



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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BOSTON, MA 02109-3921

REGION I

CONNECTICUT  
MAINE  
MASSACHUSETTS  
NEW HAMPSHIRE  
RHODE ISLAND  
VERMONT

March 29, 2023

Nicole Neily

By *email*: nicole.neily@defendinged.org

Re: Complaint No. 01-23-1004  
Newton Public Schools

Dear Nicole Neily:

This letter advises you of the outcome of the U.S. Department of Education, Office for Civil Rights (OCR) investigation of Newton Public Schools (District). OCR opened an investigation after receiving a complaint alleging that the District discriminated against students on the basis of race. As explained below, OCR is closing the complaint.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Section 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance from the U.S. Department of Education. Because the District receives federal financial assistance from the U.S. Department of Education and is a public entity, OCR has jurisdiction over it pursuant to Title VI.

OCR investigated using its Rapid Resolution Process outlined in Section 203 of OCR's *Case Processing Manual*. Pursuant to Section 203, where a recipient has already taken action that will resolve the allegation(s), the allegation(s) may be resolved without an agreement where compliance is verified and the resolution does not require monitoring by OCR. Under these circumstances, OCR will issue a dismissal or closure letter pursuant to Section 110(d) of OCR's *Case Processing Manual*, which provides that OCR will close or dismiss a complaint if OCR obtains credible information indicating that the allegation(s) has been resolved, and there is no systemic allegation(s).

The complaint alleged that the District's Lost and Found theater production discriminates against students based on race. Specifically, the complaint alleged that the Lost and Found audition packet described the production as a "no-cut cabaret-style show for students of color" and a "reserved safe space," and the audition form included a question about how the student identified racially and a request for a headshot photograph.

During an interview, the Superintendent informed OCR that any student could present a story or poetry as part of the production and that no student was denied the opportunity to participate. The District also provided OCR with documentation from the 2023 production showing that the Lost and Found cast and production team included white students, and therefore the program was not exclusive to students of color. Finally, during the investigation, OCR reviewed documents

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

provided by the District, including a revised Lost and Found audition packet that described the production as a “no-cut, cabaret-style show that centers on students of color.” The revised audition packet no longer includes language regarding the production being a “reserved safe space,” and the audition form no longer asks how the student identifies racially or requests a headshot photograph. As the facts underlying the allegation are no longer present and OCR has no evidence the law is violated, OCR is closing the complaint under Section 110(d) of OCR’s *Case Processing Manual* because it has been resolved.

This letter is not a formal statement of OCR policy and 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.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Tokufumi J. Noda', with a stylized flourish extending to the right.

Tokufumi J. Noda  
Compliance Team Leader