been denied enrollment because his or her parent was unable to produce a state ID or valid driver's license.

The District also provided OCR with a copy of its enrollment policies that were in place at the beginning of the XXXX school year. Under the "Proof of Eligibility" section, the enrollment policies stated that the District required that "the parent or legal guardian registering the student...sign an affidavit of residency and...furnish the documentation described [under Standard Proof of Residency] to prove the student's eligibility to attend school in the district." The policies further stated that the District might deny the enrollment of any student "who is unable to show such proof of residency or eligibility." The enrollment policies stated that all of the following documents were required to meet the "Standard Proof of Residency":

1. A driver's license or state identification card showing parent or guardian's name and address within the District.

2. A closing statement (dated within 12 months of the date of enrollment); current signed lease showing the lessor's name, address, and contact telephone number; landlord affidavit (on a District form); current property tax bill; or mortgage payment book relating to the property address within the District.
3. Any two of the following current bills (30 days), showing the name of the parent/guardian and address within the District:
  - gas bill
  - electric bill
  - telephone or cellular phone bill
  - cable bill
  - satellite TV bill
  - city water/sewage bill
  - other utility bill confirming residency in the house within the District

OCR interviewed the District's assistant superintendent, who oversees the District's enrollment and registration process, including the verification of residency requirements. She stated that, when a parent goes to his or her home school building to register a child, the building secretary and the attendance clerk meet with the parent and the attendance clerk collects the necessary enrollment papers. She stated that, when parents are unable to provide all of the required documents, they can call the school principal and are encouraged to contact the District's office for student services for support. She stated that the District is flexible with respect to the documentation required for purposes of enrollment. For example, she stated that the District has allowed parents to provide a photo ID, such as an employment ID card, in place of a driver's license or state ID.

The assistant superintendent further stated that the state of Michigan requires the District to prove that its students reside within the District, but that the District has latitude in determining what is reasonable to establish residence. She stated the District's attendance clerks have been trained that, even if parents are unable to present a state ID or driver's license, the District cannot deny enrollment based on one missing piece of information. She stated that the attendance clerks and the school principals are told that they are to contact the assistant superintendent if there is any issue. She stated that the attendance clerks know that there are laws protecting homeless and undocumented students; however, she noted that it is possible that new staff may not be aware of these procedures and so there could be people or families who have slipped through the cracks. The assistant superintendent acknowledged that there is no exception written into the enrollment policies and that the District's ability to be flexible is not publicized, so parents who are having problems with the enrollment process would not know to contact her.

The assistant superintendent said that she does not turn parents away and that she expects her staff not to turn parents away. While she was not aware of any parent whose child was denied enrollment due to the failure to provide a valid driver's license or state ID, she speculated that a problem could have occurred if a secretary not familiar with the District's procedures handled an enrollment situation while an attendance clerk was out and turned a parent without the proper documentation away without calling the assistant superintendent like he or she should have.

On June 5, 2013, the District informed OCR that the District had revised its written enrollment policies to clarify that other forms of photo identification, such as a passport or an employment ID, can be used to establish identification and residency for purposes of enrollment, not just a driver's license or state ID.

OCR reviewed the District's proposed policies, and confirmed that they no longer require parents to present a valid driver's license or state ID prior to enrolling their children in the District. The new policies state that parents must provide one source of documentation to establish residency and one source of documentation to establish identification. Pursuant to the new policy, the residency documentation can include a current mortgage document, closing papers, a purchase agreement, a property tax statement, a bank statement, a credit card bill, a cable bill, a utility bill, or a current lease or landlord affidavit. Identification documentation can be a photo ID, such as a driver's license, state ID, employment ID, or passport. The policies also state, "In lieu of residency requirements, the district may consider other documentation and one source of identification by appointment." The new policies also provide for an appeal to the assistant superintendent of student services for anyone denied enrollment due to their inability to provide proof of residency. The District informed OCR that the new policies were approved by the District's board of education at its July 15, 2013 meeting. The District informed OCR that District staff involved in the enrollment process will receive training on the new policies in August 2013, prior to the start of the new school year. In an email dated July 15, 2013, the District informed OCR that it would be publicizing the new policies in the District's newsletter, on its website, and in the local newspaper, as well as through mass mailings to District parents from each school building.

The regulation implementing Title VI, at 34 C.F.R. § 100.3(a), provides 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 under any program to which Title VI applies. More specifically, pursuant to the Title VI regulation, at 34 C.F.R. § 100.3(b)(1)(i), (ii), and (v), a recipient may not, on the basis of race, color, or national origin, deny students any service or benefit provided under the recipient's program, provide services or benefits that are different from or provided in a different manner from services or benefits provided to other students, and/or restrict students in the enjoyment of any privilege or advantage enjoyed by others. A recipient may not subject similarly situated students to different treatment based on race, color, or national origin with respect to the benefits or services it provides without a legitimate, nondiscriminatory reason for doing so that is not a pretext for discrimination.

As noted above, however, prior to the conclusion of OCR's investigation, the District revised its policy to clarify that other documents may be used to establish residency. OCR finds that the revised policy resolves the complaint allegation. The District has also arranged to provide training for relevant staff on the new policy and to provide notice of the revised policy to the community through its newsletter and website, as well as by putting notice in the local newspaper and mailing notices to all District parents.

As there are no current allegations appropriate for further complaint resolution, OCR is closing this complaint effective the date of this letter.

If you have any questions, please contact Ms. Sacara Martin or me, the OCR attorneys assigned to investigate this complaint. Ms. Martin can be reached by telephone at XXXX or by e-mail at XXXX. I can be reached by telephone at XXXX or by e-mail at XXXX.

Sincerely,

Brenda Redmond  
Acting Team Leader