



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD., SUITE 310
DENVER, CO 80204-3582

REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

January 13, 2023

Nicole Neily
Parents Defending Education

[REDACTED]
[REDACTED]

By email only to [REDACTED]

Re: OCR Complaint No. 08-22-1601
Jefferson County School District R-1

Dear Ms. Neily:

The United States Department of Education (Department), Office for Civil Rights (OCR), has completed its evaluation of the above-referenced complaint that you filed against the Jefferson County School District R-1 (District) on September 16, 2022. The complaint alleges that the District discriminated by excluding employees on the basis of race, color, and national origin:

1. when it advertised, planned, and hosted several “Employees of Color Gatherings” during the 2022-23 school year; and
2. included provisions in its “Master Negotiated Agreement” with the Jefferson County Education Association (JCEA) (Master Agreement) about: “actively recruit[ing] individuals of color and other underrepresented groups for the Equity Ombuds position”; “strongly encourag[ing] individuals from historically underrepresented groups to apply for the position”; and creating “safe space[s]” for educators of color to meet and support each other, a “1:1 mentorship program for educators of color in the District to be mentored by more experienced educators of color,” and programs to support “current educators of color” to obtain “leadership licenses” and “gain employment in administration and leadership roles.”

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, and national origin under any program or activity receiving Federal financial assistance. As a recipient of Federal financial assistance from the Department, the District is subject to Title VI.

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

In support of your allegations, you attached a copy of a flyer and the Master Agreement to your complaint to OCR. The flyer describes the events as “Employees of Color Gatherings: A way to connect with other people of color while finding ways to learn, advocate and support equity and diversity in [the District].” While the flyer indicates that “kids and pets” are welcome, it is neither addressed to, nor designed for students attending school in the District. The title demonstrates that the Flyer’s intended audience is District employees.

Further, the Master Agreement outlines the decisions negotiated and agreed upon between the District and the JCEA. The provisions of the Master Agreement raised in the complaint (i.e., Sections 22-2-1-C, 22-2-1-D, 22-2-1-E, and 22-3) address opportunities and programming designed for District employees. A review of the Master Agreement establishes that its primary purpose is to govern the District’s employment practices. Following the Preamble, the Agreement outlines 26 articles that address the District’s and its employees’ expectations and conduct, ranging from recruitment, hiring, staffing, retaining, and displacement to remote instruction.

Under Section 110(l) of OCR’s *Case Processing Manual* (CPM), OCR may close or dismiss an allegation if OCR transfers or refers the allegation to another agency for investigation.¹ OCR has authority to investigate Title VI claims of discrimination against employees in instances where a primary objective of the Federal funds received by the institution is to provide employment or where the alleged discrimination tends to deny equality of opportunity to beneficiaries (i.e., students) on the basis of race, color, or national origin. 34 C.F.R. 100.3(c). OCR has determined that these circumstances do not apply to your complaint based on the information provided in your complaint, the scope of its allegations, its attachments, and the absence of alleged discrimination tending to deny opportunities to student beneficiaries. The United States Equal Employment Opportunity Commission (EEOC) may have authority to investigate your complaint under Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the bases of race, color, national origin, sex, and religion. Accordingly, OCR is dismissing this complaint under Section 110(l) of the CPM and is referring your complaint to the EEOC for handling.

Please note that EEOC may advise you that you need to provide additional information to the EEOC to file an EEOC charge of discrimination. Information about EEOC’s charge filing process, including important filing deadlines, and a link to the EEOC’s online process may be found at EEOC’s website at <https://www.eeoc.gov/filing-charge-discrimination>. The EEOC may also be reached at 1-800-669-4000; 1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only); or 1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only).

¹ The CPM (July 18, 2022) can be found at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

If you have any questions about your complaint, you may contact the EEOC at:

U.S. Equal Employment Opportunity Commission
Denver Field Office
950 17th Street, Suite 300
Denver, CO 80202

Please note that OCR has made no determination as to whether your complaint states an actionable and timely claim of employment discrimination. The EEOC will consider the complaint to be received on the date that OCR received it, unless the EEOC received a similar complaint from you earlier.

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.

OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a separate retaliation complaint with OCR.

Under the Freedom of Information Act (FOIA), 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, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

If you have any questions, please contact Colleen Brooks, the attorney assigned to this complaint, at 303-844-0196, or by email at Colleen.Brooks@ed.gov.

Sincerely,



Michael D. Todd
Supervisory Attorney