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March 6, 2020

DISCRIMINATION AND RETALIATION COMPLAINT

Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

Re: Dylan Muriano/Walter Reed Middle School

1. Name and contact information of person filing this complaint:

Leyna Nguyen



2. Name of person discriminated against:

Dylan Muriano, the minor son of Leyna Nguyen.

3. The institution that engaged in the discrimination and retaliation:

Los Angeles Unified School District
Walter Reed Middle School
4525 Irvine Ave.
North Hollywood, CA 91602

4. Basis for Discrimination:

Race: Asian
National Origin (perceived): Chinese
Retaliation: See below.

5. Description of the Discriminatory and Retaliatory Acts:

In December 2019, a novel strain of Coronavirus, 2019-nCov (hereafter, “Coronavirus” or “2019-nCiv”), broke out in China’s Hubei Province. It spread rapidly in the City of Wuhan, infecting thousands. The virus has since spread to at least 65 countries and claimed over 3,000 lives worldwide. As of today, according to NBC News, there have been more than 225 reported cases of Coronavirus in the United States. (<https://www.nbcnews.com/health/health-news/live-blog/coronavirus-updates-live-14-dead-across-u-s-trump-signs-n1151451>.) With the expansion of 2019-nCov in January and February in other parts of the world, media coverage has become more extensive.

Dylan Muriano attends Walter Reed Middle School in North Hollywood, California. He is an 8th grader of Asian descent. His mother, Leyna Nguyen, is ethnically Vietnamese. Vietnam is a country not closely associated with Coronavirus in media coverage.

On February 5, 2020, Dylan was sitting in his regular Honors Science class. He swallowed some water awkwardly, and coughed. The teacher, [REDACTED], looked up, noted him, and instructed Dylan to go to the school nurse. Dylan indicated that he was fine. The teacher ignored his assurance and commanded him to see the nurse.

The nurse cleared Dylan as healthy and sent him back to class. When he returned, Dylan asked the teacher why he was not sending other (non-Asian) students out when they coughed. Dylan asked if he had been sent out “because I am Asian?,” a reference to the Coronavirus outbreak. The teacher stared at Dylan and said nothing. Instead of responding, he sent Dylan to the back of the room and as class was let out, classmates began taunting him about Coronavirus.

[REDACTED] further retaliation followed swiftly and consistently. The instances of the teacher’s retaliation included the following:

- 1) The next day, the teacher accused Dylan of being disruptive and sent him to the Dean’s office. Dylan had not been disruptive. Indeed, he has no history of being disruptive and had never been previously sent to the Principal’s office.
- 2) The teacher thereafter sent Dylan to the Dean’s or Principal’s office on approximately *six* additional occasions, citing one bogus pretext or another.
- 3) Further, the teacher pointedly ignored Dylan’s requests for help in the classroom. For example, when Dylan asked the teacher for a text book page number, the teacher would either look him directly in the eye and ignore his request, or, in tones dripping with sarcasm, respond with statements like, “It could be in the beginning of the book,

or it could be at the end, or in the glossary. I don't know. Find it yourself."1 On another occasion, Dylan returned to the classroom after being sent out on some pretext by the teacher. Because he was sent out of the class, Dylan asked for extra time to finish the class room assignment. The teacher responded, "We'll see." When Dylan again asked the teacher at the end of the class for extra time to complete the assignment, the teacher again repeated in the same voice, "We'll see.," making abundantly clear that no accommodation would be forthcoming.

- 4) The teacher made Dylan sit in the back corner of the classroom, where his seating area was littered with refuse, including spit, apple juice, and other kinds of trash. (Ex. A [picture].) Dylan brought the filthy state of the seating area to the teacher's attention at least seven times, requesting to be moved. Even after Dylan specifically identified the trash, spit, juice, and filth littering the area, the teacher kept repeating again and again, "Tell me the problem."
- 5) The teacher refused to give Dylan a working computer to do an assignment, despite multiple requests and despite the fact that everyone else in the class had a working computer that was provided by the school for that class.

As Ms. Nguyen learned of the teacher's ongoing retaliation in the wake of her son's discrimination complaint, her alarm, distress, and sense of injustice grew.

So she complained. In particular, Ms. Nguyen contacted school administrators, [REDACTED]

[REDACTED], to apprise them of Dylan's situation.

An administrator initially reacted with appropriate outrage, stating that the circumstances "reeked of discrimination," that the teacher's conduct "would not be tolerated," and that "something will be done." Ms. Nguyen indicated that all she sought was an apology from the teacher, and that he stop targeting her son.

Days passed with no response. So Ms. Nguyen continued to press, including by reaching out to school officials again, posting on Facebook, and even speaking with local media.

An investigation finally ensued.

On February 26, 2020, Ms. Nguyen met with school administrators, and her son for an

1 This quote and those that follow reflect statements made in words or substance.

update on the School's investigation. A school administrator stated that he had interviewed witnesses, who had confirmed virtually every aspect of Dylan's account, including the events on February 5, the teacher's subsequent actions, and the filthy condition of Dylan's newly designated seating area. The School's resulting conclusion was that the teacher had retaliated against Dylan since the February 5 coughing incident.

However, beyond assuring Ms. Nguyen that Dylan's class seating would change and repeating in hollow tones, "We are giving the teacher the support he needs to deal with these issues.," School officials claimed they could effectively do nothing. Accordingly, a school administrator said, "Ms. Nguyen, I implore you to consider moving your son out of this classroom because we can't control the teacher." In their view, the best thing to do "to prevent further incidents" would be to move Dylan. By way of explanation, she noted that the Principal could not sit in the classroom every day.

When Ms. Nguyen asked "What about moving the teacher?," they again repeated, "We are giving the teacher the support he needs to deal with this." Ms. Nguyen reiterated that all the family wanted was for the teacher to apologize. A meeting with the teacher was therefore arranged for the same day.

At the meeting, the teacher was totally unrepentant. Indeed, he did not even acknowledge a problem. When Dylan expressed hurt about being singled out and being removed from the classroom to go to the nurse, the teacher said, "It's unfortunate you feel that way." When Ms. Nguyen noted fact after witness-confirmed-fact about his retaliatory conduct, the teacher restated flatly, "I don't recall what happened.," including as to the previous day's events. Ms. Nguyen finally asked, "Why can't you just say sorry for making a kid feel bad?" The teacher responded, "I don't think an apology is necessary."

After the meeting ended and the teacher departed, a school administrator came back in to apologize. Another school administrator likewise expressed disbelief at the teacher's behavior and also apologized. Nonetheless, they again urged Ms. Nguyen to consider moving Dylan out of class "to prevent any more incidents and not to put more stress on Dylan by having to come to the teacher's class every day."

That evening, to end the weeks of further anxiety, shame and potential retaliation that would result from continuing to attend the teacher's class, Dylan agreed to move. In doing so, Dylan will be giving up an honors class. Dylan will also be losing the substance and continuity of this year's science learning. The consequences of those losses are uncertain.

The school demonstrated deliberate indifference by requiring Dylan to either return to the classroom of a teacher they "could not control" and potentially suffer further discrimination, retaliation, and harassment, or go to another classroom, which was not an honors class. It is wrong that Dylan should suffer the consequences of the teacher's misconduct, while the teacher

remains in his class and does not appear to suffer any consequences.

More broadly, unless strong steps are taken throughout the District, Asian-American students at schools such as Walter Reed may be targeted for obvious racial discrimination and retaliation relating to the global health emergency over Coronavirus. The CDC has stated in unambiguous terms that, "People of Asian descent, including Chinese Americans, are not more likely to get COVID-19 than any other American. [B]eing of Asian descent does not increase the chance of getting or spreading COVID-19." (<https://www.cdc.gov/coronavirus/2019-ncov/about/share-facts.html>)

6. Most recent date Dylan Muriano was discriminated against?

February 26, 2020.

7. N/A.

8. Attempts to resolve the dispute through internal procedures:

As described, Ms. Nguyen and Dylan have attempted to resolve these allegations with Walter Reed Middle School through an internal grievance procedure.

9. This complaint is being contemporaneously filed with:

The Los Angeles Unified School District
Educational Equity Compliance Office, 18th Floor
333 South Beaudry Avenue
Los Angeles, CA 90017

The Los Angeles Educational Equity Compliance Office has not assigned a case number to this matter, nor has it issued investigation findings.

10. Alternative Contact:

The Law Offices of Allred, Maroko & Goldberg
6300 Wilshire Blvd., Suite 1500
Los Angeles, CA 90048
Tel: 323 653-6530

11. Remedy Sought:

District-wide faculty and staff training about, and prevention of, racial and national origin discrimination arising from the Coronavirus outbreak.

12. Signature of Complainant:

3/6/2020
(Date)

(Signature) 

Leyna Nguyen

Very truly yours,

ALLRED, MAROKO & GOLDBERG


GLORIA ALLRED

SP:am
cc: Clients

EXHIBIT A

