

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200
SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

JAN 14 2014

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Of Northern California, Inc.
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Michael Harris, Attorney
National Center for Youth Law
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California Indian Legal Services
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(In reply, please refer to case no. 09-14-1111.)

Dear Ms. Steele, Mr. Harris and Ms. Parr:

On December 18, 2013, the U.S. Department of Education, Office for Civil Rights (OCR), received your complaint against the Loleta Union Elementary School District (Recipient). The complaint alleges discrimination on the basis of race and disability. OCR currently understands your allegations to be:

1. Native American students at Loléta Elementary School are subjected to physical and verbal harassment based on race by District staff and the District has failed to respond appropriately and effectively to notice of the harassment.
2. Native American students at Loleta Elementary School are subjected to disciplinary actions and penalties by District staff which are more severe than the disciplinary actions and penalties imposed on non-Native American students who engage in similar or more serious misconduct.
3. The District treats Native American students at Loleta Elementary School differently from non-Native American students by failing to follow District

disciplinary procedures, including excluding students from school for disciplinary reasons without implementing District suspension and expulsion procedures.

4. The District denies Native American students with disabilities at Loleta Elementary School a free appropriate public education (FAPE) by:
 - Failing to evaluate students who need or are believed to need special education or related aids and services because of disability;
 - Failing to implement the provisions of students' individualized education plans (IEPs) and Section 504 plans;
 - Failing to provide parents with procedural safeguards;
 - Isolating students with disabilities from their non-disabled peers;
 - Failing to evaluate students before significant changes of placement, including changes made for disciplinary reasons.
5. The District discriminates against Native American students with disabilities at Loleta Elementary School by refusing to make reasonable modifications in policies, practices or procedures when necessary to avoid discrimination on the basis of disability.

OCR enforces Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. These laws prohibit discrimination on the basis of race, color, national origin, and disability in programs and activities operated by recipients of Federal financial assistance. OCR also has jurisdiction under Title II of the Americans with Disabilities Act of 1990 over disability discrimination complaints filed against public educational entities. The Recipient receives funds from the Department and is a public education entity. Therefore the Recipient is subjected to laws and regulations enforced by OCR.

OCR is now beginning the complaint resolution process on all the complaint allegations identified above. Your complaint raised other areas of alleged discriminatory action; OCR will be in contact with you to discuss if any of these concerns raise additional allegations that should be incorporated into the complaint investigation.

Because OCR has determined that it has jurisdiction and that the complaint was filed timely or qualified for a waiver of the timeliness requirement, it is opening these allegations for investigation. Please note that opening the allegation(s) for investigation in no way implies that OCR has made a determination with regard to their merits. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegations, in accordance with the provisions of Article III of the *Case Processing Manual*.

We will contact you or your designated representative soon to discuss the allegations and complaint resolution process. OCR may close this complaint prior to making formal findings of compliance or non-compliance, provided that the circumstances or

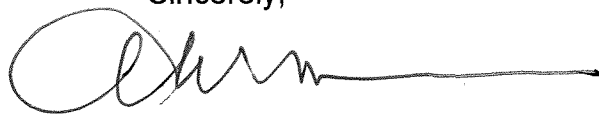
information gathered establishes an administrative or other basis for resolution in accordance with the *Case Processing Manual*.

Federal regulations prohibit the Recipient from retaliating against you or from intimidating, threatening, coercing, or harassing you or anyone else because you filed a complaint with OCR or because you or anyone else take part in the complaint resolution process. Contact OCR if you believe such actions occur.

Under the Freedom of Information Act, it may be necessary to release this document and related records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

If you have any questions about this letter, please call our office at 415-486-5555.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles R. Love', with a long horizontal line extending to the right.

Charles R. Love
Program Manager