



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

May 3, 2012

Mr. Silverio Garcia, Jr.

~~XXXXXX~~
~~XXXXXX~~
~~XXXXXX~~
~~XXXXXX~~
~~XXXXXX~~
~~XXXXXX~~

Re: Tucson Unified School District
Case Number: 08-12-1170



Received by Civil Rights Center
S.Garcia - May 4, 2012

Dear Mr. Garcia:

On March 29, 2012, we received an email from you related to Case Number 08-12-1080 alleging the Tucson Unified School District discriminated on the basis of national origin. Specifically, you allege that in response to the Latino community's plan to hold a public event on school grounds to celebrate Cesar Chavez day, the District discriminated by placing restrictions on the Latino community event that have not been placed on other community organizations' events. On April 18, 2012, we determined that allegation should be treated as a new complaint because it was sufficiently distinct from the other allegations in Case Number 08-12-1080. As a result, we opened a new case file – Case Number 08-12-1170 – based on the allegation in your March 29, 2012 email. Further, having considered the allegation in your email, we have determined that we have the authority to investigate it consistent with our complaint procedures and applicable law.

We are responsible for enforcing Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 Code of Federal Regulations Part 100, which prohibit discrimination on the basis of race, color, or national origin in programs and activities that receive Federal financial assistance from the U.S. Department of Education. As a recipient of Federal financial assistance from the Department, the District is subject to this law and regulation. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Because we have jurisdiction and the allegation above was filed timely, we are opening this allegation for investigation. Please note that opening the allegation for investigation in no way implies that we have made a determination regarding its merits. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegation, in accordance with the provisions of Article III of the *Case Processing Manual*.

We intend to conduct a prompt investigation of this complaint. The regulation implementing Title VI, at 34 C.F.R. § 100.6(b) and (c), requires that a recipient of Federal financial assistance make available to OCR information that may be pertinent to reach a compliance determination. Pursuant to 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3)(iii), of the regulation implementing the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

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

If our investigation establishes that there has been a violation of law, we will attempt to negotiate a remedy. If we are unable to secure appropriate remedial action, we must initiate formal enforcement action by commencing administrative proceedings seeking the termination of Federal funds to the District or a referral to the Department of Justice. These enforcement procedures will be initiated only if a violation is found and then only if we are unable to negotiate voluntary remedial action.

Pursuant to Section 108(a) of our *Case Processing Manual*, OCR will dismiss an allegation that fails to state a violation of one of the laws that we enforce. In addition to the allegation opened above, on April 29, 2012, you alleged that the District discriminated by denying a Chicana author the opportunity to speak at the District because the District wanted to avoid national media attention, and you added that this denial denied Latino students the opportunity for a role model. The information you provided is insufficient to state a violation of one of the laws that we enforce. As a result, we are dismissing this allegation pursuant to Section 108(a) of our *Case Processing Manual* effective the date of this letter.

We are committed to prompt and effective service. If you have any questions regarding your complaint, please contact Jacob Smiles, Attorney Advisor and the primary contact for this case, at (303) 844-0745 or by e-mail at Jacob.Smiles@ed.gov. You may also contact me at (303) 844-6083.

Sincerely,



Angela Martinez-Gonzalez
Supervisory General Attorney



Received by Civil Rights Center
S. Garcia - May 4, 2012