



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV

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ATLANTA, GA 30303-8927

REGION IV

ALABAMA
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November 14, 2022

SENT VIA EMAIL: shields@shieldslawllc.com

Ms. Sharese Shields, Esq.
235 Peachtree Street, NE, Suite 400
Atlanta, Georgia 30303

Re: OCR Docket No. 04-21-1375

Dear Ms. Shields:

On July 25, 2021, the U.S. Department of Education, Office for Civil Rights (OCR), received the above-referenced complaint that you filed against Atlanta Public Schools (District) alleging discrimination based on race and retaliation. You filed the complaint on behalf of your clients, Mrs. Kila Posey, who owns a company that provides after-school programs at some District schools; Mr. Jason Posey, who was a counselor at Mary Lin Elementary School (School 1) until August 2021; and the Poseys' daughter, Parker Posey, a third-grade student at School 1. This letter will refer to Mrs. Posey as Client 1, Mr. Posey as Client 2 and the Poseys' daughter as the Student.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100 which prohibit discrimination on the basis of race, color, or national origin by recipients of Federal financial assistance from the Department of Education. Title VI also prohibits retaliation. As a recipient of Federal financial assistance from the Department of Education, the District is subject to Title VI and to OCR's jurisdiction.

Client 1 alleged that during at least the 2019-2020 and 2020-2021 school years, the principal at School 1 assigned Black students to second-grade and third-grade classes based on race. Client 1 stated that on March 23, 2021, two District associate superintendents acknowledged to Client 1 that during the 2020-2021 school year the principal had assigned students to classes based on race. Client 1 also said that the associate superintendents stated that the principal would no longer be allowed to make unilateral decisions when assigning students to classes. However, Client 1 told OCR that the second-grade students remained in their previously assigned classes until the end of the 2020-2021 school year.

Additionally, Client 1 alleged that she complained in August 2020 to the assistant principal at School 1 and in November 2020 to other District staff about the principal assigning students to second-grade and third-grade classes based on race. Client 1 alleged that because of the internal complaints, and the instant OCR complaint, the District engaged in retaliation, including through the following acts:

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(1) In October 2020, November 2020, and towards the end of the 2020-2021 school year, the principal requested that Client 2's supervisor remove him from School 1 as a school counselor.

(2) In May 2021, the Springdale Park Elementary School (School 2) principal told Client 1 that her contract for providing an after-school program at School 2 would not be renewed for the 2021-2022 school year.

(3) On August 10, 2021, a school employee filed a complaint with the District's Office of Employee Relations against Client 2 alleging employee wrongdoing because he recorded telephone conversations with the school employee, and the District is investigating the complaint.

(4) On August 25, 2021, after complaints were filed with the District's Office of Employee Relations in support of the principal and against Client 2, the District removed Client 2 from School 1 and, on August 25, 2021, the District assigned Client 2 to work remotely pending the findings of the District's Office of Employee Relations.

(5) The principal disclosed the Student's academic progress to an administrator at another school within the District and that administrator then disclosed the Student's academic progress to a secretary.

(6) The principal did not allow Client 2, in his capacity as a District employee, to select his daughter's class assignment for the 2021-2022 school year, which is a deviation from the school's practice.

OCR will investigate the following legal issues:

1. Whether the District subjected students at School 1 to different treatment based on race, in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.3.
2. Whether the District retaliated against Client 1, Client 2 and the Student, in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.7(e).

You also alleged retaliation because, on August 13, 2021, a parent filed a complaint against Client 1 to have her removed as a member of the School's Parent Teacher Association Board. OCR is dismissing this allegation under Section 108(f) of OCR's *Case Processing Manual*. Section 108(f) states that OCR will dismiss any allegation that on its face or as clarified fails to state a violation of one of the laws and regulations OCR enforces. Client 1 told OCR that a parent—not District staff—filed a complaint to have Client 1 removed from the Parent Teacher Association Board. Client 1 also stated that she was not removed. Additionally, she stated that on August 17, 2021, the parent recanted the complaint. This allegation fails to state that the District engaged in retaliation or otherwise violated one of the laws and regulations OCR enforces. Therefore, OCR is dismissing this allegation under Section 108(f) of OCR's *Case Processing Manual*.

Please note that opening these allegations for investigation in no way implies that OCR has made a determination with regard to their merit. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from you, the recipient, and other sources, as appropriate. OCR will conduct its investigation in accordance with its *Case Processing Manual*. A summary of OCR's complaint processing procedures can be found here: <https://www2.ed.gov/about/offices/list/ocr/complaints-how.html>.

You have a right to appeal OCR's dismissal of the retaliation allegation under Section 108(f) of the *Case Processing Manual* within 60 calendar days of the date indicated on this letter. An appeal can be filed electronically (online or by email), by mail, or by fax. You must submit either a form completed online at <https://ocrcas.ed.gov/content/ocr-electronic-appeals-form>, or a written statement of no more than ten (10) pages (double-spaced, if typed). If a written statement is 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; or 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 described here 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 allegation being opened for investigation; failure to do so may result in dismissal of the appeal.

Please be advised that the District may not harass, coerce, intimidate, discriminate or otherwise retaliate against an individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

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

Willie Black, General Attorney, will be in contact with you throughout the investigation process. If you have any questions about this letter, please contact Mr. Black at (202) 987-1874 or willie.black@ed.gov, or me, at (404) 974-9356.

Sincerely,



Wendy Gatlin
Compliance Team Leader