

From: OCR
Sent: Wed, 7 Feb 2024 15:20:45 +0000
To: OCR Chicago
Cc: (b)(6); (b)(7)(A); (b)(7)(C)
Subject: FW: [DOJ CRT Referral] (b)(6); (b)(7)(A); (b)(7)(C)

Hello OCR Chicago,

The DOJ complaint referral below is being forwarded to your office for review and appropriate handling.

Thank you,

OPEN Center Customer Service Team
Office for Civil Rights
U.S. Department of Education

From: DOJ Civil Rights - Do Not Reply <civilrightsdonotreply@mail.civilrights.usdoj.gov>
Sent: Wednesday, February 7, 2024 10:13 AM
To: OCR <OCR@ed.gov>
Subject: [DOJ CRT Referral] (b)(6); (b)(7)(A); (b)(7)(C)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



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

Attn: U.S. Department of Education - Office for Civil Rights (EOS)

The Department of Justice's Civil Rights Division has received a complaint we feel is more appropriate for your agency. Please review the following details below:

Complainant Information

The following complainant information was collected through the civilrights.justice.gov reporting portal. Information not provided by the complainant will be indicated by a "—".

Reporting Portal Record Locator

(b)(6); (b)(7)(A); —

Name

First name: (b)(6); —

Last name: (b)(6); —

Email

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

Phone

(b)(6); (b)(7)(A); —

Complainant Contact Address

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

What is your primary reason for contacting the Civil Rights Division?

Discrimination at a school, educational program or service, or related to receiving education

Does your situation involve physical harm or threats of violence?

None

Relevant details

Did this happen at a public or a private school, educational program or activity? Public

Organization name

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

Where did this happen?

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

Do you believe any of these personal characteristics influenced why you were treated this way?

-

Are you now or have ever been an active duty service member?

No

When did this happen?

(b)(6)

CRT receipt date

—/—/—

In your own words, describe what happened

I am submitting this report on behalf of my minor age son, (b)(6); (b)(7)(A); (b)(7)(C)

(b)(6)
(b)(6); (b)(7)(A); (b)(7)(C) and has an individualized education plan addressing accommodations that are needed for his disability.

On (b)(6); (b)(7)(A); (b)(7)(C) I received a call from the school he attends- (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) informing me that (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) To my knowledge, the school did not take any action against the other student nor have they taken any action that I'm aware of to (b)(6); (b)(7)(A); (b)(7)(C) or plan for (b)(6); (b)(7)(A); (b)(7)(C) safety.

(b)(6); (b)(7)(A); (b)(7)(C) which starts in the early afternoon. Another student suggested (b)(6); (b)(7)(A); (b)(7)(C)

The other student- I am told by (b)(6); (b)(7)(A); (b)(7)(C) that his name is (b)(6); (b)(7)(A); (b)(7)(C) I do not know his last name- (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) recognized this (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) and told (b)(6); (b)(7)(A); (b)(7)(C) to stop. (b)(6); (b)(7)(A); (b)(7)(C) refused to stop and then began to (b)(6); (b)(7)(A); (b)(7)(C)

This all took place in the classroom with a teacher present. I do not know the name of the teacher. (b)(6); (b)(7)(A); (b)(7)(C) told me other students witnessed (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) told me that the prior week, he had revealed that (b)(6); (b)(7)(A); (b)(7)(C) in this same class. So the student is aware that (b)(6); (b)(7)(A); (b)(7)(C)

Nobody intervened on (b)(6); (b)(7)(A); (b)(7)(C) behalf. (b)(6); (b)(7)(A); (b)(7)(C) ended up telling an adult (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) what happened. I think he told his (b)(6); (b)(7)(A); (b)(7)(C)

(b)(6); (b)(7)(A); (b)(7)(C) I received an email later that day with details of (b)(6); (b)(7)(A); (b)(7)(C) from one of the (b)(6); (b)(7)(A); (b)(7)(C)

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

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

(b)(6); (b)(7)(A); (b)(7)(C) . I do not know if the student (b)(6); (b)(7)(A); (b)(7)(C) had any consequences or (b)(6); (b)(7)(A); (b)(7)(C)

(b)(6); (b)(7)(A); (b)(7)(C) civil rights are being violated on more than one level. He is particularly (b)(6); (b)(7)(A); (b)(7)(C)

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

The school has done nothing that I know of to address this problem.

Report language

This report submitted in: English

Complainant Letter

The following is a copy of the letter sent to the complainant:

Subject: Response: Your Civil Rights Division Report - (b)(6); (b)(7)(A); (b)(7)(C) from the Educational Opportunities Section

Content:



Re: Your Civil Rights Division Complaint – (b)(6); (b)(7)(A) from the Educational Opportunities Section

Thank you for contacting the Department of Justice on January 2, 2024. We have reviewed the information you provided and have determined that the complaint raises issues that are more appropriately addressed by another federal agency. We are, therefore, referring this complaint to the following agency for further action:

U.S. Department of Education, Office for Civil Rights
(800) 421-3481; (202) 453-6012 (fax); (800) 877-8339 (TDD)
OCR@ed.gov
<https://www2.ed.gov/about/offices/list/ocr/index.html>

What you can do:

The above agency will review your complaint. While we will take no further action on this matter, you can contact the agency above to check the status of your complaint.

You also may contact your state bar association or local legal aid office to assist you with any potential state and local legal issues.

To find a local office:

American Bar Association
https://www.americanbar.org/groups/legal_services/flh-home
(800) 285-2221

Legal Services Corporation (or Legal Aid Offices)
<https://www.lsc.gov/find-legal-aid>

How you have helped:

Although we will not be acting on your complaint, your report can help us find issues affecting multiple people or communities. It also helps us understand emerging trends and topics.

Thank you for taking the time to contact the Department of Justice about your concerns.

Sincerely,

U.S. Department of Justice
Civil Rights Division

Contact

civilrights.justice.gov



U.S. Department of
Justice
Civil Rights Division
950 Pennsylvania
Avenue, NW
Washington, D.C.
20530-0001



(202) 514-3847
1-855-856-1247
(toll-free)
Telephone Device
for the Deaf
(TTY) (202) 514-
0716



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

230 SOUTH DEARBORN ST., 37TH FLOOR
CHICAGO, IL 60604

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

February 27, 2024

Dr. Josh Swanson
Superintendent
Eden Prairie Public Schools
Sent by email only to: JSwanson@edenpr.org

Re: OCR Docket #05-24-1286

Dear Dr. Swanson:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is opening for investigation the above-referenced complaint filed against Eden Prairie Public Schools (the District). The complainant alleges that the District discriminated against a student (the Student) based on his national origin (b)(6); (b)(7)(A); (b)(7)(C) and disability.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d – 2000d-7, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination based on race, color, or national origin by recipients of federal financial assistance from the Department. OCR also enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability by recipients of federal financial assistance from the Department. In addition, OCR enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-12134, and its implementing regulation at 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability by public entities. As a recipient of federal financial assistance from the Department, the District is subject to these laws. Additional information about the laws OCR enforces is available on [OCR's website](#).

OCR will investigate the following legal issues:

- Whether the District failed to respond to alleged harassment of the Student based on his national origin (b)(6); (b)(7)(A); (b)(7)(C) in a manner consistent with the requirements of Title VI; and
- Whether the District denied the Student a free appropriate public education (FAPE) in violation of Section 504 and Title II.

Please understand that opening an investigation does not mean that OCR has made a decision about the complaint. During the investigation, OCR is neutral; OCR will collect and analyze the evidence it needs in order to make a decision about the complaint.

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

OCR offers, when appropriate, a mediation process to facilitate the voluntary resolution of complaints by providing an early opportunity for the parties involved to resolve the allegation(s). Some information about the mediation process is in the enclosure to this letter.

When appropriate, a complaint may be resolved before the conclusion of an investigation after a recipient expresses an interest in resolving the complaint. In such cases, a resolution agreement signed by the recipient and submitted to OCR must address all of the allegations that OCR determines are appropriate to resolve before the conclusion of an investigation. Information about this kind of resolution is in the enclosure to this letter.

Please read the enclosed document entitled “OCR Complaint Processing Procedures,” which includes information about:

- OCR’s complaint processing procedures;
- Regulatory prohibitions against retaliation and intimidation of persons who file complaints with OCR or participate in an OCR investigation; and
- Application of the Freedom of Information Act and the Privacy Act to OCR investigations.

OCR intends to conduct a prompt investigation of this complaint. The regulation implementing Title VI, at 34 C.F.R. § 100.6(b) and (c), requires that a recipient of federal financial assistance make available to OCR information that may be pertinent to a compliance determination. This requirement is incorporated by reference in the Section 504 regulation at 34 C.F.R. § 104.61. Under the Title II regulation at 28 C.F.R. § 35.171(a)(3), OCR uses its Section 504 procedures to investigate Title II complaints. Pursuant to 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3)(iii) of the regulation implementing the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

OCR may request supplemental data and documents that are relevant to the allegations under investigation. To ensure that OCR can assess the recipient’s compliance with the statutory and regulatory obligations at issue in this investigation, please ensure that recipient employees preserve the data and documents requested below for any timeframe specified in these requests and going forward until OCR closes this case. Please also ensure that recipient employees preserve other data and documents that are relevant to the allegations under investigation until OCR closes this case.

Accordingly, OCR is requesting that you provide the following information to us within twenty-one (21) calendar days. Wherever possible, please provide the requested information in native electronic format. If responsive data are available through the internet, please provide the link to the data. Please do not provide OCR documentation or electronic information containing social security numbers (SSN); if SSN appear on a document or file that is otherwise responsive to OCR’s request, please redact the SSN before producing to OCR. Further, it would be helpful if the pages in your response are numbered.

1. The name, title, and contact information for District staff responsible for ensuring the District's compliance with Title VI and Section 504/Title II during the (b)(6); and (b)(6); (b)(7)(A); school years, including staff responsible for responding to complaints or reports alleging actions prohibited by Title VI and Section 504/Title II.
2. A copy of the District's notice of nondiscrimination. In addition, provide all existing internet links to any notice of nondiscrimination referenced in response to this item. Please also provide an explanation of where and how such notices are otherwise publicized or disseminated to students, faculty, staff, administrators, and others.
3. A copy of the District's policies prohibiting discrimination and/or harassment based on national origin (including shared ancestry) in effect for the (b)(6); (b)(7)(A); and (b)(6); (b)(7)(A); school years, and all existing internet links the policies. State how the District makes these policies available to District students, parents/guardians, staff, and others, including where such policies are published, if applicable.
4. If not included in response to request 3 above, a copy of the District's grievance procedure(s) for handling complaints of discrimination and/or harassment based on national origin (including shared ancestry) in effect for the (b)(6); and the (b)(6); school years and all existing internet links the procedure(s). State how the District makes the procedure(s) available to students, parents/guardians, staff, and others, including where such policies are published, if applicable.
5. A copy of the District's procedures for implementing IEPs for students, and the names and titles of staff at the Student's school responsible for implementing these procedures.
6. A list of all training and/or professional development offered to District staff during the (b)(6); and (b)(6); (b)(7)(A); school years regarding the District's policies related to discrimination and/or harassment based on national origin (including shared ancestry), including a description of the topics covered during the training(s) and the date of the training(s).
7. A copy of the Student's (b)(6); (b)(7)(A); complete, unredacted (b)(6); (b)(7)(A); school year, including academic records, special education records, disciplinary records, investigative notes and/or summaries, witness statements, investigative dispositions, internal correspondence between District staff, and correspondence between the Student's parent(s) and District staff of any kind, including, but not limited to text messages, emails, and records of phone contact.
8. If not included in response to request 7 above, a copy of all IEPs in place for the Student during the (b)(6); (b)(7)(A); school year.
9. For the (b)(6); (b)(7)(A); school year, a copy of all written complaints and a detailed description of all verbal complaints/reports of harassment, including complaints based on national origin (included (b)(6); (b)(7)(A); (b)(7)(C) involving the Student, that the District received in the (b)(6); school year. For each complaint/report, provide:

- a. a description of the steps taken by the District to investigate the complaint/report, including any measures the district took during the pendency of the investigation;
 - b. the District's final determination regarding the complaint/report;
 - c. a description of any steps the District took designed to remedy the discrimination or harassment and prevent its recurrence, including whether the District assessed whether the harassment of the Student resulted in a denial of FAPE and, if so, the steps the District took to remedy any such denial of FAPE;
 - d. a copy of any written materials relating to the complaint/report, including but not limited to letters, notes, e-mails, logs, witness statements, incident reports, police reports, and discipline records;
 - e. the timeline for completion of the investigation; and
 - f. the name(s) and title(s) of District staff involved in the investigation.
10. For the (b)(6); (b)(7)(A); and (b)(6); school years, a copy of all written complaints and a detailed description of all verbal complaints/reports of national origin (including shared ancestry) discrimination or harassment the District received. For each complaint/report, provide:
- a. a description of the steps taken by the District to investigate the complaint/report, including any measures the district took during the pendency of the investigation;
 - b. the District's final determination regarding the complaint/report;
 - c. a description of any steps the District took designed to remedy the discrimination or harassment and prevent its recurrence;
 - d. a copy of any written materials relating to the complaint/report, including but not limited to letters, notes, e-mails, logs, witness statements, incident reports, police reports, and discipline records;
 - e. the timeline for completion of the investigation; and
 - f. the name(s) and title(s) of District staff involved in the investigation.
11. A copy of all written communications between the District and the Student's parent(s) during the (b)(6); (b)(7)(A); school year pertaining to the implementation of the Student's IEP.
12. A copy of all written communications between and among District staff during the (b)(6); (b)(7)(A); school year pertaining to the implementation of the Student's IEP.
13. The dates and notes from any IEP meetings held for the Student during the (b)(6); school year, and a description of all attempts made by the District to convene IEP meetings, including after (b)(6); (b)(7)(A); (b)(7)(C)

14. A list of all District staff responsible for the implementation of the Student's IEP during the (b)(6); (b)(7)(A); (b)(7)(C) school year and the individual's role in the implementation.
15. The District's written response to the issues opened for investigation, and any additional information the District would like OCR to consider.

Thank you for your cooperation in this matter. In addition to the information requested above, OCR may need to request additional information and interview relevant personnel. If an on-site visit is necessary, we will work to schedule a mutually convenient time for the visit.

Please notify OCR of the name, email address, and telephone number of the person who will serve as the District's contact person during the processing of this complaint. We would like to talk with this person as soon as possible to discuss the processing of this complaint.

OCR is committed to prompt and effective service. If you have questions about this letter, you may contact Roberto Flores at Roberto.Flores@ed.gov.

Sincerely,

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

Melissa Katt
Supervisory Attorney

Enclosure