



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
ADMINISTRATIVE COMPLAINT

January 31, 2023

United States Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Via Email: OCR@ed.gov

To Whom It May Concern:

This is a federal civil rights complaint pursuant to the U.S. Department of Education's (Department) Office for Civil Rights' (OCR) discrimination complaint resolution procedures.

Parents Defending Education (PDE) brings this complaint against Lower Merion School District in Ardmore, Pennsylvania for discrimination on the basis of race, color or national origin in programs or activities that receive Federal financial assistance in violation of both Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

PDE makes this complaint as an interested third-party organization that opposes racial discrimination and political indoctrination in America's schools. Attached to this complaint is supporting evidence in the form of the district's use of racial affinity groups (Exhibit A), which promotes the district's "Equity Efforts," which can also be found online at <https://www.lmsd.org/equity>, a first grade lesson plan titled "Cultural Proficiency for Kids" (Exhibit B), and a school district lesson plan titled "Cultural Proficiency for Kids" (Exhibit C).

In addition, Lower Merion's Middle School has an affinity group named "REACH", which offers students "conversations about race, empowerment, and inclusivity" and can be found in the REACH Student Orientation materials.¹

The Lower Merion School District Middle School REACH affinity group offers a questionnaire for affinity group members, which asks what students are most interested. Optional responses include: "activism opportunities" and "meeting with middle school students of color from different school districts in PA."²

Lower Merion School District offers a course titled "Cultural Proficiency for Kids," which states its primary intent is to "increase students' understanding of identity and diversity" (Ex. C at 1). The lessons for this course were revised to "include equity, justice, and antiracism." The Lower Merion School District's website

¹ "2021-2022 REACH Student Orientation." *Lower Merion School District*. Accessed January 12, 2023. <file:///Users/carolinemoore/Downloads/2021-2022-REACHStudentOrientation-Lower-Merion-School-District-PA.pdf>

² "REACH Questionnaire." *Lower Merion School District*. Accessed January 12, 2023. <https://defendinged.org/wp-content/uploads/2023/01/REACH-Questionnaire-Lower-Merion-School-District-PA.pdf>



states that “research suggests that babies as young as 7 months can discern race and show preferences,” which can be found in the below exhibit (Ex. C at 1).

Finally, the Lower Merion School District CP4KIDS program, uses picture book, “The Skin You Live In” to encourage students to “point out skin colors throughout” the book. The lesson plan included in the exhibit below invites “students to discuss their skin color” and for the teacher to “hand out mirrors” while asking the students to “look closely at, and identify, their distinguished attributes” (Ex. B at 1)

This exhibit reveals that Lower Merion’s School District’s “Equity Efforts” is only open to students of specific ethnicities (“Students of color are invited to join Becton Scholars at LMHS and POWER Scholars at HHS, which are affinity groups that help cultivate academic excellence and leadership and give students a safe space to engage in conversations and activities to voice their ideas, differences, goals, along with celebrating their cultural heritage” Ex. A at 7). The program description does not make participation in this affinity group open to all.

Indeed, the website’s recruitment plan found at <https://www.lmsd.org/equity> further underscores that not all students would be welcome — and that this exclusion would be based solely on an individual’s race. (Ex. A at 4)

The website also notes that staff who participate in this program receive additional benefits on the basis of race that do not appear to be offered to all staff members “REACH offers leadership training and mentoring.” (See *supra* n.1)

As the Department of Education is no doubt aware, segregation on the basis of race raises concerns that Lower Merion School District has received federal funds in violation of Title VI of the Civil Rights Act of 1964, which declares that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

In addition, Section 1 of the 14th Amendment to the U.S. Constitution asserts that “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” On these grounds, the Supreme Court held in 1954 that racial segregation of students is unconstitutional. *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

A September 29, 2015 decision from the Department of Education Office for Civil Rights during the Obama Administration is directly on point: in 2015, following “the police actions involving African American victims in Ferguson and New York and subsequent events,” Oak Park & River Forest High School District 200 held a “Black Lives Matter” assembly during Black History Month. The assembly was convened “for African American students only” because the district wanted “to provide a comfortable forum for black students to express their frustrations.” Certain students “who self-identified as white were directed by District officials not to participate in the event as this assembly was designed for students who self-identify as black.” In the letter sent on September 29, 2015 (OCR Docket #05-15-1180), OCR found that the district violated the Equal Protection Clause and Title VI because the district’s actions could not withstand strict scrutiny. Specifically, the district failed to “assess fully whether there were workable race-neutral alternatives” and “did not conduct a flexible and individualized review of potential participants.” In a Resolution Agreement with OCR, the district agreed that its programs and activities would be “open to all students . . . regardless of their race”



and to adopt policies and training to ensure the district's compliance. OCR imposed these requirements even though the district had promised "not to hold such events in the future."

Accordingly, we ask that the Department promptly investigate the allegations in this complaint, act swiftly to remedy unlawful policies and practices, and order appropriate relief.

Thank you for your prompt assistance with this request for investigation and resolution.
Please contact me for further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Caroline Moore". The signature is written in a cursive style with a large initial "C" and "M".

Caroline Moore
Vice President
Parents Defending Education

Enc. Exhibit A-C



EXHIBIT A



Join Lower Merion School District's Ongoing
Equity Efforts

Programs and initiatives set in motion by students, staff and community members as a means to provide outlets and resources that address the diverse needs in LMSD.

Lower Merion School District is committed to taking a leadership role in closing achievement gaps and ensuring the achievement of all students through a comprehensive array of programs, strategies and community partnerships. In 2009, LMSD became one of the first school systems in the region to target “closing achievement gaps” as a top priority in its strategic plan.

Current efforts include expanded use of student data to identify and support struggling students, intensive staff development programs around cultural proficiency and differentiated instruction, summer enrichment programs, low-cost/reduced-cost tutoring programs, minority recruitment initiatives, and implementation of other research-based achievement strategies.



The District is a founding member of the Delaware Valley Consortium for Excellence & Equity (DVCEE) and facilitates community and parent engagement around local K-12 issues through the Committee to Address Race in Education (C.A.R.E.). The District's minority achievement programs at the high schools (Becton Scholars Seminar at Lower Merion and POWER Scholars at Harrilton) further engage, challenge and support minority students in achieving their maximum potential.

To continue to move this important work forward, an Ad-Hoc Committee on Equity & Anti-Racism was formed during the summer of 2020 by the Lower Merion Board of School Directors. Building on work begun by the Achievement Imperative Task Force and through collaboration with various stakeholders, including students, staff and community members, this committee and the Policy Committee developed District Policy 101: Equity, which was approved by the Board in June 2021. An overview of District programs can be found in this October 2021 presentation. Superintendent Dr. Khalid N. Mumin shared updates on the District's ongoing work in this area in December 2021 and March 2022. In April, the School Board approved the appointment of Shawanna James-Coles as LMSD's Director of Diversity & Inclusion. She officially joined the District on July 1, 2022.



The Lower Merion Board of School Directors and Administration have long applied an Equity lens to decision-making and practices affecting students and staff throughout the District. This commitment is reflected in numerous District policies, initiatives and practices, including the District's Equity Policy and the approval of an Equity Audit by Education Northwest, which will be conducted through January 2023. Other District Policies govern Civility; Equal Opportunity Program for School and Classroom/Employment Practices; Controversial and Value Issues; English Language Development; Student Rights and Responsibilities; and Harassment, Bullying and Hazing. Initiatives include the formation of the Ad-Hoc Committee on Equity and Anti-Racism, CARE (Committee to Address Race in Education), the Achievement Imperative Task Force, ongoing

Ex. A at 3



review of curriculum and educational resources. All professional and support staff receive ongoing cultural proficiency training. **The Human Resources Department** has increased efforts to recruit and retain diverse staff, including staff affinity groups, so that every child in our District sees adults who reflect their identity.

Programs and initiatives set in motion by each school.

Ex. A at 4



All LMSD elementary schools have yearly cultural proficiency plans and goals to which all staff are held accountable. They maintain websites for students, staff and families, where developmentally appropriate cultural proficiency resources are available. All students take part in CP4KIDS, cultural proficiency lessons for grades K-5, that use the social justice standards of identity, diversity, justice, and action. All elementary social studies programs are undergoing a curriculum review to ensure representation of diverse voices and viewpoints. The schools celebrate diversity through Cultural Heritage Nights, Black History Month and events honoring Asian American, Hispanic American and Native American traditions. Students are offered free 1:1 tutoring and participate in School Families. Students of color in grades 4 and 5 can participate in the RARE affinity program.

Ex. A at 5



Both LMSD middle schools have yearly cultural proficiency plans and goals to which all staff are held accountable and maintain websites for students, staff and families, where developmentally appropriate cultural proficiency resources are available. Students of color are invited to join REACH at BCMS and EmPOWER at WVMS, which are safe spaces for students to engage in conversations and activities about race, empowerment, culture and excellence. The teacher-led Culturally Responsive Teaching Team encourages collaboration among staff about how to infuse anti-racism work within their classrooms and provides a safe space for staff to address their own unconscious biases.



HIGH SCHOOLS

Both LMSD high schools have yearly cultural proficiency plans and goals to which all staff are held accountable and maintain websites for students, staff and families, where developmentally appropriate cultural proficiency resources are available. Students of color are invited to join Becton Scholars at LMHS and POWER Scholars at HHS, which are affinity groups that help cultivate academic excellence and leadership and give students a safe space to engage in conversations and activities to voice their ideas, differences, goals, along with celebrating their cultural heritage. During the 2020-2021 school year, the Voices in African American Literature course was added at both schools and a Black Excellence course is set to be added in 2021-2022. Other student-centered activities include the Council for Racial Equity and Inclusivity, Black Student Union, the Diversity Leadership Council and LMHS's "Well-read Brothers," a book club for Black men.

Ex. A at 7

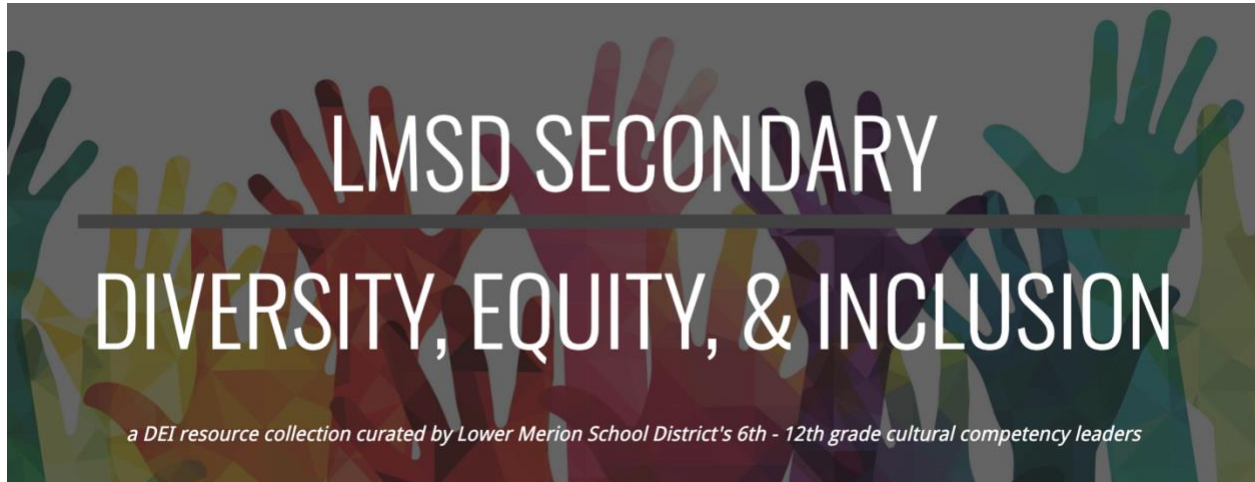




EXHIBIT B



Cultural Proficiency For Kids
Lesson 1-September

Book-"The Skin You Live In" By: Michael Tyler, Illustrated by: David Lee Csicsko

Objectives-

- The students will identify the color of their skin and observe the differences throughout the classroom
- The students will create a self-portrait using skin color crayons

Materials Needed

1. Book-"The Skin You Live In"
2. Self-Portrait template
3. Mirrors
4. Crayola skin color crayons

Essential Question-What color is your skin? Do all of us have the same color of skin?

Procedure-

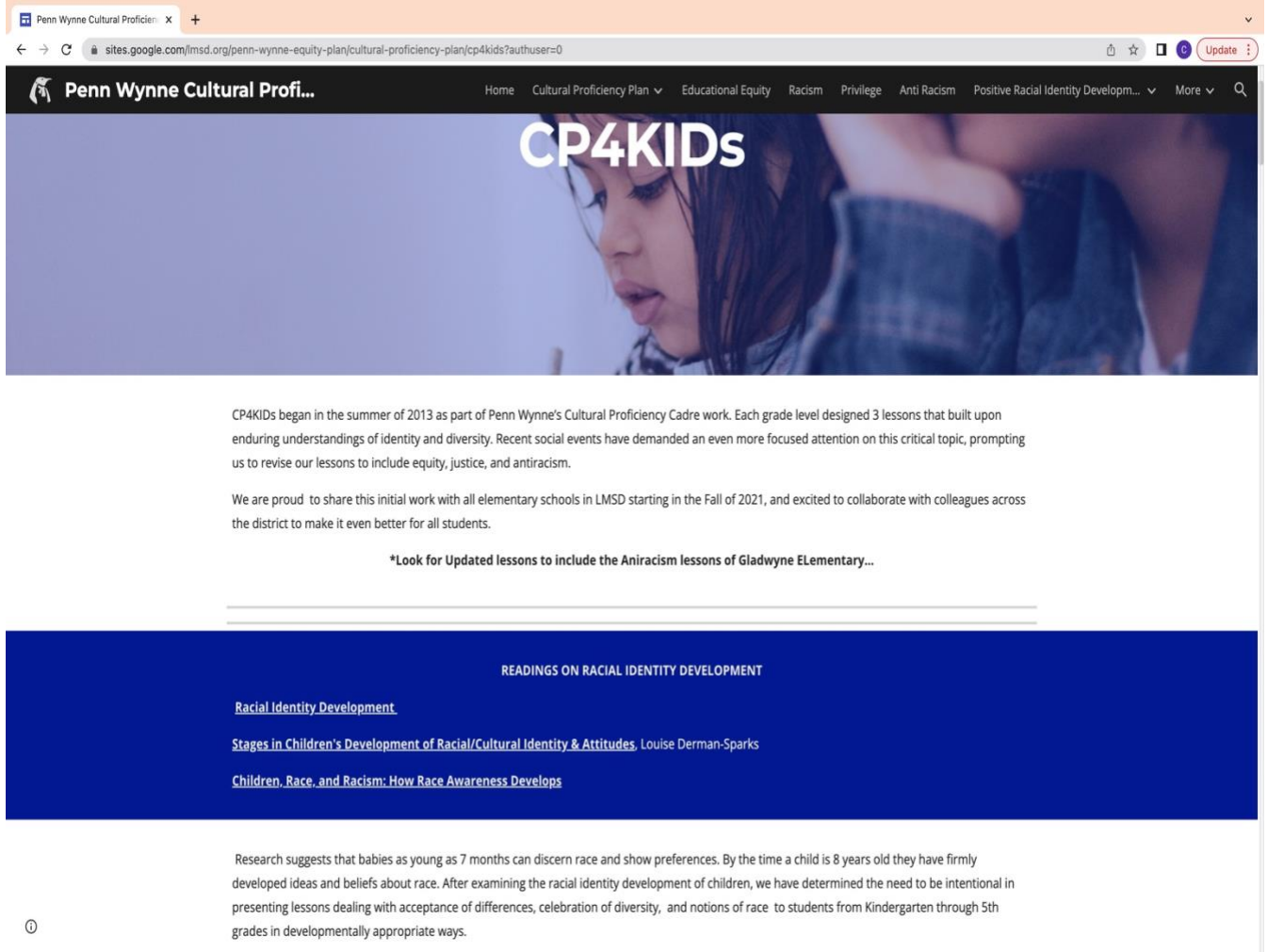
1. The teacher will read "The Skin You Live In" by Michael Tyler
2. As the teacher reads he/she needs to point out the different skin colors throughout (note the page that has the biracial family and the class)
3. Discuss the similarities and differences of the characters throughout the book
4. Discuss the physical attributes of the class (hair color, skin color, eye color...)
5. Invite students to discuss their skin color

Activity-

1. The teacher will hand out mirrors and ask the students to look closely at, and identify, their distinguishing attributes
2. The teacher will give each child a template to create a self-portrait



EXHIBIT C



Penn Wynne Cultural Proficiency Plan

Home Cultural Proficiency Plan Educational Equity Racism Privilege Anti Racism Positive Racial Identity Developm... More

CP4KIDS

CP4KIDS began in the summer of 2013 as part of Penn Wynne's Cultural Proficiency Cadre work. Each grade level designed 3 lessons that built upon enduring understandings of identity and diversity. Recent social events have demanded an even more focused attention on this critical topic, prompting us to revise our lessons to include equity, justice, and antiracism.

We are proud to share this initial work with all elementary schools in LMSD starting in the Fall of 2021, and excited to collaborate with colleagues across the district to make it even better for all students.

***Look for Updated lessons to include the Aniracism lessons of Gladwyne Elementary...**

READINGS ON RACIAL IDENTITY DEVELOPMENT

[Racial Identity Development](#)

[Stages in Children's Development of Racial/Cultural Identity & Attitudes](#), Louise Derman-Sparks

[Children, Race, and Racism: How Race Awareness Develops](#)

Research suggests that babies as young as 7 months can discern race and show preferences. By the time a child is 8 years old they have firmly developed ideas and beliefs about race. After examining the racial identity development of children, we have determined the need to be intentional in presenting lessons dealing with acceptance of differences, celebration of diversity, and notions of race to students from Kindergarten through 5th grades in developmentally appropriate ways.