



Statement from the Carroll ISD Board of Trustees regarding OCR Complaints August 5, 2024

Fulfilling the Board's commitment to transparency and to combat the misinformation about the ongoing Office of Civil rights (OCR) investigations, we are providing our community with an update and some facts that have not been shared previously. We do this in defense of our teachers, counselors, principals, and administrators that investigated and responded reasonably, timely and effectively to protect the victims of alleged harassment.

Sadly, members of our community and media have engaged in an all-out assault on our teachers, counselors, principals, and administrators by directly accusing them of being deliberately indifferent to the suffering of these victims. The Board has performed an exhaustive review of the underlying investigative files and has been provided with extensive legal analyses in each one of these cases. As a result, we have concluded that our teachers, counselors, principals, and administrators fully complied with the law in each case and protected our students. Accordingly, we will not scapegoat our good people in acquiescence to a political agenda. When our people do the right thing and protect our kids, we want them to know we will stand behind them and not take the easy way out at their expense!

LEGAL STANDARD

All of these cases involve allegations of student-to-student or peer harassment. None allege district personnel engaged in any form of harassment. In peer harassment incidents such as these, a school district violates the law when all four of these elements are met:

1. Harassment created a hostile educational environment for the victim;
2. The district has actual knowledge of the harassment;
3. The district has control over the harasser and the environment in which the harassment occurred; **AND**
4. The district acted deliberately indifferent to the harassment.

For a hostile educational environment to exist, the harassment must be "so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to educational opportunities or benefits provided by the school." The harassment must be "serious enough to have the systemic effect of denying the victim equal access to an educational program or activity," and most likely will involve more than "a single instance of one-on-one peer harassment." Furthermore, the "harassment must have had a 'concrete, negative effect' on [the complainant's] education."





In addition, once aware of the alleged harassment, a district must not act “deliberately indifferent” to the allegations. Courts have described deliberate indifference as “a high bar, and neither negligence nor mere unreasonableness will suffice.” Furthermore, “[t]he Supreme Court has stated that ‘courts should refrain from second-guessing the disciplinary decisions made by school administrators.’” The Fifth Circuit has held that “[a] reasonable response need not involve rooting out harassment or taking the most effective remedial steps available. It requires only that the [district] take some action that is not ‘pretextual or knowingly ineffective.’”

The facts of each case that follow show why there was no “hostile educational environment” and why, even if there were, CISD was not deliberately indifferent to it. They also show why CISD must defend itself against these baseless allegations.

CASE 1

Relevant Timeline and Facts

- 12/6/20 – CISD received complaint of student-to-student antisemitic harassment that had allegedly occurred “over the past week”
- 12/6/20 – Principal asked for meeting on 12/7/20, but scheduling conflicts necessitated meeting on 12/8/20
- 12/8/20 – Meeting with principal, assistant principal, counselor, parents and victim identified 4 alleged antisemitic comments/episodes
- 12/8/20 – Accused students were punished in accordance with Student Code of Conduct
- 12/9/20 – Investigation completed and accused students were all given additional discipline per the Student Code of Conduct
- 12/10/20 – District provided victim alternative setting for instruction
- 12/10/20 – At parents’ request, principal communicated with local Rabbi to gain insight and perspective on prevention of future such episodes
- 12/15/20 – Principal met with local Rabbi
- 01/21 – Principal, assistant principal, counselor and local Rabbi met with Anti-Defamation League Director (ADL) of Education
- 01/11/21 – Parents, principal, assistant principal, and counselor met to follow up
- 01/24/21 - Principal, ADL Director of Education, and counselors met to discuss intervention techniques on matters of expressed biased
- CISD has received no further complaints of harassment or negative educational effects from victim





As the above timeline indicates, CISD officials reached out immediately to the victim's parents, scheduled a meeting as soon as possible, identified the perpetrators and assigned punishment within three days of the complaint. The principal also sought out outside experts for ideas and additional training to help prevent such episodes in the future. There is no question that CISD's teachers, principals, and counselors acted reasonably, timely and effectively to investigate the allegations, protect the victim, punish and counsel the perpetrators and to prevent any further harassment from happening.

CASE 2

Relevant Timeline and Facts

- 3/5/21 (Friday) – CISD officials were contacted via e-mail reporting alleged student-to-student sexual orientation and sex based harassment on Instagram
- 3/5/21 – Assistant Principal responded and ensured appropriate actions would be taken per Student Code of Conduct
- 3/8/21 – Parent sent additional email expressing concern for student's safety
- 3/8/21 - Principal responded immediately saying student's safety was a top concern and for student to immediately report anything further to Principal
- 3/8/21 – Principal and Assistant Principal began investigation
- 3/11/21 – Principal and Assistant Principal met with student to discuss investigation findings; Assistant Principal issued a findings report
- 3/12/21 – Parents filed Level 1 Grievance asking for several forms of relief.
- 3/31/21 – Assistant Superintendent (by agreement) held Level I conference with Parents
- Post 3/31/21 – Assistant Superintendent assigned another CISD official to conduct an independent investigation based on the parents' concerns with the initial investigation
- 4/8/21 – CISD official issued report on independent investigation with the following conclusions
 - i. Found no information that contradicted the original report by Assistant Principal
 - ii. The incident did not meet the district's threshold for bullying/harassment
 - iii. The perpetrators conduct did violate CISD's code of conduct as noted in initial report
 - iv. But the behavior did not fall within the scope of CISD's authority because it happened entirely on social media, did not occur within the context of a school sponsored activity, and it did not disrupt the victim's





educational opportunities or substantially interfere with school operations

- 4/14/21 – Assistant Superintendent delivered the Level I decision to the Parents granting some of their requests for relief and denying others because state and federal privacy laws prevented such relief.
- Assistant Superintendent specifically offered alleged victim counseling services and made the student aware that the student might be able to utilize David’s law
- Student never informed CISD that she experienced any further harassment

Again, our principals and administrators responded immediately to reports of harassment, investigated them and wrapped up the investigation within four days of the complaint. When the parents weren’t satisfied with the investigation, CISD ordered an independent investigation and granted all of the grievance requests that could be legally granted. The Assistant Superintendent offered the victim counseling services and even offered a potential additional avenue to redress the victim’s grievances. These measures effectively protected the victim from further harassment. In addition, because of recent court rulings enjoining the Biden Administration from enforcing its illegal redefinition of “sex” in Title IX regulations to include both “sexual identity” and “sexual orientation,” the alleged sexual identity harassment portion of this case should be immediately dismissed.

CASE 3

Relevant Timeline and Facts

- 3/5/21 (Friday) – Parent emails Principal and Assistant Principal stating that some students have been bullying victim with homophobic slurs
- Victim did not attend school on 3/5/21
- 3/8/21 - Assistant Principal responded to parent to set up a meeting with victim
- 3/9/21 – Assistant Principal meets with victim, alleged harassers and teacher
- 3/9/21 – Teacher commits to monitor all students and to keep them separated in class
- 3/9/21 - All alleged perpetrators received discipline per the Student Code of Conduct
- 3/9/21 – Assistant Principal speaks with parent over the phone to inform the parent of the results of the investigation and urges victim to report any further instances of harassment directly to Assistant Principal
- CISD received no other reports of harassment from victim for the remainder of the year

Our teachers and principals again acted swiftly to protect this student, investigated the harassment, meted out punishment and effectively prevented such harassment from happening





again. Furthermore, because the sole basis of this case is based on alleged “sexual identity” harassment, as discussed above, this case should be dismissed in its entirety.

CASE 4

Relevant Timeline and Facts

- 1/19/21 – Parent verbally informed Principal that victim was referred to with a single racial slur at lunch from another student
- 1/19/21 – Principal immediately reviewed video footage and identified two potential perpetrators and other potential witnesses
- 1/19/21 – Principal tasked Assistant Principal with conducting interviews with all parties
- 1/19/21 – Principal emailed parent with progress of the investigation and assured parent that action would be taken if such language was in fact used
- 1/20/21 – Assistant Principal verbally informed Principal a verbal reprimand was given and that the student would be apologizing to victim
- No other complaints of racial discrimination against victim were received by CISD either before or after and no reports of negative effects on victim’s access to educational benefits

Again, CISD’s employees acted swiftly to identify the perpetrator, kept the parent informed, handed out punishment and protected the victim from further harassment.

OCR HAS ENGAGED IN A BAD FAITH PROCESS THAT WOULD BURDEN THE DISTRICT FOR YEARS TO COME

The Board of Trustees and Administration thoroughly and fully cooperated with the Office of Civil Rights as soon as we became aware of the complaints and allegations. We answered every question the OCR investigators had and provided thousands of pages of documents in response to OCR inquiries.

Once OCR concluded its investigation, it presented us with a proposed Resolution Agreement in an attempt to resolve the cases above. That Resolution Agreement would commit Carroll ISD to years of on-going obligations in excess of normal legal requirements that would result in increased expense to the District and burden our teachers and administrators with new rules. Nevertheless, we chose to engage OCR in what we hoped would be a collaborative process. We requested OCR provide us with its factual conclusions and results of its investigation in writing so that we could assess those in light of the Resolution Agreement OCR was proposing. This seemed reasonable to us because OCR was asking us to negotiate with it. However, OCR never provided us the conclusions of its investigation into the allegations. To date, it still has not





CARROLL

Independent School District.

provided those despite multiple requests. OCR instead wants us to agree to a legally-binding document without providing us any reason why we should.

As the elected fiduciaries of this District, we have serious concerns about entering into a multi-year agreement with the federal government without first understanding the rationale for its requirements—especially when we do not believe we did anything wrong!

Worse yet, our research into how OCR handles matters just like these uncovered multiple instances where OCR pressured a school district into agreeing to a proposed resolution without providing the factual basis for the resolution. Once the school district agreed to the government's requirements, the districts later learned that the OCR had insufficient evidence for the allegations, made no findings, or actually found there was no harassment or deliberate indifference. Nevertheless, OCR enforced the resolution agreement against the school district anyway. Even here, the OCR continues to push Carroll ISD to settle two cases on factual bases that the courts have recently and specifically ruled are improper.

We are simply not willing to put Carroll ISD into a burdensome agreement and knowing that OCR continues to refuse our requests for its factual findings. We have shown nothing but good faith in this process and expect the same from the OCR. For that reason, we declared an impasse in the negotiations and look forward to defending the District at all levels of this process.

