



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS – DISTRICT OF COLUMBIA OFFICE

November 2, 2011

Ms. Jerri Katzerman
Director of Educational Advocacy
Southern Poverty Law Center
400 Washington Ave.
Montgomery, AL 36104

Re: OCR Complaint No. 11-11-1224
Resolution Letter

Dear Ms. Katzerman:

This letter is to inform you of the disposition of the complaint that you (the complainant) filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on April 28, 2011, against Durham Public Schools (the District). The complaint was filed on behalf of limited English proficient (LEP) parents and guardians in the District, as well as on behalf of a number of Latino students at three different schools in the District. The complaint raised the following allegations:

Allegation 1: The District discriminates against limited English proficient (LEP) parents and/or 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.

Allegation 2: The District discriminated against Latino students at Northern High School (Northern) on the basis of national origin when teachers engaged in ethnic name calling.

Allegation 3: The District discriminated against Student A, a Latino and LEP student enrolled at Northern when a teacher verbally and physically harassed Student A based on national origin.

Allegation 4: The District discriminated against a group of Latino students at Rogers-Herr Middle School on the basis of national origin when a substitute science teacher singled them out and videotaped them.

Allegation 5: The District discriminated against Student B, a student of Hispanic origin, on the basis of national origin by requiring her to produce a passport and immigrant visa in order to enroll in Hillside High School.

OCR initiated an investigation of the complaint under its authority to enforce Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, at 34

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

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 District receives federal financial assistance from the Department and therefore is subject to the provisions of Title VI.

The Title VI implementing regulations, at 34 C.F.R. §100.3(a) and (b), provide that a recipient of Federal financial assistance may not, directly or through contractual or other arrangements, on the ground of race, color or national origin, exclude persons from participation in its programs, deny them any service or benefits of its programs, or provide any service or benefit which is different or provided in a different manner from that provided to others. Section 100.3(b)(2) provides that, in determining the types of services or benefits that will be provided, recipients may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin.

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 that school districts 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.

National origin-based harassment of a student by a teacher or other school employee can be discrimination in violation of Title VI. If harassing conduct based on a student’s national origin is sufficiently serious (severe, persistent or pervasive) that it interferes with or limits a student’s ability to participate in or benefit from a school’s program, it creates a hostile environment and may be prohibited by Title VI. Schools are responsible for taking prompt and effective action to stop the harassment and prevent its recurrence. A school also may be responsible for remedying the effects of the harassment on the student who was harassed.

During the course of OCR’s investigation, the complainant and the District reached an agreement, and the complainant withdrew the individual allegations. The District expressed a willingness to resolve the remaining class issues in the complaint. Pursuant to Section 302 of OCR’s Case Processing Manual, OCR discussed resolution options with the District. On November 1, 2011, the District signed the enclosed agreement which, when fully implemented, will resolve the concerns identified regarding this complaint. The provisions of the agreement are aligned with the issues raised in the complaint, information obtained during the course of OCR’s investigation, and are consistent with the applicable regulations. OCR will monitor implementation of the agreement.

OCR has reminded the District that it may not harass, coerce, intimidate, or discriminate against any individual because that individual filed a complaint or participated in the complaint resolution process. If this happens, an individual may file another complaint alleging such treatment. 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, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

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

We appreciate your cooperation and patience throughout the resolution of this complaint. If you have any questions, please feel free to contact Martha Russo at (214) 661-9622 or Martha.Russo@ed.gov, Sara Clash-Drexler at (202) 453-5906 or Sara.Clash-Drexler@ed.gov, or Sebastian Amar at (202) 453-6023 or Sebastian.Amar@ed.gov.

Sincerely,



Olabisi L. Okubadejo
Team Leader
District of Columbia Office
Office for Civil Rights

Enclosure