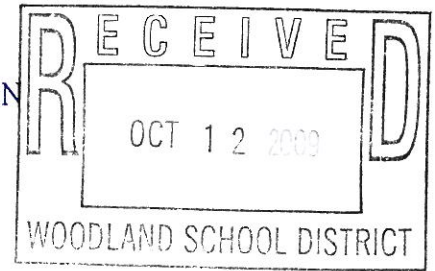




UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
SEATTLE OFFICE

October 8, 2009



Mr. Michael Green
Superintendent
Woodland School District No. 404
800 3rd Street
Woodland, Washington 98674

Re: Woodland School District No. 404
OCR Reference No. 10091271

Dear Superintendent Green:

The U.S. Department of Education, Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint of race or national origin discrimination filed against the Woodland School District. The complaint alleged that the district treated a student differently because of his race or national origin, Hispanic, when it emergency expelled him on October 30, 2008, and failed to reinstate him after a hearing on November 13, 2008.

OCR is responsible for enforcing title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance from the U.S. Department of Education. Because the district receives federal financial assistance from the Department, it is subject to Title VI and its implementing regulations.

The issue investigated was whether the district treated the student differently because of his race or national origin when it emergency expelled him on October 20, 2008, and failed to reinstate him after a hearing on November 13, 2008.

We have determined that the district is in compliance with Title VI with regard to the issue investigated. The specific findings of fact and conclusions set forth below are based on a review and analysis of documents, records, and other information provided by the student's parent and the district.

Findings of Fact

1. At the time of the alleged discriminatory action, the student was a 9th grader at Woodland High School.

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

2. According to the district, because someone had previously scrawled a graffiti message in the metal shop bathroom, it was vigilant about finding the responsible individual through consistent checks on the bathroom before and during classes.
3. On October 27, 2008, someone scrawled graffiti on the inside wall of the bathroom, which read:
KKK
BOMB 10-30-08
FUCK DA COPS.
4. The bathroom stall wall had a fresh coat of paint to cover the previous graffiti. According to the metal shop teacher, he checked the bathroom before the 9th period and there was no graffiti. However, immediately after the student used the restroom, the teacher asked another student to check the bathroom and report whether there was new graffiti in the bathroom. After the student reported finding new graffiti, the teacher confirmed it by inspecting the bathroom.
5. When questioned by the metal shop teacher, the student denied knowledge of the graffiti. The teacher referred the student to the principal for appropriate action.
6. The student's parent maintains that the metal shop teacher and the student, who initially investigated the scene, may have conspired against the student. The parent did not provide a motive for her assertion, but said she believes the student may have been targeted.
7. It is the student's parent's position that the student was absent from school during several days in September and October 2008; therefore, she believes the student may not have been at school on the day of the alleged incident. Attendance records from the district indicate that the student was present on October 27, 2008, the day of the alleged incident.
8. According to the district's policy: "incidents which jeopardize the safety and welfare of individuals and/or educational process, will be considered severe and warrant 'extraordinary means.'" The policy further states that a student may be excluded from school prior to a hearing without other forms of corrective action if the principal reasonably believes the student is an immediate and continuing danger to him or herself, other students, staff, or

administrators, or is a substantial disruption to the educational process of the district.

9. On October 30, 2008, the high school expelled the student pending a reinstatement hearing. It is the position of the district that the expulsion was consistent with its policy as it relates to incidents that jeopardize the safety and welfare of other individuals. The district provided information to OCR showing that it previously expelled a Caucasian student who sent a threatening e-mail to a teacher.
10. The district informed OCR that while there have been other incidents involving messages written on bathroom walls at the WHS, the district had been unable to find any responsible parties until it identified the student as being responsible for the October 27, 2008, incident.
11. On November 13, 2008, the district conducted a hearing on the student's expulsion. According to the decision issued by the hearing officer, the complainant, "did not present any evidence that could have possibly removed the student from the scene of the bomb threat or potentially clear him of writing/scribing the bomb threat on the bathroom stall in the WHS metal shop." Additionally, the student admitted that he wrote the third line of the bomb threat. The hearing officer concluded that the student was responsible for writing all three lines of the message and issued a decision upholding the student's expulsion.

Analysis and Conclusion

The issue investigated was whether the district treated a student differently because of his race or national origin, Hispanic, when it emergency expelled him on October 30, 2008, and failed to reinstate him after a hearing on November 13, 2008.

The regulation implementing Title VI at 34 C.F.R. 100.3(a) states in part that no person shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination. Additionally, Title VI at 34 C.F.R. 100.3(b)(1) states in part that a recipient may not on ground of race, color, or national origin provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner from that provided to others under the program.


The evidence showed that the district acted consistently with its policy in expelling the student after it identified him as the sole individual responsible for writing a threatening message on the bathroom wall. The evidence further established that the student was in attendance at school on October 27, 2008, the day of the incident in question. OCR was unable to establish the involvement of another student as alleged by the student's parent or that race was a factor in the district's decision.

Because the evidence did not establish that the district expelled and failed to reinstate the student because of his race or national origin, OCR holds that the district is compliance with Title VI with respect to the issue investigated.

This is a letter of finding(s) issued by OCR to address an individual OCR case. Letters of findings contain fact specific investigative findings and dispositions of individual cases. Letters of findings are not formal statements of OCR policy and they 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.

Under the Freedom of Information Act, 5 U.S.C. § 552, it may be necessary to release this letter 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, personal information that, if released, could constitute an unwarranted invasion of privacy.

Thank you for the district's cooperation extended to my staff during this investigation. We are closing this case as of the date of this letter. If you have any questions or concerns about this letter, please contact Kwame Amoateng, attorney, at (206) 220-7924 or by e-mail at kwame.amoateng@ed.gov; or Gregory Hamby, investigator, at (206) 220-7911 or by e-mail at gregg.hamby@ed.gov.

Sincerely,

Gary D. Jackson
Director
Seattle Office

cc: Honorable Randy Dorn
Superintendent of Public Instruction