



April 9, 2024

Via Email: OCR@ed.gov; OCR.Dallas@ed.gov

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

U.S. Department of Education
Office for Civil Rights
Renaissance Tower
1201 Elm Street, Suite 1000
Dallas, TX 75270

I. INTRODUCTION

StandWithUs, an international, nonprofit education organization with the mission of combating antisemitism and supporting Israel, respectfully submits this letter of complaint pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. (“Title VI”), along with Co-Complainant, a current student at Hillcrest High School (“Hillcrest” or “HHS”) in the Dallas Independent School District (“DISD”). Co-Complainant has been subjected to severe, pervasive, and persistent harassment based on his national origin (shared Jewish ancestry) over many years at Hillcrest. This harassment has created an increasingly hostile environment, and DISD has repeatedly failed to remedy the situation despite being on actual and constructive notice, in violation of its obligations under Title VI.

As set forth in further detail below, *see infra* Part II, Co-Complainant has been subjected to repeated targeting, harassment, intimidation, marginalization, and discrimination based on his Jewish ancestry since at least 2021. Reported incidents include: physical abuse; verbal taunting; ridiculing with reference to Hitler, Auschwitz gas chambers, and the Holocaust; and highly offensive name-calling (“dirty Jew,” “filthy kike”). Since October 2023—when Palestinian terrorists and armed citizens led by Hamas slaughtered thousands of civilians in Israel and kidnapped over 200 hostages into Gaza—the discriminatory harassment also started to include specific and troubling references to Israel and Palestinians (*e.g.*, “The kikes are just getting what they deserve. Free Palestine!”).

DISD has been on actual and constructive notice of these discriminatory incidents for years as they have occurred. The harassment took place “in plain sight” at HHS, in classrooms and hallways, and often with teachers present. Co-Complainant and his mother repeatedly reported the harassment to Hillcrest teachers and administrators since at least 2021. In September 2023,

StandWithUs sent a letter to Hillcrest and DISD clearly outlining the numerous antisemitic incidents of harassment, describing the violations of school policies, and requesting concrete steps to address the ongoing hostile environment. StandWithUs even offered its support to DISD in partnering on the provision of educational programming and other tools to address antisemitism. In October 2023, Co-Complainant filed a formal grievance pursuant to DISD’s Bullying Policy and state grievance procedure rules. Nevertheless, DISD failed to follow its own policies, failed to conduct proper investigations of the harassment, failed to provide even basic training about antisemitism to its faculty, and failed to protect Co-Complainant from ongoing harassment. **In fact, the evidence demonstrates that, far from eliminating the pervasively hostile environment for Jewish students and protecting them from harassment based on shared ancestry, DISD has essentially sanctioned such harassment and enabled it to fester unhindered. As of the time of this complaint, and as a direct result of DISD’s deliberate indifference, Co-Complainant continues to face harassment from other DISD students based on his shared Jewish ancestry.**

As a result, we urge your office to investigate the hostile environment at DISD that Co-Complainant continues to face due to his Jewish identity. If your investigation concludes that DISD has indeed violated Title VI, we urge your administration to demand swift and concrete remedies, some of which are suggested below.

II. STATEMENT OF FACTS

Co-Complainant has been the target of ongoing bullying and harassment based on his national origin (shared Jewish ancestry) for over three years. Co-Complainant’s “log” of over forty incidents of antisemitic harassment—which was shared in its entirety with DISD and Hillcrest on multiple occasions—demonstrates a school plagued by a hostile environment. It further demonstrates DISD’s repeatedly inadequate—at times nonexistent— responses to overt antisemitic harassment and its deliberate indifference to the plight of DISD’s Jewish students.

A. Pervasive Harassment at DISD Targeting Jewish Students

1. Co-Complainant Has Been Subjected to Harassment Within DISD Classrooms.

Since 2021, within DISD classrooms, Co-Complainant has been repeatedly subjected to offensive taunting, verbal harassment, and physical harassment based on his national origin. Hillcrest classmates use horrific antisemitic slurs—particularly references to the Holocaust—to harass Co-Complainant. For example, classmates have called Co-Complainant a “kike¹” a “lying kike,” a “fucking kike,” a “snitching Jew,” and “a snitching filthy kike” while in the classroom. They use these derogatory terms to Co-Complainant’s face while passing his desk or loudly enough to be heard throughout the classroom. One student said to Co-Complainant: “You’re such a kike, like if I were you, I’d kill myself.” Another told Co-Complainant: “Go bathe in Auschwitz where you belong. Wish you died with your great aunt, that sorry ass lame story you

¹ “Kike” is an offensive, derogatory term for a Jewish person. It is widely considered to be a form of hate speech. <https://www.ajc.org/translatehate/kike>; see also <https://forward.com/culture/465557/we-need-to-talk-about-kike-etymology-ethnic-slur-antisemitic/>.

told me.” In another incident in the classroom, a classmate forcefully slapped Co-Complainant and exclaimed: “Go home to Auschwitz.”

Classmates have also made loud statements to one another in front of Co-Complainant, including: “Kikes suck, Jews suck and are disgusting” and “Kikes suck, fuck kikes.” Another student said: “Send the kikes to the crematorium,” which was met with a round of laughter in the classroom. Yet another student circulated pictures of Adolf Hitler with offensive captions to classmates’ phones during class. In another incident, one student drew a swastika on Co-Complainant’s paper on his desk. One classmate playing a game on his phone exclaimed loudly: “I just beat the shit out of this guy, I feel like Hitler killing all of those filthy kikes, hell yeah!” The same classmate later said: “Hitler is like Star Wars, he’s a god and he kills people.”

The harm is compounded by the fact that Co-Complainant is often subjected to harassment based on national origin *by other Jewish students*. For example, a Jewish student made a Heil Hitler salute to Co-Complainant, laughing and saying, “We are all Jews, it’s okay for us to make Hitler jokes.” Another student, who came to school wearing a Jewish skullcap for the first time, told other classmates, “I’m wearing my ‘kike’pah to be a better Jew.”

Despite the fact that all of these incidents took place in DISD classrooms, and though Co-Complainant is aware that at least some of these horrific comments were heard by faculty members present at the time, there is no evidence of any appropriate response consistent with DISD policy or federal regulation and guidance. Furthermore, and as discussed in more detail below, even when a teacher or administrator was a witness to, or notified of, the harassment, there is no evidence of any meaningful disciplinary action or investigation.

2. Co-Complainant Has Been Subjected to Harassment in DISD’s Common Spaces.

The harassment follows Co-Complainant outside of the classroom, creating a hostile environment for him in spaces throughout the Hillcrest campus. While walking through school, Co-Complainant has been taunted by classmates with antisemitic slurs and statements, including: “Filthy Jew,” “Dirty Jew,” “Sup kike,” “Bye kike, hope the Nazis grab you tonight,” “Sup kike, Heil Hitler, wish he was still here,” and “Fucking kike, useless piece of shit, all of you guys should be dead, RIP Hitler.” One classmate approached Co-Complainant and stated, “Fuck you Jew,” while doing a Heil Hitler salute. Another classmate told Co-Complainant that his favorite Jewish food “is hamantaschen² and “I like to kill Jews and then put their remains for the filling.”

Co-Complainant has faced particularly cruel harassment in the school bathroom over many years, even after reporting these incidents to school administrators. For instance, one classmate said to him, “Heil Hitler, the amazing ruler of the world. Rest in peace, his amazing soul. Six million is my favorite number.” Another told him the bathroom stall “isn’t for Jews,” and weeks later, told him: “Go back to Auschwitz” and “You don’t belong here you filthy kike.” Another student said: “Kike, I’ve told you before you *can’t* use this bathroom.”

Co-Complainant reported at least two swastikas that were drawn in bathroom stalls in 2023, one of which (below) was accompanied by the words “Burn the Jews.”

² A *hamantaschen* is a three-cornered pastry traditionally eaten during the Jewish holiday of Purim.



B. Co-Complainant Repeatedly Reported Incidents of Harassment to Hillcrest and DISD.

Since 2021, Co-Complainant and his mother reported these incidents of antisemitic harassment to Hillcrest faculty and administration. In addition to requesting protection for Co-Complainant and an end to the harassment, Co-Complainant and his mother also asked repeatedly for educational programming concerning antisemitism for students and faculty. Unfortunately, as evidenced by the increasingly hostile and offensive nature of the harassment, DISD failed to respond appropriately—if at all—to these reports and requests. For example:

- In October 2021, when classmates yelled out, “These fucking Jews” during class, the teacher simply asked them to stop and then told Co-Complainant after class: “I can’t do anything, you have to go to an administrator.”
- In February 2022, when Co-Complainant showed his teacher that another student had just drawn a swastika on his paper (below), the teacher’s only response was to try to erase the swastika. No further action was taken;



- In January 2023, Co-Complainant’s mother met with Hillcrest’s Assistant Principal, Veronica Ulloa, and the IB Diploma Program Coordinator about the clear need for education and training at Hillcrest about the Holocaust and the various forms of contemporary antisemitism. Despite multiple follow-up messages from Co-Complainant’s mother about the promised trainings, Hillcrest staff stopped responding and failed to provide any such training;
- In August 2023, Co-Complainant reported a troubling incident to the Hillcrest principal, wherein a teacher actively praised a student who was making antisemitic statements during class for his “enthusiasm.” In response, the principal advised Co-Complainant not to “say that [antisemitism] too loudly” and to “not let things like that [antisemitism] bother [him].”
- On October 30, 2023, Co-Complainant reported to the Hillcrest principal that a swastika was drawn in a bathroom stall. The principal asked a janitorial staff member to paint over

it but did not take any other action to address it with Co-Complainant or the school community.

In addition to being on notice based on the repeated incidents of harassment in classrooms, school hallways, and other public spaces, DISD was on actual notice of the increasingly hostile environment that Co-Complainant was facing. Nevertheless, the harassment continued and even worsened, seemingly sanctioned by DISD.

The only clear result of Co-Complainant's reports to Hillcrest and DISD administrators was retaliatory. Classmates repeatedly reacted to Co-Complainant's reports or requests for help with even more offensive conduct. One student called Co-Complainant a "lying kike, snitch, kike"; another said, "You snitching Jew, my parents know where you live now." Another called him a "snitching filthy kike." Unsurprisingly, Co-Complainant reported losing all faith in the faculty and administration's interest in keeping him safe or taking his concerns seriously.

C. Co-Complainant Escalated the Matter to DISD Through State Grievance Procedures.

On September 7, 2023, pursuant to the Texas Educational Agency's Local Grievance Process,³ Co-Complainant and StandWithUs filed a formal grievance with supporting documentation, in writing, to Hillcrest Principal, Terrence Florie, and DISD Superintendent, Dr. Stephanie Elizalde. The grievance detailed the numerous incidents of harassment that Co-Complainant faced in DISD and the wholly inadequate responses by faculty and administrators, including:

- A detailed log of antisemitic harassment at Hillcrest from October 2021 through August 2023;
- Examples of teachers and administrators failing to protect Co-Complainant from harassment while it was taking place;
- Examples of teachers and administrators failing to take disciplinary action against perpetrators of harassment against Co-Complainant;
- Examples of teachers and administrators minimizing or trying to cover up incidents of harassment against Co-Complainant.

The grievance requested that DISD and Hillcrest "take concrete steps to address antisemitism at HHS," including offering "educational programming about Jewish identity, attacks against that identity, and the impacts of antisemitism on the Jewish community and society as a whole."

According to the grievance:

One particularly alarming aspect...is that one or more of the bullies is often another Jewish student. While it might seem contradictory, someone identifying as Jewish can still hold and express antisemitic views and harmful biases against their own group, especially when this person is an adolescent influenced by exposure to negative stereotypes, misinformation, and pressure from a peer group displaying antisemitic attitudes and actions. The fact that a Jewish student is displaying biased and prejudicial behavior...is a strong

³ Available at <https://tea.texas.gov/about-tea/government-relations-and-legal/government-relations/grievance-process-88r.pdf-0>.

indicator of the urgent need for HHS to provide education, increase awareness, and make efforts to combat antisemitism in all its forms.

Co-Complainant also submitted a Student Bullying Report⁴ to DISD on October 18, 2023. The report stated, “I have been bullied based on my Jewish identity for over a year and continuing until now. The bullying has included everything from verbal teasing to Hitler salutes to taunts based on Auschwitz and the Holocaust to highly offensive name calling such as “dirty Jew” and “kike.” The problem is not only other students—even some Jewish ones—but teachers, too.” Co-Complainant again included his detailed log of antisemitic harassment. Co-Complainant stated in the report that the incidents were not being handled appropriately by DISD:

When I took my issues to the principal I was advised not to complain about antisemitism too loudly or let “things like that” (antisemitism) bother me. My mother requested antisemitism education in January 2023 and was promised by Jeri Smith, the IB program coordinator, that she would provide a program but nothing has been done. My mother emailed her to ask again in April and did not receive a response.

D. DISD’S Responses to Co-Complainant’s Grievances Were Woefully Inadequate and Deliberately Indifferent.

On October 19, 2023, DISD’s LGBTQ Coordinator from Counseling Services (Mahoganie Gaston) contacted Co-Complainant by phone to state that she received his report, would take it seriously, and would bring the matter to Hillcrest’s principal. After they spoke, she emailed Co-Complainant to confirm again. On the same day, Co-Complainant was called into the office of Hillcrest’s Lead Counselor (Stacy Aldridge) to discuss the matter. On October 20, 2023, Ms. Aldridge followed up by email to Co-Complainant to state that she would touch base the following week. Almost two weeks later, on October 31, 2023, Co-Complainant’s mother reached out to Ms. Aldridge to see if there was anything to report yet, and she simply responded that “an investigation is underway and someone should be following up.” There is no evidence of subsequent communication with Co-Complainant or his mother from the Counseling Services office.

On November 2, 2023, Co-Complainant, his mother, and representatives from StandWithUs met with Principal Florie and Temesghen Asmerom, who was then the Executive Director at DISD and is now DISD’s Assistant Superintendent. At the meeting, Mr. Asmerom stated they wanted to hear about Co-Complainant’s experiences and ensure he had a “safe space” at school. Co-Complainant expressed his deep concerns and feelings of discomfort at Hillcrest as a result of the harassment. For example, he stated he was not generally comfortable wearing his Jewish necklace at school out of fear. Co-Complainant stated that simply punishing students with a “reset” (i.e., an in-school suspension) would not make the necessary change; that in order to make sure students understood the meaning of their offensive comments and graffiti, they needed proper education about the Holocaust, historical antisemitism, and contemporary antisemitism.

⁴ Available at <https://www.k12insight.com/Lets-Talk/DialogueCustom.aspx?k=WNXD4ZLT@DY7N1B3LT>.

Mr. Asmerom noted that there would be a professional development training about tolerance in a few weeks, which could include a focus on antisemitism. StandWithUs representatives emphasized that it was important for antisemitism to be highlighted, and not only grouped together with all other forms of discrimination, particularly considering the egregious hostility directed toward Co-Complainant at DISD specifically because he is Jewish. The group discussed the possible materials and resources that DISD could use to teach the staff about antisemitism.

Co-Complainant's mother sent an email to the group to summarize the meeting and confirm the following agreed-upon next steps:

- There would be a faculty meeting in January 2024 “covering the topic of tolerance with separated out coverage of identifying and combatting antisemitism,” and StandWithUs would share materials with Mr. Florie to prepare for that meeting;
- Mr. Florie would explore educational sessions for students on the same topics;
- Co-Complainant would contact Mr. Asmerom, Mr. Florie, and/or Hillcrest's campus police officer, Mr. Avila, to report any new antisemitic harassment, and any such incident would be investigated.

Mr. Asmerom replied to this email stating, “I agree with your note and let us continue to stay in touch as we strive to ensure the safety of our students and maximize their experiences.”

On November 5, 2023, Co-Complainant's mother contacted the group again to note that at least two other families she knew about had complained about antisemitism at Hillcrest, and both students subsequently left the school, presumably due to the antisemitic climate.

On November 10, 2023, as per the group's discussion, Co-Complainant's mother shared videos, booklets and other resources with Mr. Asmerom and Mr. Florie about identifying and understanding antisemitism for the purpose of redress. Mr. Asmerom replied to thank her for the resources and said they would be in touch but did not provide any additional details about the upcoming staff training. Co-Complainant's mother reached out to offer support and any additional resources from StandWithUs multiple times but did not hear back until after the training took place.

Co-Complainant faced ongoing harassment after the November meeting. As instructed, Co-Complainant sent messages to Mr. Asmerom with screenshots of the offensive material, including one text message sent to Co-Complainant with pictures of pigs spelling out “Fuck Israel” (below) and another text from a Hillcrest student joking to another to “kill Jews.” Mr. Asmerom replied that he would get back to Co-Complainant. There is no evidence of an investigation or any follow-up from DISD after receiving these horrific reports.



On January 9, 2024, Mr. Asmerom emailed Co-Complainant, his mother, and StandWithUs representatives to state that they held a “Professional Training on Racial Autobiography and how to be an activist to fight against any form of racism, including antisemitism.” Co-Complainant’s mother requested a meeting to hear more about the training session. **At around the same time, a teacher who had attended the session informed Co-Complainant that antisemitism was only referred to once and was done with an offhand, odd joke: “Don’t be semitic!” According to the teacher, antisemitism was not otherwise discussed at the training.**

On February 6, 2024, Co-Complainant, his mother, representatives from StandWithUs, Mr. Florie, and Mr. Asmerom met again. At the meeting, Mr. Florie and Mr. Asmerom reported the following:

- Instead of focusing on antisemitism as discussed at length with Co-Complainant in the November 2, 2023, meeting and in the weeks thereafter by email, DISD’s professional development training in January had focused on “anti-racism” in general and gave staff space to share their own “racial autobiographies”;
- DISD decided not to share the educational videos about antisemitism with the students and no longer planned to focus solely on antisemitism because “that’s just one small group” and “we want to be inclusive with every student, how to be inclusive with every student no matter what ethnicity or religion, we don’t want to isolate one group”; and
- DISD “did not teach about the history of antisemitism in particular” at the professional development training “because that was not the goal.” According to Mr. Asmerom, “If we go to those individual issues, we would need more than the 3 hours.”

Co-Complainant, his mother, and StandWithUs representatives noted their surprise and confusion about this update, considering that the prior meeting very specifically ended with a promise by DISD to provide antisemitism-specific education to faculty and students in light of the specifically anti-Jewish hostile environment.

The need for education around antisemitism could not have been more clear at the November meeting. Principal Florie—who is well aware of the pervasive antisemitism in his school for years, and who has received multiple requests for meaningful education on the subject— apparently tried to justify the lack of meaningful education about antisemitism by stating (incredibly): “I literally just heard about the Holocaust Day two days ago.”

At the February meeting, Co-Complainant shared specific incidents of antisemitic harassment that he had faced since November's meeting. As of the submission of this complaint, DISD has not provided any written response to Co-Complainant's grievance or Bullying Report, nor has DISD provided any reports of any alleged investigations into the pervasive harassment and hostile environment.

III. Title VI Prohibits Discrimination on the Basis of Race, Color, or National Origin.

Educational institutions that receive federal funding are prohibited from discriminating on the bases of race, color, and national origin, pursuant to Title VI. Specifically, an educational institution that receives federal funding is prohibited from, among other actions, denying an individual any service, financial aid, or other benefit provided under the program.⁵ A school district violates Title VI and its implementing regulations if “peer harassment based on race, color, national origin, sex, or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.”⁶

If a school district becomes aware of or determines that discriminatory harassment has occurred, it is required to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. Thus, in order for OCR to find that a school district is in violation of Title VI, it must establish that:

- a hostile environment based on a protected category, such as race or national origin, existed;
- the recipient of federal funding—i.e., the school district—had actual or constructive notice of the hostile environment based on a protected category; and
- the recipient failed to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.⁷

For purposes of Title VI, discrimination based on national origin includes discrimination based on “actual or perceived shared ancestry or ethnic characteristics,” such as “Jewish descent.”⁸ According to OCR, in a January 2024 letter to the Red Clay Consolidated School District, this type of discrimination may include racial, ethnic or ancestral slurs or stereotypes, or be based on an individual's physical features, or refer to an individual's style of dress.⁹ In its recent “Title VI Fact Sheet,” OCR gives the following example of the kind of incident that could raise Title VI concerns (all of which Co-Complainant has experienced and brought to the attention of DISD):

A Jewish middle school student reports to a teacher that the student feels unsafe at school because classmates routinely place notes with swastikas on the student's backpack,

⁵ 34 CFR § 100.3(b)(1).

⁶ Office of Civil Rights Dear Colleague Letter (October 26, 2010), *available at* <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>.

⁷ OCR Letter to Red Clay Consolidated School District Regarding OCR Complaint 03231373 (January 29, 2024), *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/03231373-a.pdf>.

⁸ *Id.*

⁹ OCR Dear Colleague Letter (November 7, 2023).

perform Nazi salutes, and make jokes about the Holocaust. The teacher advises the student to ‘just ignore it’ and takes no steps to address the harassment.¹⁰

Co-Complainant has been subjected to such severe and pervasive harassment based on his shared ancestry that he has been denied the benefits to which he is entitled under Title VI. Furthermore, despite being on notice of the increasingly hostile environment for students in its schools, DISD failed to take prompt and effective steps to address it, in violation of Title VI.

IV. Applicable Definition of Antisemitism for Title VI Agencies

Pursuant to Executive Order 13899, agencies tasked with Title VI enforcement are required to utilize the International Holocaust Remembrance Alliance’s working definition of antisemitism (“IHRA definition”) to investigate potential discrimination involving antisemitism.¹¹ According to the IHRA definition:

Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

The Executive Order specifically instructs that: “It shall be the policy of the executive branch to enforce Title VI against prohibited forms of discrimination rooted in anti-Semitism as vigorously as against all other forms of discrimination prohibited by Title VI.”¹² OCR and the DOE have each reiterated their commitment to applying the IHRA definition on multiple occasions.¹³

Particularly useful for Title VI districts when investigating claims of discrimination in their schools is the IHRA definition’s list of examples of contemporary behavior that could, taking into account overall context, constitute antisemitism. These include: demonization or dehumanization of Jews; denying the Jewish people their right to self-determination; applying double standards to Israel’s behavior (*i.e.*, behavior not expected or demanded of any other

¹⁰ UOCR Fact Sheet: “Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics,” *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-shared-ancestry-202301.pdf>.

¹¹ Executive Order 13899: Executive Order on Combating Anti-Semitism (December 2019), *available at* <https://www.govinfo.gov/content/pkg/FR-2019-12-16/pdf/2019-27217.pdf>; <https://www.state.gov/defining-antisemitism/>.

¹² *Id.*

¹³ OCR Question and Answers (January 19, 2021); Department of Education Assistant Secretary for Civil Rights Catherine Lhamon’s Announcement: “OCR Releases New Fact Sheet on Title VI Protection from Discrimination Based on Shared Ancestry or Ethnic Characteristics” (January 4, 2023), *available at* <https://brandeiscenter.com/wp-content/uploads/2024/01/230104-Catherine-E.-Lhamon-official-OCR-email.pdf> (“The rise in reports of anti-Semitic incidents, including at schools, underscores the critical importance of addressing discrimination based on shared ancestry or ethnic characteristics”); OCR Dear Colleague Letter (May 25, 2023), *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/antisemitism-dcl.pdf> <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf>; OCR Dear Colleague Letter (November 7, 2023) (“As we witness a nationwide rise in reports of hate crimes and harassment, including an alarming rise in disturbing antisemitic incidents and threats to Jewish, Israeli, Muslim, Arab, and Palestinian students on college campuses and in P-12 schools, the fulfillment of school communities’ federal legal obligations to ensure nondiscriminatory environments have renewed urgency.”).

democratic nation); and drawing comparisons of contemporary Israeli policy to that of the Nazis.¹⁴

V. Applicable Definition of Bullying According to DISD Policies

According to DISD’s Bullying Policy, an act of bullying is expressly prohibited on district property. “Bullying” is defined as:

Any unwanted purposeful gesture or written, verbal, graphic, or physical act...that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, ethnicity, color, religion, ancestry, national origin, gender, sex, sexual orientation...

[and further,]

Any threatening, insulting, or dehumanizing gesture, by a student, that has the potential to create an intimidating, hostile, or offensive educational environment or cause long-term damage, cause discomfort or humiliation, or unreasonably interfere with the individual’s school performance or participation.

According to the Bullying Policy, after a student submits a report to the district about an incident of bullying, the campus principal or designee has 10 days to complete an investigation as to whether there was prohibited conduct and should “promptly take interim action calculated to prevent bullying during the course of an investigation, if appropriate.” The campus principal or designee must complete the investigation on the “Student Discipline System” and include a determination as to whether bullying occurred. If the investigation finds that bullying occurred, the campus principal shall “promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct in accordance with the district’s Student Code of Conduct.” Furthermore, the principal shall “convene the Student Support Team (SST) for the purpose of developing a plan of action/interventions for the victim and/or perpetrator, even if the district concludes that the conduct did not rise to the level of bullying under this policy.”

VI. A Hostile Environment Exists at DISD Based on National Origin.

In general, OCR will find that a hostile environment exists if—based on the totality of the circumstances—the harassing conduct is “sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by a school.”¹⁵

OCR has explained that harassment that violates Title VI “may take many forms.” It “does not have to include intent to harm,” it can be “verbal or physical,” and “it need not be directed at a particular student.”¹⁶ In the educational setting, OCR takes into account that a school has a “duty to provide a nondiscriminatory environment that is conducive to learning.”¹⁷ OCR will consider

¹⁴ <https://www.state.gov/defining-antisemitism/>.

¹⁵ OCR Dear Colleague Letter (May 25, 2023); OCR’s “Investigative Guidance on Racial Incidents and Harassment Against Students” (March 10, 1994).

¹⁶ *Id.*; OCR Dear Colleague Letter (October 26, 2010).

¹⁷ OCR’s “Investigative Guidance on Racial Incidents and Harassment Against Students” (March 10, 1994).

the frequency of incidents in addition to the gravity or “offensiveness” of the incidents in its analysis.

In a recent Title VI investigation,¹⁸ OCR determined that there was a hostile environment where a student was subjected to several incidents of harassment “on the basis of her shared Jewish ancestry,” including classmates drawing antisemitic images and language on a paper airplane and throwing it at her, using a “white supremacist hate phrase,” raising their arms in “Heil Hitler” salutes, and drawing swastikas on her desk.

Another useful example comes from the Second Circuit, which found that harassment was sufficiently severe and pervasive where (1) verbal harassment went beyond “simple acts of teasing and name-calling” because the student was repeatedly subjected to a “particularly . . . reviled epithet;” (2) the harassment included threats and physical attacks; and (3) the harassment “continued for over three and a half years.”¹⁹

The harassment faced by Co-Complainant based on his national origin has undoubtedly interfered with his ability to participate in the services and activities at Hillcrest. The reported incidents were both frequent and consistent enough for Co-Complainant to keep a multi-paged, multi-year log. The harassment went beyond simple name-calling. Classmates continuously hurled charged racial epithets at Co-Complainant without any repercussions, threatened him and wished death upon him, and consistently referred to the largest genocide in history—against people with whom Co-Complainant shares his Jewish ancestry—as a positive event.

A student’s ability to participate in or benefit from educational services will necessarily be impeded when he is deprived of an “environment free from racism and harassment.”²⁰ The evidence demonstrates an antisemitic discriminatory environment at DISD that was not at all conducive to learning and in which Co-Complainant cannot even feel safe using the restroom while in school. Co-Complainant repeatedly described feeling alone and doubtful as to whether he could rely on the administrators or teachers at the school to protect him.

VII. DISD Had Actual and Constructive Notice of the Hostile Environment.

School districts must address harassment incidents about which they know or “reasonably should have known.”²¹ A school district is on actual notice of a hostile environment if it has “actual knowledge”²² of the offensive behaviors.²³ This includes instances where a victim reports the incident to the appropriate authorities.²⁴

According to OCR guidance, a school district is considered to be on constructive notice of harassment where it “reasonably should have known about the harassment.”²⁵ “In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the

¹⁸ OCR Letter to Red Clay Consolidated School District Regarding OCR Complaint 03231373.

¹⁹ *Zeno v. Pine Plains Central School District*, 702 F.3d 655 (2d Cir. 2012).

²⁰ *Zeno*, 702 F.3d 655 (citing Hayut, 352 F.3d at 750).

²¹ OCR Dear Colleague Letter (October 26, 2010).

²² *Id.*

²³ Department of Education, Office for Civil Rights, “Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance,” Federal Register Vol. 59, No. 47 (March 10, 1994).

²⁴ *Katz v. Dole*, 709 F.2d 251 (4th Cir. 1983).

²⁵ Department of Education, Office for Civil Rights, “Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance,” Federal Register Vol. 59, No. 47 (March 10, 1994).

recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient.”²⁶ In some cases, “the pervasiveness, persistence or severity of the racial harassment may be enough to infer that the recipient [of federal funds] had notice of the hostile environment.”²⁷ For example, a school district should have reasonably known about harassment that occurs in “plain sight,” is “widespread, or well-known to students and staff, such as harassment occurring in hallways, during academic or physical education classes, during extracurricular activities, at recess, on a school bus, or through graffiti in public areas.”²⁸ In these cases, the obvious signs of the harassment are sufficient to put the school on notice.” In other situations, a school district might be put on notice of harassment, “triggering an investigation that could lead to the discovery of additional incidents that, taken together, may constitute a hostile environment.”²⁹ OCR will consider whether the school district “made a deficient effort to become aware of racial incidents” in determining whether it was on constructive notice of harassment.³⁰

Here, DISD was on actual notice of the hostile environment since at least 2021 because Co-Complainant and his mother repeatedly reported the incidents to faculty and administration. DISD was on further notice in September 2023 when it received both a formal letter on behalf of Co-Complainant and a Bullying Report directly from Co-Complainant, each detailing the pervasive antisemitic harassment. DISD also should reasonably have known about the harassment even without formal complaints because it was so pervasive, persistent, and severe. The antisemitic incidents almost always occurred in plain sight in DISD classrooms and hallways. Offensive graffiti was repeatedly found throughout the campus, including in bathroom stalls. Years of antisemitic incidents were well known enough that teachers and the principal of Hillcrest even referenced them to Co-Complainant in one-off comments.

VIII. DISD Failed to Take Prompt and Effective Steps to End the Harassment, Eliminate the Hostile Environment, and Prevent Further Harassment.

A school district that has actual or constructive notice of a racially hostile environment has a duty to take reasonable steps to eliminate it. This includes conducting an investigation of the harassment, which should be “prompt, thorough and impartial.”³¹ “If an investigation reveals that discriminatory harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment [and] eliminate any hostile environment.”³² OCR has provided additional guidance for districts, giving specific examples of “prompt and effective steps”³³ that should be tailored based on the context and extent of the harassment:

- separating the accused harasser and the target;
- providing counseling for the target and/or harasser;
- taking disciplinary action against the harasser;

²⁶ OCR Letter to Red Clay Consolidated School District Regarding OCR Complaint 03231373.

²⁷ Department of Education, Office for Civil Rights, “Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance,” *Federal Register* Vol. 59, No. 47 (March 10, 1994).

²⁸ OCR Dear Colleague Letter (October 26, 2010).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

- providing training or other interventions not only for the perpetrators, but also for the larger school community;
- issuing new policies against harassment and new procedures by which students, parents, and employees may report allegations of harassment (or wide dissemination of existing policies and procedures); and/or
- distributing the contact information for the district’s Title IX and Section 504/Title II coordinators.

“At a minimum, the school’s responsibilities include making sure that the harassed students and their families know how to report any subsequent problems, conducting follow-up inquiries to see if there have been any new incidents or any instances of retaliation, and responding promptly and appropriately to address continuing or new problems.”³⁴

In January 2024, in a letter describing its Title VI investigation of a school district, OCR emphasized that “the appropriate response to a hostile environment based on national origin must be tailored to redress fully the specific problems experienced at the school as a result of the harassment”³⁵ (emphasis added). A school district that responds to harassment in a way that is “clearly unreasonable” will be considered “deliberately indifferent to acts of student-on-student harassment.”³⁶ According to one federal appellate Court:³⁷

Deliberate indifference may be found where a defendant takes remedial action only after a lengthy and unjustifiable delay or where defendant's response was so inadequate or ineffective that discriminatory intent may be inferred. In other words, deliberate indifference requires a finding that the District's actions or inactions in response to known harassment effectively caused further harassment to occur.

Citing the Sixth and Eleventh Circuits, the Court provided further guidance: “Responses that are not reasonably calculated to end harassment are inadequate. *See, e.g., Vance v. Spencer Cnty Pub. Sch. Dist.*, 231 F.3d 253, 262 (6th Cir. 2000) (“Where a school district has actual knowledge that its efforts to remediate are ineffective, and it continues to use those same methods to no avail, such district has failed to act reasonably in light of the known circumstances.”); *Doe v. Sch. Bd. of Broward Cnty*, 604 F.3d 1248, 1261 (11th Cir. 2010) (endorsing Sixth Circuit’s approach).”³⁸

OCR, in its letter to the Red Clay School District following a Title VI investigation about antisemitism, criticized the district’s “overall poor and inconsistent record-keeping of each incident,” inconsistent and “infrequent” disciplinary responses to each incident, its apparent failure to “address the impact on the victim(s) of the alleged harassment,” and overall failure to maintain appropriate procedures to be able to “recognize the accumulation of evidence of a hostile environment.”³⁹

³⁴ *Id.*

³⁵ OCR Letter to Red Clay Consolidated School District Regarding OCR Complaint 03231373.

³⁶ *Bryant v. School District No. 1 38 of Garvin City*, 334 F.3d 928, 938 (10th Cir. 2003) (applying the Court’s analysis of what constitutes intentional sexual discrimination under Title IX to inform its analysis of what constitutes intentional racial discrimination under Title VI); *Zeno*, 702 F.3d 655 (*same*).

³⁷ *Zeno*, 702 F.3d 655.

³⁸ *Id.*

³⁹ OCR Letter to Red Clay Consolidated School District Regarding OCR Complaint 03231373.

In fact, OCR notes that even when the District did respond to one incident—by disciplining the offending student, arranging for the victim to meet with a school counselor, and holding an assembly for some students—“the hostile environment continued” for the student victim. For example, the victim student reported finding two swastikas in her classroom. Similarly, even when the district arranged for a separation of the offending students and the victim, school counseling for the victim, and safety plans created for the victim, OCR noted that it was insufficient to address the hostile environment.

The Second Circuit held that it was reasonable for a jury to find that a school district was deliberately indifferent in its response to racial harassment because:

- The District “knew that disciplining [the] harassers – through suspensions or otherwise – did not deter others from engaging . . . in serious and offensive racial conduct”;
- The harassment “grew increasingly severe” over time;
- The disciplinary actions taken by the District “had little effect, if any, on the taunting and other hallway harassment”;
- The District knew that the harassment predominantly targeted [the victim’s] race and color; and
- Multiple chapters of organizations, like the NAACP, offered the District “a free racial sensitivity training series.”⁴⁰

The Court continued to note that the District’s limited responses were particularly problematic because any minor—and often voluntary—educational program offered a general focus on bullying and sexual harassment, but failed to specifically “focus on racial bias or prejudice” despite reports of long-term racist harassment.

Here, DISD’s limited remedial actions were “little more than half-hearted measures.”⁴¹ There is no evidence that anything that DISD did “plausibly changed the culture bias [at the school] or stopped the harassment” directed at Co-Complainant.⁴²

Like the district discussed above, DISD “ignored the many signals that greater, more directed action was needed” and actively failed to implement the specific trainings and educational program requested by Co-Complainant. DISD failed again and again to conduct a proper investigation of the hostile environment, in violation of federal regulations and in further violation of its own policies. Had DISD conducted any investigation into the hostile environment, it would certainly have discovered additional antisemitic incidents that have been ignored or condoned by Hillcrest faculty. Co-Complainant and his mother have repeatedly shared with DISD and Hillcrest leadership that other Jewish students are too scared to speak up about the antisemitism they face in the district. DISD further failed to take any steps—let alone prompt or effective ones—to end the harassment and eliminate the hostile environment. DISD’s egregious response demonstrates its deliberate indifference to the harm suffered by Co-Complainant and the other Jewish students.

Moreover, DISD refuses to enforce its own clearly defined and applicable policies. Rather than address the bullying, harassment, and clear lack of education among its faculty and students

⁴⁰ *Zeno*, 702 F.3d 655.

⁴¹ *Id.*

⁴² *Id.*

around the history and dangers of antisemitism, DISD and Hillcrest have chosen to downplay the issue or deny its existence. In fact, Co-Complainant's reports were often ignored completely or simply rebuffed. Individual teachers hastily rushed to erase signs of antisemitism, like swastikas, as opposed to meaningfully addressing the issue or disciplining the offender. Even the principal, when he heard that yet another swastika was painted in a bathroom stall, rushed to have it painted over but did not take any similarly prompt steps to actually stop the antisemitism.

Co-Complainant's formal grievance report was submitted in October 2023, and there is still no evidence—five months later—that DISD or Hillcrest's principal completed an investigation, promptly responded to allegations, developed a plan of action or interventions, or did anything else to comply with DISD bullying policies.

By failing to address the antisemitic hostile environment—by ignoring it, by trying to hide it, or sometimes even by condoning it—DISD ensured that the antisemitic harassment would continue. This type of district response sent a clear message to Co-Complainant's classmates that antisemitic harassment would be met with little to no repercussions. As a result, students are not worried about any consequences for their antisemitic harassment, as evidenced by the fact that they are continuing their bigoted conduct through today. In January 2024, Co-Complainant heard a classmate say, "Israel isn't even a real country, free Palestine and fuck this Israel shit." In February 2024, one student said to another student, "The big nose kikes have done it again."

V. SUGGESTED REMEDIES

In light of the foregoing facts and the pervasively hostile environment that DISD has created and perpetuated, we respectfully request that OCR compel DISD to take the following steps and any other remedial actions that OCR deems appropriate:

- Issue a statement denouncing antisemitism in all its forms and recognizing that Zionism is a key component of Jewish identity for many DISD families;
- Ensure that the DISD community understands and recognizes antisemitic harassment and discrimination by incorporating the IHRA definition, including its guiding examples, in DISD's policy manuals, consistent with EO 13899 and the values of free speech and academic freedom, and providing training on antisemitism to DISD administrators, faculty, students and staff. The training should familiarize all members of the community with traditional as well as contemporary antisemitic stereotypes and conspiracy theories and their social and political functions, so that the DISD community will be able to better identify and respond to antisemitic incidents in the future, including those that involve Jewish shared ancestry connected to Israel;
- Provide annual training concerning antisemitism to DISD staff, including school-level administrators, who are directly involved in processing, investigating, and/or resolving DEI complaints and other reports of discrimination based on race, color, and national origin, including harassment based on Jewish shared ancestry and ethnic characteristics;
- Enforce its code of conduct indiscriminately to all students, employees, faculty members, and contractors and announce that any who engage in discriminatory or harassing conduct, including disparate treatment of Jewish students, in violation of Title VI and DISD's code of conduct, will be held accountable, including by suspension and expulsion (students) or suspension and termination (employees and contractors);

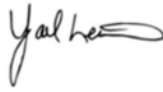
- Appoint an independent investigator to examine the campus climate for its students, faculty, and staff, with specific attention to the climate for Jewish members of the DISD community; charge the investigator with conducting a school climate survey to address the climate for students, and especially for Jewish students; and carry out such recommendations as are made by the investigator based on the survey and additional analysis, along with status updates;
- Create a Task Force comprised of Jewish students (though not the Jewish students who themselves have been antisemitic) and staff that will provide input to the DISD administration about how best to address and improve Jewish life at DISD, including how to address and ameliorate antisemitic harassment and discrimination based on shared ancestry and/or ethnicity;
- Provide an age-appropriate informational program for students at DISD to address antisemitic harassment and discrimination.

For the foregoing reasons, StandWithUs and Co-Complainant urge OCR to initiate an investigation of DISD, a recipient of federal funding, for violations of Title VI and the statute's implementing regulations.

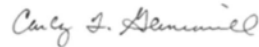
Respectfully submitted,



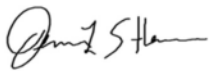
Roz Rothstein
CEO
StandWithUs



Yael Lerman
Director
StandWithUs Saidoff
Legal Department



Carly Gammill
Director
StandWithUs Center for Combating
Antisemitism



Jenna Statfeld Harris
Staff Attorney
StandWithUs Saidoff
Legal Department



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGION VI
LOUISIANA
MISSISSIPPI
TEXAS

Renaissance Tower
1201 Elm Street, Suite 1000
Dallas, TX 75270

July 15, 2024

Dr. Stephanie Elizalde, Superintendent
Dallas Independent School District
9400 N. Central Expressway
Dallas, TX 75231
Sent only via email to: selizalde@dallasisd.org

RE: OCR Complaint No. 06-24-1753
Dallas Independent School District

Dear Superintendent Elizalde:

On April 9, 2024, the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, received the above-referenced complaint against Dallas Independent School District (District). The complainant alleged the District discriminated against a student (Student) on the basis of national origin (shared Jewish ancestry) by failing to respond to incidents of harassment at Hillcrest High School (the School) during the 2023-2024 school year.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Section 2000d *et seq.*, and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the bases of race, color, or national origin, including shared ancestry, in any program or activity receiving federal financial assistance from the Department. Because the District receives federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Title VI.

OCR evaluated this complaint in accordance with OCR's Case Processing Manual (CPM). OCR is opening the following issue for investigation:

- Whether the District responded to alleged harassment of students on the basis of their national origin (shared Jewish ancestry) in a manner consistent with Title VI.

Opening an allegation for investigation does not imply that OCR has made a determination with regard to its merits. During the investigation, OCR is a neutral factfinder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegation, in accordance with the provisions of Article III of OCR's CPM.

Please note that a complaint investigation may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest in resolving the complaint and OCR determines that it is appropriate to resolve it because OCR's investigation has identified concerns that can be addressed through a resolution agreement. This resolution process is

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

voluntary, and if approved, OCR will notify the complainant of the recipient's interest in resolution. If successful, the resulting resolution agreement will be supported by the evidence obtained during the investigation and will be consistent with the applicable statute(s) and regulation(s). More information about OCR's complaint processing procedures is available at: Complaint Processing Procedures (<http://www.ed.gov/ocr/complaints-how.html>).

OCR has enclosed a request for data to initiate investigative activities. Please submit the requested data response to the OCR Dallas Office no later than 15 calendar days from the date of this letter (**by July 30, 2024**). Your full and complete response will assist OCR in resolving the complaint.

The Department's regulation implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, at 34 C.F.R. § 100.6(b) and (c), provides that a recipient of Federal financial assistance shall make available to OCR information and facilities that may be pertinent to reach a compliance determination. Pursuant to 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3) of the regulation implementing the Family Education Rights and Privacy Act, OCR also has a right to review personally identifiable records without regard to considerations of privacy or confidentiality.

After reviewing the preliminary data submitted by the District in response to the data request, OCR may seek to supplement this information through additional data requests, interviews with District personnel and students, and conduct an onsite visit, if determined necessary. You will be contacted in the near future to discuss this case.

Please be advised that the recipient (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, it 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.

If you have any questions regarding this letter, please contact me, the attorney investigator assigned to this matter, at 202-987-1522, or by e-mail at Tiffany.Gray@ed.gov, or you may contact my supervisor, Ms. Adriane Martin, at 202-453-7578 or by email at Adriane.Martin@ed.gov.

Sincerely,

(b)(6); (b)(7)(A); (b)(7)(C)

Tiffany Gray, Senior Attorney
Office for Civil Rights - Dallas Office

cc: ramsoto@dallasisd.org (General Counsel)