



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION III
DELAWARE
KENTUCKY
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PENNSYLVANIA
WEST VIRGINIA

November 12, 2024

VIA EMAIL ONLY

Ms. Nicole Neily, President
Parents Defending Education
[REDACTED]

Re: OCR Complaint No. 03-22-1289

Dear Ms. Neily:

On May 17, 2022, the U.S. Department of Education, Office for Civil Rights (OCR), received the complaint you filed against the Avonworth School District. You allege that the District discriminates against students and employees on the basis of race. Specifically, you allege that:

1. The District is discriminating against students on the basis of race in its education program; and
2. The District is discriminating against staff on the basis of race in its hiring practices.

OCR enforces 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, or national origin by recipients of federal financial assistance. As a recipient of federal financial assistance from the U.S. Department of Education, the District is subject to this law.

After carefully reviewing the information you provided, OCR has determined that we will not investigate your complaint for the reasons explained below.

As to Allegation 1, in accordance with Section 108(d) of OCR's Case Processing Manual (CPM), available at <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/ocrcpm.pdf>, OCR will dismiss an allegation when it lacks sufficient factual detail (e.g., who, what, where, when, how) for OCR to infer that discrimination or retaliation may have occurred or may be occurring. In your complaint, you reference statements contained in an equity audit that an outside organization conducted for the District regarding equity in student programs. On June 9, 2022, OCR sent you an email, explaining the information we needed to open an investigation of the complaint. We requested information about unspecified racial disproportionalities you referenced in your complaint and any students whom the District treated differently due to race. Your response dated June 22, 2022, did not provide the information we requested. Instead, you referred OCR to the firm that conducted the District's equity audit as a source for this information. Because you did not provide sufficient detail to support Allegation 1, OCR is dismissing it pursuant to Section 108(d) of the CPM, effective the date of this letter.

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

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Regarding Allegation 2, under Section 110(l) of the CPM, OCR may close or dismiss an allegation if OCR transfers or refers the allegation to another agency for investigation. 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. In our email dated June 9, 2022, OCR requested information about how any racially discriminatory hiring practices impacted students, but you did not respond to this question.

The United States Equal Employment Opportunity Commission (EEOC) may have authority to investigate your allegation 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 Allegation 2 under Section 110(l) of the CPM and is transferring Allegation 2 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>.

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

Deborah Kane, Area Director
Pittsburgh Field Office
Equal Employment Opportunity Commission
pittsburghareaoffice@eeoc.gov

William S. Moorhead Federal Building
1000 Liberty Avenue, Suite 1112
Pittsburgh, PA 15222

Phone: 1-800-669-4000

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 transfer to the EEOC concludes OCR's consideration of Allegation 2, which OCR is dismissing as of the date of this letter under Section 110(l) of the CPM.

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.

You have a right to appeal OCR's determination concerning Allegation 1 within 60 calendar days of the date indicated on this letter. An appeal can be filed electronically, by mail, or fax. You must either submit a completed online form at <https://ocras.ed.gov/content/ocr-electronic-appeals-form>, or mail a written statement of no more than ten (10) pages (double-spaced, if typed): if submitted by mail, please send to the Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202. If submitted via e-mail, send to OCR@ed.gov; if submitted via fax, please send to 202-453-6012. The filing date on an appeal is the date the appeal is postmarked, submitted electronically or submitted via fax. In the appeal, you must explain why you believe the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would result in the case being opened for investigation; failure to do so may result in dismissal of the appeal.

We notified the District of the transfer of Allegation 2 to the EEOC. 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, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

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 personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, please contact me at 215-656-8554 or andrea.delmonte@ed.gov.

Sincerely,



Andrea L. DelMonte
Team Leader
Philadelphia Office
Office for Civil Rights