



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS  
SOUTHERN DIVISION, DALLAS OFFICE

MAY 25 2006

Ref: 06031046



John Hardwick, Jr., Ed. D., Superintendent  
Beeville Independent School District  
2400 North Saint Mary's Street  
Beeville, Texas 78102-2494

Dear Dr. Hardwick:

This letter is to inform you of the determination of the U.S. Department of Education, Office for Civil Rights (OCR), Southern Division, Dallas Office, regarding the resolution of the above referenced complaint, which was filed on November 5, 2002. The Complainant alleged that the Beeville Independent School District (BISD), Beeville, Texas, discriminated against students on the bases of race (black). Specifically, OCR investigated the issues of: 1) whether the BISD treated black students differently in the implementation of its dress code and discipline policies, practices and procedures; and 2) whether the BISD subjected black students to a racially hostile environment by failing to take prompt and effective action in response to notices of incidents of racial harassment.

This agency is responsible for determining whether organizations that receive or benefit from Federal financial assistance from the Department or an agency that has delegated investigative authority to this Department are in compliance with 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. Title VI prohibits discrimination on the bases of race, color and national origin. The BISD is a recipient of Federal financial assistance from the Department. Therefore, OCR has jurisdictional authority to process this complaint for resolution under Title VI.

The Title VI regulation, at 34 C.F.R. § 100.3(a) states that no person shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program subject to this regulation. Harassment of students based on race, color or national origin is a form of discrimination prohibited by Title VI. Racial harassment (which can include verbal, written, graphic or physical conduct) by an employee, by another students, or by a third party must be sufficiently severe, persistent or pervasive to limit a student's ability to participate in or receive benefits, services of the institution's/school's program). A recipient that has notice of the alleged racially hostile environment must take appropriate steps to address and adequately respond to the racially hostile environment, i.e., take prompt and effective action calculated to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects. A conclusion of noncompliance under Title VI could be found if a recipient has effectively caused, encouraged, accepted, tolerated or failed to correct a racially hostile environment of which it has notice.

During the case resolution process, OCR obtained and analyzed information provided by the complainant and the BISD, including pertinent school district policies and procedures, student disciplinary records, and reports regarding incidents of a racial nature. In addition, OCR conducted interviews with the complainant, the AIP, BISD administrators and teachers, and student witnesses. In addition, OCR conducted an on-site visit to the BISD on September 10-12, 2003. As a result of our investigation, OCR determined that there is insufficient information to support a violation of Title VI regarding the issues raised in the complaint. The bases for OCR's determinations are set forth below.

**Issue 1:** Whether the BISD treated black students differently in the implementation of its dress code and discipline policies, practices and procedures

The complainant alleged that the BISD treated black students differently in the implementation of its discipline policies, practices and procedures by sanctioning them more severely than non-black students committing similar violations of the dress code policy.

The investigation disclosed that the BISD has in place discipline policies, practices, and procedures regarding its dress code, which is found in the BISD's Student Handbook. The dress code policies state in part: "If the principal determines that a student's grooming violates the dress code, the student shall be given an opportunity to correct the problem at school. If not corrected, the student shall be assigned to in-school suspension for the remainder of the day or until the problem is corrected. However repeated dress code offenses may result in more serious disciplinary action. Appropriate discipline procedures shall be followed in all cases."

OCR established that the total BISD student population, by race/ethnicity, for the 2002-2003 school year was 3,790 students enrolled in 7 schools. Of the 3,790 students, 132 were black (4%), 2,775 were Hispanic (73%), 859 were white (22%), and the remaining 24 were comprised of Native Americans, Asian/Pacific Islanders and others (1%). The investigation disclosed that for the 2002-2003 school year, the BISD reported a total of 203 violations of the dress code policies. Our analysis of the disciplinary data revealed that of the 203 disciplinary sanctions reported, 131 were assessed against Hispanic students (65%), 62 were assessed against white students (30%), 9 were assessed against black students (4%) and 1 disciplinary sanction was imposed on others (<1%). The analysis revealed no significant statistical disparities in the number of disciplinary sanctions related to dress code violations between the racial/ethnic groups.

The analysis indicated that for dress code violations, there were eight (8) types of disciplinary sanctions imposed. The disciplinary sanctions consisted of the following: imposing in-school suspension, issuing a warning, calling parents, assigning detention, making the student change clothing, making the student shave, referring the student to the assistant principal, and imposing out of school suspension. A review of disciplinary data for dress code violations during the 2002-2003 school year, revealed that varying types of sanctions were imposed across racial and ethnic categories for those students committing dress code offenses. Additionally, OCR's analysis of the disciplinary data showed that sanctions imposed were based on factors such as the nature of the offense and previous related dress code disciplinary offenses. The analysis of the disciplinary records related to dress code violations further found no information indicating a

pattern of different treatment based on the race or national origin of the students. Further, the data does not indicate that a disproportionate number of black students were disciplined for dress code violations during the 2002-2003 school years in comparison to the non-black student population for the same or similar violations. Based on this information, OCR has determined that there is insufficient information to show a violation of Title VI regarding this allegation.

**Issue 2:** Whether the BISD subjected black students to a racially hostile environment by failing to take prompt and effective action in response to notices of incidents of racial harassment.

The complainant alleged that the BISD perpetuated a racially hostile environment against black students when the BISD failed to take action regarding incidents of racial harassment.

OCR investigated multiple incidents that formed the factual bases for the complainant's belief that a hostile environment, based on race and national origin existed. The alleged incidents consisted of the following: A) a coach telling racial jokes; B) an English teacher giving an assignment for a paper on "What a Nigga means to you."; C) Hispanic students subjecting black students to racial slurs while riding on the school bus; and D) the school bus driver subjecting black students to racial harassment.

Harassment of students based on race or national origin is a form of discrimination, prohibited by Title VI and its implementing regulation. Hostile environment harassment that is based on race or national origin (which can include verbal, written, graphic or physical conduct) by an employee, by another student, or by a third party must be sufficiently severe, persistent or pervasive to limit a student's ability to participate in or receive benefits, services or opportunities in the institution's program. If OCR establishes that harassing conduct occurred and that the district had notice of the harassment, OCR will examine additional factors to make a determination of whether a hostile environment, based on race or national origin, exists and whether the district took prompt and effective action to stop the harassment, prevent its recurrence and remedy its effects.

OCR investigated multiple incidents that formed the factual bases for the complainant's belief that a hostile environment, based on race, existed. The alleged incidents are as follows:

**Incident A:**

The complainant alleged that another parent informed her that their son, AIP #1, who was involved in sports activities at the BISD high school, was subjected to a coach making racial jokes about blacks during the 2001-2002 and 2002-2003 school years. OCR interviewed AIP #1 who stated that on one occasion in 2002 the coach who used the racial slur, "nigger", while telling a joke in his presence, made him "feel uncomfortable." However, AIP #1 stated to OCR that he would not provide the name of the coach because he did not believe the coach was a "racist" and did not want the coach to get in trouble. AIP #1 further stated that the coach had never treated him differently based on his race. AIP #1 would not provide the date of the incident, nor any other details regarding the incident such as any other students who

could have been present during the incident, nor did he report the incident to any official of the BISD. Based on the absence of any information that could corroborate that this incident occurred, OCR was unable to establish that this incident occurred as alleged.

**Incident B:**

The complainant alleged that in the spring of 2002, a white high school teacher offered extra points for writing an essay, entitled, “What a Nigga means to you”. The complainant stated that in March 2002, she reported the incident to the assistant superintendent; however, she alleged that the school officials failed to take action.

OCR interviewed administration officials regarding this incident. Information from the interviews showed that the matter was brought to the superintendent’s attention in May 2002, approximately two months later than alleged by the complainant. There was no documentation to show when notice was given to administration officials. According to the high school principal, he was informed by the superintendent that the complainant had made an allegation that a teacher at his school had instructed a class to write an essay entitled, “What A Nigga means to you” and was instructed to investigate the matter. The principal indicated that prior to the superintendent’s conversation with him he was unaware of the assignment and had not received a complaint from any parent or student at the school about the essay assignment. The principal further stated that at the time the incident was brought to his attention, the teacher who was responsible for the assignment had already resigned employment in May 2002. However, the principal stated that he confirmed that the assignment had been given as reported. In an effort to avoid the recurrence of such an assignment, he spoke to staff members during in-service at the beginning of the 2002-2003 school year regarding racial sensitivity and informed them that the “n-word” would not be tolerated in any form. Interviews conducted with staff members confirmed that the principal discussed the matter during the in-service training.

**Incident C:**

The complainant alleged that black students were being subjected to racial slurs on the bus by Hispanic students, and in spite of reporting the name calling incidents, BISD officials had taken no action to address the racial slurs. The complainant alleged that specifically on May 9, 2002, on the school bus, a Hispanic student called the complainant’s daughter, (AIP #2) a “nigger” and on May 22, 2002 on the school bus, another Hispanic student called AIP #2 a “nigger bitch”. The complainant stated that she reported both incidents to the principal and that on May 24, 2002, the principal met with her and AIP #2 and told them that if the name calling were to continue, the offending students would be disciplined and moved to another bus.

OCR interviewed the principal of FMC Elementary School who indicated that the complainant had reported that racial slurs occurred on the bus in May 2002, and that she spoke with AIP #2 and obtained the names of the students who made the comments and disciplined them according to the FMC’s discipline policies. However, OCR could not verify what actions were taken by the principal in regard to the students involved in the name calling because a virus had contaminated the schools computer system and there were no other discipline records available. Furthermore, the complainant did not provide information to verify the names of the students

involved. However, the principal stated that she addressed the zero tolerance enforcement of the school's discrimination and harassment policies with the staff at faculty and staff meetings held in April and August 2002, which was verified from staff and faculty interviews. Based in the above, OCR was unable to establish that the incidents occurred as alleged by the complainant.

**Incident D:**

The complainant alleged that a school bus driver, subjected black students to racial harassment, while transporting them to and from school during the 2001-2002 school year. According to the complainant, a black student, AIP #3, was "kicked" by the bus driver on May 20, 2002, and that the AIP #2, was cursed by the bus driver on May 27, 2002, when she bent down to pick up a coin from the floor of the bus. The complainant stated that she and the parent of the AIP #3 reported the kicking incident to the principal of FMC Elementary School, the BISD's transportation supervisor, and the assistant superintendent on May 21, 2002. According to the principal and transportation supervisor, as part of the investigation into the complainant's allegation, they viewed a videotape of the students on the bus and determined that the bus driver accidentally hit her with his foot when the AIP #3 came up behind him. OCR could not confirm the contents of the videotape because the contents were taped over. According to the BISD, the video showed that the bus driver had allegedly used inappropriate language towards the AIP #2 and other black students on the bus. OCR attempted to verify the bus driver's conduct and asked for witnesses to the incidents from the complainant; however, the complainant did not provide the names of witnesses. OCR obtained information from BISD that showed that the bus driver involved in the verbal harassment resigned after he was confronted by the transportation supervisor with the allegations of his conduct.

Based on the information reviewed, OCR determined that the information was insufficient to show that the BISD treated black students differently in the implementation of its dress code and discipline policies, practices and procedures. In addition, with regard to the allegation of a racially hostile environment, the investigation revealed that of the four incidents that served as the bases for the complainant's allegation, OCR could not confirm that incidents A and C occurred as alleged. Furthermore, with regard to incidents B and D, OCR determined that the actions taken by BISD were appropriate to address and respond to the allegations of racial harassment.

Therefore, OCR determined that there was insufficient evidence to support a conclusion of noncompliance with Title VI. OCR considers this case resolved as of the date of this letter. This letter is not intended, nor should it be construed to cover any other issues regarding compliance or non-compliance with Title VI that may exist and are not specifically discussed herein.

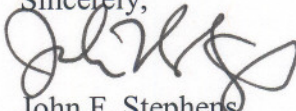
Under OCR procedures we are obligated to advise the Complainant and the institution against which a complaint is filed that intimidation or retaliation against a Complainant is prohibited by regulations enforced by this agency. Specifically, the regulations enforced by OCR, directly or by reference, state that no recipient or other person shall intimidate, threaten, coerce or

discriminate against any individual for the purpose of interfering with any right or privilege secured by regulations enforced by OCR or because one has made a complaint, testified, assisted or participated in any manner in an investigation, proceedings or hearing held in connection with a complaint.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

We appreciate the cooperative manner in which you and your staff worked with our Office in resolution of this complaint. If you have any questions or concerns regarding this or other civil rights related matters, please contact me at (214) 661-9651 or Treslyn Patterson, Equal Opportunity Specialist at (214) 661-9645.

Sincerely,



John F. Stephens  
Compliance Team Leader  
Office for Civil Rights  
Southern Division, Dallas Office