

# Greendale School District Discrimination Complaint Form

Last Name: [REDACTED]  
First Name: [REDACTED]  
Address: [REDACTED]  
City: Greendale, WI  
Zip: [REDACTED]  
Home Phone (including area code): [REDACTED]  
Personal Email: [REDACTED]  
Status of person filing complaint: Attorney (on behalf of student & mother)

## Statement of Complaint

**Filing complaint alleging discrimination on the basis of:** Race (harassment/hostile environment).

To establish a violation of Title VI under the hostile environment theory, one must show: (1) a racially hostile environment existed; (2) the recipient had actual or constructive notice of the racially hostile environment; and, (3) the recipient failed to respond adequately to redress the racially hostile environment. *See*, Investigative Guidance on “Racial Incidents and Harassment against Students at Educational Institutions,” U.S. Dept. of Education, 59 Federal Register 11448 (March 10, 1994) (copy attached).<sup>1</sup> Those elements are met here.

**Specific Incident(s):** Pattern and practice throughout the current school year. See below.

**Provide a written statement including specific dates and times (if known) of the incident(s) that occurred. Provide first and last names of those involved and any witnesses.**

Repeated use of racial/ethnic slurs – including the n-word – and racially hostile language, and sharing of racially offensive materials, by other students, which has continued until the present time despite repeated reports to administration by complainant and others, and despite the purported “equity plan” the District is developing. The District is on notice of the racially hostile environment, but its response to the climate of racial harassment in its schools has been ineffective and inadequate.

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<sup>1</sup> *See also*, Wis. Stats. § 118.13 (prohibiting discrimination against pupils).

## Continuing incidents of racist language – in elementary and high schools

Early in the current school year, the District was put on notice of the repeated use of a racial slur by high school students. In another case, an elementary school student was repeatedly harassed on the basis of his limited English proficiency and national origin,<sup>2</sup> and the school made no effective or meaningful effort to ensure that such behavior stopped.

The District's (eventual) primary response to these kinds of incidents – other than seeking, and continuing to seek, to punish the high school victim<sup>3</sup> – was to purportedly develop an “equity plan” to address these issues. That response and the creation and implementation of that plan is clearly inadequate.

What appears to be an escalating series of racially hostile incidents during the last half of February shows that the District's response has been ineffective. For example, on or about Feb. 17, a video with numerous racial slurs and other harassing statements was made and posted by a 5<sup>th</sup> grade Canterbury elementary school student; although the video was eventually taken down, it was viewed by numerous parents and students.<sup>4</sup> The incident was reported to school officials, who apparently waited several days to act. The school then called a victim of the harassment to the principal's office, apparently along with the perpetrator. For almost two weeks, there were no additional protections or support to the victim.<sup>5</sup> Further, while school officials apparently just talked to the fifth grade classes at the school to say that what was happened was wrong, and made a non-specific assertion that the issue might be discussed at a school assembly, that has apparently not occurred, nor has more meaningful classroom discussion of racial harassment and related issues.

Then on or about Feb. 21, 2019, a District high school student said, in school, that she “hated Black people.” When complainant promptly reported this incident to associate principals in the high school; the response was that it did not matter because the student who made this comment was also Black.

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<sup>2</sup> National origin discrimination is also covered by Title VI.

<sup>3</sup> In fact, the District minimized the issue and claimed that the use of this slur could not be proven – rejecting the fact that complainant's own assertions (and reports) constitute such evidence. As discussed more fully below, the District has continued to focus on punishing complainant, not on accepting and responding to her experience of a hostile environment.

<sup>4</sup> Upon information and belief, the same student had previously made and posted other videos that contained racial slurs or racially hostile language. Also upon information and belief, the student who appeared in the video was not the only student involved in its creation and/or posting.

<sup>5</sup> “Appropriate steps to end harassment may include separating the accused harasser and the target, providing counseling for the target and/or harasser, or taking disciplinary action against the harasser. These steps should not penalize the student who was harassed.” “Dear Colleague” letter, U.S. Dept. of Education Office for Civil Rights (2010) at 4 (copy attached).

On or about Feb. 22, 2019, on school grounds and during school hours, students circulated a video containing racial slurs; this was reported to associate principals in the high school, who apparently declined to take action because the incidents allegedly did not occur in the school.<sup>6</sup>

Upon information and belief, on or about Feb, 26, 2019, graffiti with racist content was seen in the boys' bathroom at the high school.

The District has failed to adequately address the racially hostile environment.

The District's claim, released on Feb. 22, 2019, that "Greendale Schools' administration is taking proactive steps to build practices and policies that celebrate and appreciate Greendale's diversity<sup>7</sup>" misunderstands the nature of the problem, is grossly inadequate to resolve the issue, and is emblematic of the District's months-long failure to address the need for effective and meaningful anti-racist training and programming (not just programming to "celebrate diversity," which is not the same thing).<sup>8</sup>

To the contrary, and as the recent incidents show, the District has not been willing to admit to or effectively address the *systemic* nature of the racial harassment. An example of an appropriate systemic response is described by federal officials, criticizing a situation in which the school's response to repeated racist actions was only to punish those individual perpetrators who could be identified.

By failing to acknowledge the racially hostile environment, the school failed to meet its obligation to implement a more systemic response to address the unique effect that the misconduct had on the school climate. A more effective response would have included, in addition to punishing the perpetrators, such steps as reaffirming the school's policy against discrimination (including racial harassment), publicizing the means to report allegations of racial harassment, training faculty on constructive responses to racial conflict, hosting class discussions about racial harassment and sensitivity to students of other races, and conducting outreach to involve parents and

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<sup>6</sup> Whether or not the District can discipline (or has disciplined) a student for alleged conduct that occurs outside of school, this video was apparently widely shared among Greendale students, on school grounds and during school hours. This evidences a serious problem of systemic racial hostility within the District, to which the District has a duty to address, by more systemic actions than disciplining one individual.

<sup>7</sup> <https://www.greendale.k12.wi.us/superintendents-message.html>

<sup>8</sup> In fact, Teaching Tolerance itself – a resource the District has stated it is using as part of its "equity plan" – states, for example, the following about addressing racial issues. "Discussing Race, Racism and Other Difficult Topics With Students: Educators play a crucial role in helping students talk openly about the historical roots and contemporary manifestations of social inequality and discrimination. *Learning how to communicate about such topics as white privilege, police violence, economic inequality and mass incarceration requires practice, and facilitating difficult conversations demands courage and skill*— regardless of who we are, our intentions or how long we've been teaching."

<https://www.tolerance.org/magazine/publications/lets-talk> (emphasis added). This is clearly goes well beyond "diversity" programming.

students in an effort to identify problems and improve the school climate.. . [H]ad school officials responded appropriately and aggressively to the racial harassment when they first became aware of it, the school might have prevented the escalation of violence that occurred.<sup>9</sup>

“Dear Colleague” letter, U.S. Dept. of Education Office for Civil Rights (2010) at 4 (copy attached).

Instead, defensiveness or minimization of the issue has been the repeated response. In addition to the examples discussed above, in a Jan. 21, 2019 meeting with anti-racist advocates who had come on complainant’s behalf, the superintendent – one of the persons in charge of the District’s purported “equity plan” - inexplicably emphasized the history of Greendale as a “Greenbelt” community, apparently to try to show its diversity. However, he did not even mention Greendale’s long history of segregation, including the fact that it originally excluded African-Americans from living there and had a long history of using multiple racially restrictive covenants which excluded non-white persons from residence in those subdivisions,<sup>10</sup> indicating his lack of knowledge of and/or concern over such issues.

Further, the “focus groups” the District created to participate in its equity plan process were, on information and belief, composed of members selected by school officials, not generally open to the public or members of affected communities. The “restorative” meetings with students *and families* that the District’s plan said were to have occurred within 30 days have not taken place,<sup>11</sup> and, on information and belief, any meetings which have occurred with any students were not conducted by facilitators with expertise in restorative justice practices or in a manner that meaningfully implements restorative justice.<sup>12</sup>

There also have been continuing statements of and behavior by District officials – including one of the persons in charge of the District’s purported “equity plan” - to blame

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<sup>9</sup> Complainant is not asserting that there has been violence, but is only noting federal officials’ comment that a failure to appropriately address a racially hostile environment can lead to such an escalation. And while the incidents of recent weeks in Greendale have fortunately not involved violence, they do appear to represent an escalation of racially harassing behavior.

<sup>10</sup> Sierra Starnor-Heffron, “The Story of Greendale: A Utopia Unrealized,” (UWM 2015), viewed 2/22/19 at <https://uwm.edu/urban-studies/wp-content/uploads/sites/231/2015/12/Starnor-Heffron82-100.pdf> ; Metropolitan Integration Research Center, “Racially Restrictive Covenants: The making of all-white suburbs in Milwaukee County,” 1979, viewed 2/22/19 at <https://www4.uwm.edu/eti/Archives/RaciallyRestrictiveCovenants.pdf>

<sup>11</sup> <https://docs.google.com/document/d/1ILFqZhL9JRVLVyINx9w-MSqxxUCbguB-R086Im8-GIs/edit>

<sup>12</sup> It is particularly clear that this is the case here, since restorative justice is an *alternative* to discipline. See, e.g., [https://blogs.edweek.org/teachers/classroom\\_qa\\_with\\_larry\\_ferlazzo/2016/02/response\\_how\\_to\\_practice\\_restorative\\_justice\\_in\\_schools.html](https://blogs.edweek.org/teachers/classroom_qa_with_larry_ferlazzo/2016/02/response_how_to_practice_restorative_justice_in_schools.html) ; <http://schottfoundation.org/resources/restorative-practices-toolkit> ; <https://www.edutopia.org/blog/restorative-justice-resources-matt-davis>

and apparently retaliate against one of the victims and her family, and to belittle, minimize and dismiss import of these racially hostile behaviors. This includes the fact that rather than seeking to meaningfully address the racial harassment brought to their attention, District officials – including one of the persons in charge of the District’s purported “equity plan” - have, among other things, engaged in public and individual criticism of complainant and/or her mother, threatened to call the police on the family for comments made in a public meeting, and treated complainant and her mother (and their concerns) in a dismissive manner.

In addition, on Jan. 8, 2019, the District, through counsel, stated its willingness to expunge complainant’s academic violation in January and the athletic code violation in June. That position was reiterated by District’s counsel on multiple subsequent occasions.<sup>13</sup> However, as mentioned above, on Jan. 21, 2019, complainant’s mother and several persons involved in anti-racist work met with the superintendent. During that meeting, the superintendent repeatedly interrupted complainant’s mother and stated that what she had said was untrue and dismissed her concerns. After complainant’s mother felt she had no choice but to leave the meeting given his treatment of her, the superintendent announced for the first time to the remaining persons in the room, an individual not associated with the school administration in any way, that he would not remove the athletic code violation. That refusal to remove the athletic code violation – after the District had repeatedly said it would do so by June – is, on information and belief, in response to and in retaliation for comments and actions by complainant and her mother regarding the adverse racial climate in the District. Especially when considered in conjunction with the repeated and apparently escalating series of racial issues – supporting the reports of complainant and her mother of a racially hostile climate in the school – these actions and decisions confirms that District officials seem more interested in punishing a victim of racial harassment<sup>14</sup> than in addressing the underlying problem of a racially hostile environment.

Witnesses:

- ██████████ (student)
- ██████████ (mother)
- ██████████ (parent)
- Dr. ██████████ (contact information available on request)
- ██████████ (contact information available on request)

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<sup>13</sup> The only issue that had not been resolved was the date of the expungement, not that the athletic violation would be expunged.

<sup>14</sup> Instead, District officials continue to argue that complainant – who, again, was a victim of harassment - has not been punished enough for her purely verbal response to that harassment. They take this position now despite having previously agreed to also expunge the athletic code violation, and also despite the fact that the original suspension already forced complainant to miss homecoming and multiple athletic events.

**What action are you requesting? (i.e. relief sought):**

1. The District shall accept this complaint and ensure that any investigatory or other decisions about this complaint are made by someone other than the superintendent or anyone else about whose behavior the complaint is made.
2. The District shall consult with, and put in charge of, its “equity plan” and any other efforts to address or respond to racial harassment, an expert with experience in this subject.
3. The District shall develop “well-publicized policies prohibiting harassment and procedures for reporting and resolving complaints that will alert the school to incidents of harassment,” shall “take immediate and appropriate action to investigate or otherwise determine what occurred,” and shall ensure that its investigation is “prompt, thorough, and impartial.” 2010 Dear Colleague letter at 2. The District shall ensure that these policies do not require involvement of or approval by the superintendent or any person alleged to have participated in or contributed to the creation of such a climate (including by inaction), and which does involve persons with expertise and training in addressing racist behavior and hostile environments.
4. The District shall develop and implement policies and procedures to “take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. . . . Appropriate steps to end harassment may include separating the accused harasser and the target, providing counseling for the target and/or harasser, or taking disciplinary action against the harasser. These steps should not penalize the student who was harassed. For example, any separation of the target from an alleged harasser should be designed to minimize the burden on the target’s educational program (e.g., not requiring the target to change his or her class schedule).. . . and take steps to stop further harassment and prevent any retaliation against the person who made the complaint (or was the subject of the harassment) or against those who provided information as witnesses.” *Id.* at 2-3.
5. The District shall provide not just “diversity” education and training, but “training or other interventions not only for the perpetrators, but also for the larger school community, to ensure that all students, their families, and school staff can recognize harassment if it recurs and know how to respond,” and shall include and implement such steps as “training faculty on constructive responses to racial conflict, hosting class discussions about racial harassment and sensitivity to students of other races, and conducting outreach to involve parents and students [especially those from affected communities] in an effort to identify problems and improve the school climate.” *Id.* at 3-4.
6. As part of its obligation to ensure that there is no retaliation against the subject of the harassment, the District shall ensure that no District official or employee

makes derogatory comments about complainant or her family, or publicly discusses her record.

7. As part of its obligation to ensure that there is no retaliation against the subject of the harassment, the superintendent shall apologize for the belittling and dismissive comments made towards complainant and her family.
8. As part of its obligation to ensure that there is no retaliation against the subject of the harassment, the District shall expunge the athletic code violation from complainant's record.