



UNITED STATES DEPARTMENT OF EDUCATION

**OFFICE FOR CIVIL RIGHTS
ADMINISTRATIVE COMPLAINT**

January 3, 2023

United States Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Via Email: OCR@ed.gov

To Whom It May Concern:

This is a federal civil rights complaint pursuant to the U.S. Department of Education's (Department) Office for Civil Rights' (OCR) discrimination complaint resolution procedures.

Parents Defending Education (PDE) brings this complaint against Portland Public Schools in Portland, Maine for discrimination on the basis of race, color or national origin in programs or activities that receive Federal financial assistance in violation of both Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

PDE makes this complaint as an interested third-party organization that opposes racial discrimination and political indoctrination in America's schools. Attached to this complaint is supporting evidence in the form of the district's Human Resources page on Affinity Groups (Exhibit A), which promotes the district's "BIPOC Community Circle", which can also be found online at <https://www.portlandschools.org/departments/human-resources/hr-team/affinity-groups>

This exhibit reveals that Portland Public Schools' "BIPOC Community Circle" is only open to staff of specific ethnicities ("The BIPOC Community Circle welcomes all Black, Indigenous, Asian, Middle-Eastern, Latinx, and mixed race staff members," Ex. A at 2). The program description does not make participation in this affinity group open to all.

Indeed, the site's link to the article "[Why People of Color Need Spaces without White People](#)" serves to further underscore that not all staff members would be welcome – and that this exclusion would be based solely on an individual's race. (Ex. A at 2)

The website also notes that staff who participate in this program receive additional benefits on the basis of race which do not appear to be offered to all staff members ("We hold regular social gatherings and provide career pathways support and emotional support and advocacy." Ex. A at 2.)



As the Department of Education is no doubt aware, segregation on the basis of race raises concerns that Portland Public Schools has received federal funds in violation of Title VI of the Civil Rights Act of 1964, which declares that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

In addition, Section 1 of the 14th Amendment to the U.S. Constitution asserts that “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” On these grounds, the Supreme Court held in 1954 that racial segregation of students is unconstitutional. *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

A September 29, 2015 decision from the Department of Education Office for Civil Rights during the Obama Administration is directly on point; in 2015, following “the police actions involving African American victims in Ferguson and New York and subsequent events,” Oak Park & River Forest High School District 200 held a “Black Lives Matter” assembly during Black History Month. The assembly was convened “for African American students only” because the district wanted “to provide a comfortable forum for black students to express their frustrations.” Certain students “who self-identified as white were directed by District officials not to participate in the event as this assembly was designed for students who self-identify as black.” In the letter sent on September 29, 2015 (OCR Docket #05-15-1180), OCR found that the district violated the Equal Protection Clause and Title VI because the district’s actions could not withstand strict scrutiny. Specifically, the district failed to “assess fully whether there were workable race-neutral alternatives” and “did not conduct a flexible and individualized review of potential participants.” In a Resolution Agreement with OCR, the district agreed that its programs and activities would be “open to all students . . . regardless of their race” and to adopt policies and training to ensure the district’s compliance. OCR imposed these requirements even though the district had promised “not to hold such events in the future.”

Accordingly, we ask that the Department promptly investigate the allegations in this complaint, act swiftly to remedy unlawful policies and practices, and order appropriate relief.

Thank you for your prompt assistance with this request for investigation and resolution.
Please contact me for further information.

Sincerely,

Nicole Neily
President
Parents Defending Education

Enc. Exhibit A



EXHIBIT A



12/22/22, 6:18 PM

Affinity Groups - Portland Public Schools

AFFINITY GROUPS

Staff who are **BIPOC** (Black, Indigenous, and other People of Color) and/ or **LGBTQ+** (Lesbian, Gay, Bisexual, Transgender, Queer, Questioning and other related identities) are shaped by our diverse and intersectional identities. We bring these identities into our schools and the district.

PPS seeks to create opportunities for shared identity groups to help reflect, process, and connect with colleagues with shared experience.

Why Affinity Groups?

Check out these articles to better understand the importance of these spaces:

[Skip To Main Content](#)

<https://www.portlandschools.org/departments/human-resources/hr-team/affinity-groups>

1/4



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Affinity Groups - Portland Public Schools

SEPARATISM ([HTTPS://PAULKIVEL.COM/RESOURCE/SEPARATISM/](https://paulkivel.com/resource/separatism/))

**WHY PEOPLE OF COLOR NEED SPACES WITHOUT WHITE PEOPLE
([HTTPS://ARROW-JOURNAL.ORG/WHY-PEOPLE-OF-COLOR-NEED-SPACES-WITHOUT-WHITE-PEOPLE/](https://arrow-journal.org/why-people-of-color-need-spaces-without-white-people/))**

**HOW THE LGBTQ COMMUNITY FARES IN THE WORKPLACE
([HTTPS://WWW.MCKINSEY.COM/FEATURED-INSIGHTS/DIVERSITY-AND-INCLUSION/HOW-THE-LGBTQ-PLUS-COMMUNITY-FARES-IN-THE-WORKPLACE](https://www.mckinsey.com/featured-insights/diversity-and-inclusion/how-the-lgbtq-plus-community-fares-in-the-workplace))**

BIPOC Community Circle

The BIPOC Community Circle welcomes all Black, Indigenous, Asian, Middle-Eastern, Latinx, and mixed race staff members.

This group began in 2017. We hold regular social gatherings and provide career pathways support and emotional support and advocacy. Reach out to our Director of BIPOC Career Pathways and Leadership Development for more information:

CONTACT JULIA HAZEL ([MAILTO:](mailto:))

[Skip To Main Content](#)

<https://www.portlandschools.org/departments/human-resources/hr-team/affinity-groups>

2/4



“There are many reasons people congregate. Safety, shared interests and mutual support are primary ones.”

-Paul Kivel

Separatism (<https://paulkivel.com/resource/separatism/>)

[Skip To Main Content](#)



LGBTQ+ Affinity Group

The LGBTQ+ Affinity Group is a space for all staff with these varied identities. We recognize that LGBTQ+ staff have a range of experiences including not being out to their school or workplace within the district. We hold regular social gatherings. Reach out to our Director of Diversity, Equity, and Inclusion for more information:

CO
(MAILTO: [REDACTED])