



Cedarburg School District

Todd Bugnacki, Superintendent

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Challenging Students to Achieve Their Goals and Dreams

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

January 11, 2021

Ms. [REDACTED]
2339 W Custer AVE
Milwaukee WI 53209

Re: *Decision Regarding Complaint of Discrimination Involving [REDACTED] and [REDACTED]*

Dear Ms. [REDACTED]

On October 15, 2020, a complaint of student discrimination involving your children, [REDACTED] and [REDACTED] was received by the Cedarburg School District. In the complaint, it alleged a few specific incidents of racial discrimination involving [REDACTED] and [REDACTED] and a number of general, unspecified allegations of harassment and/or bullying based on race. The complaint further alleged that the District had failed in its duty under the applicable laws and Board policies to prevent racial harassment of [REDACTED] and [REDACTED] by other students in the District.

Due to the serious nature of the allegations in the complaint and the District's desire to have a comprehensive, thorough and impartial investigation conducted into the complaint, the Board authorized retaining an outside investigator. Saveon Grenell, an attorney with the firm of Buelow Vetter was retained to conduct the investigation. Although Attorney Grenell is associated with the same firm as the District's legal counsel, Mary Hubacher, there was no communication between Mr. Grenell and Ms. Hubacher regarding his investigation including but not limited to the scope of his investigation; his findings, conclusions and recommendations; or his report to the Superintendent even though Board policy allows for consultation with the Board's attorney. However, to insure the impartiality of the investigation, a "wall" was created between Mr. Grenell and Ms. Hubacher regarding this matter. In fact, Ms. Hubacher was first provided with Mr. Grenell's final report on January 4, 2021, again consistent with Board Policy 2260, in order to advise me regarding information to be included in my final decision.

After thoroughly reviewing Mr. Grenell's report, I determined that his investigation was comprehensive and that no further investigation was needed before issuing my final decision regarding the complaint. Based on the totality of the information gathered during the investigation, I accept and adopt the findings of the investigator which include the following:

- When made aware of specific concerns regarding [REDACTED] and [REDACTED] the District responded appropriately. The only specific allegation regarding [REDACTED] treatment by another student is that he was called the n-word while on the playground. During her interview, Complainant clarified that [REDACTED] had not been called the n-word directly but alleged that he had been made fun of for the color of his skin on that particular day and in general since kindergarten. Other than one specific instance, Complainant was unable to provide any specific dates when the alleged conduct occurred. In addition, Complainant was unable to provide the names of particular staff or specific times she expressed concerns to District staff about [REDACTED] being made fun due to the color of his skin. Regarding the one specific incident that Complainant addressed with Westlawn Principal, an investigation into that incident was conducted and it was determined that a comment was made by another student regarding [REDACTED] hair not the color of his skin. The situation was addressed with the other student and his parent. Other than this incident, [REDACTED] never expressed to any staff member that he was being harassed or bullied although it was stressed to him that if experienced an uncomfortable situation he needed to talk to an adult. The Principal's handling of the above incident was appropriate and did not violate Board Policy.
- Behavior exhibited by [REDACTED] in 3rd grade was not due to alleged racial harassment or bullying. Staff who worked with [REDACTED] indicated that he had a very challenging year in 3rd grade. However, District staff did not consider him a "problem child" or tell Complainant that [REDACTED] needed to be on medication. Staff indicated [REDACTED] experienced frustration due to his struggles with reading and writing and would talk down about himself. Staff reported that Complainant had indicated that they were seeing similar frustration and behavior at home. A problem solving team was convened and several interventions and supports were put in place to help [REDACTED]. Ultimately, [REDACTED] was evaluated for and found to be eligible as a student with emotional behavioral disability. Staff indicated that [REDACTED] improved dramatically due to the supports put in place for him and the collaboration between home and school. The allegation that his behavior was due to alleged racial harassment and bullying or that staff treated him harshly due to his behavior is unsubstantiated. Complainant acknowledged during her interview with Mr. Grenell that she was appreciative of the supports provided to [REDACTED] during 3rd grade by the school psychologist.
- The Athletic Director ("AD") did contact Complainant after he heard comments she made at a School Board meeting regarding perceived problems with the athletic department. These comments included an allegation that he had made a comment at a winter sports meeting several months earlier praising Cedarburg athletes for not using the n-word. The AD indicated that the first he heard of perceived problems within the athletic department was at this meeting and he was taken back by her comments. He called Complainant the morning after the meeting, primarily to address any specific concerns Complainant had regarding [REDACTED]. He indicated that he told Complainant that she should reach out to him if there were any problems, as Complainant had never contacted him in the past to express any concerns. He indicated that he certainly would have addressed them had he been made aware of any such concerns in the past or going forward. The AD said that he did not recall making the specific comment alleged by Complainant nor would it have made sense for him to do so. I conclude that the AD did contact Complainant after hearing her comments

about the athletic department at a Board meeting and that he may have been upset because this was the first he was hearing about these concerns as Complainant had never contacted him before this to share any such concerns. I further conclude that the AD contacted Complainant primarily because he was concerned about comments made by Complainant specific to [REDACTED] participation in athletics and wanted to follow up. The allegation that the AD made the comment at the winter sport's meeting is inconclusive.

- The allegation involving comments being made in [REDACTED] presence by a student regarding Kyle Rittenhouse and running over Black Lives Matter ("BLM") protestors was investigated and addressed by the High School Assistant Principal ("AP"). Complainant acknowledged that after the AP addressed this situation with the other student no further comments have been directed at [REDACTED]. Complainant also indicated that the AP has reached out to her to see how she and her family are doing and she appreciates his doing so. I do not conclude that the student purportedly made the comments in [REDACTED] presence because he knew Complainant was a community activist.
- The District acknowledges that Complainant had expressed concern about students wearing apparel or masks with logos or slogans that are hurtful to BIPOC (Black, Indigenous, and People of Color) and understands the impact such apparel may have on them. However, as the AP discussed with Complainant, there are limits to what actions the District may take to regulate this behavior in light of first amendment protected conduct. The District will continue to look for ways to further educate students about the impact of such behavior on others.

Based on the above findings of fact, I conclude, as did the investigator, that the District did not violate any applicable state or federal law or Board policy. Further, that the District has not violated nor does it continue to violate the rights of either [REDACTED] or [REDACTED] to equal educational opportunities including not being subjected to a hostile or intimidating environment based on race.

Finally, I adopt the recommendations of the investigator which include:

1. Continue to provide appropriate staff development related to students of diverse backgrounds.
2. Continue to review the District's bullying and harassment policy and revise, as appropriate. In addition, continue to advise staff, parents and students on changes to those policies and receive acknowledgment that they have been advised of any such changes.
3. Develop a formal complaint form for use by administrators when parents report concerns of bullying and/or harassment. I believe this will further assist the District in obtaining timely, complete and accurate information from the person reporting concerns of harassment and/or bullying and also allow for the recording of the actions taken and the disposition of the concerns brought to the attention of the administrator.

Ms. [REDACTED]

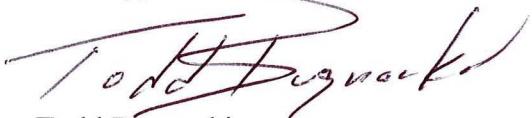
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Thank you for bringing your concerns forward and allowing the District to investigate those concerns. I encourage [REDACTED] and [REDACTED] to bring any future concerns about their experience in school or school-sponsored activities directly to the attention of an administrator or staff member so that any such concerns can be appropriately addressed in a timely manner.

As provided by state law and Board policy, if you feel that this decision does not adequately address your complaint, you may appeal the decision to the State Superintendent of Public Instruction by submitting a written request to the Wisconsin Department of Public Instruction or by contacting the DPI Pupil Nondiscrimination Program at (608) 267-9157.

With appreciation,



Todd Bugnacki

Superintendent of the Cedarburg School District

cc: Members of the Board of Education (via email)
Attorney Elisabeth Lambert, Equal Justice Works Fellow/ACLU of Wisconsin (via email)
Mr. Ted Noll, Director of Student Services and Special Education
Mary L. Hubacher, Attorney for the Cedarburg School District