



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE SCHOOL DISTRICT OF PHILADELPHIA  
and THE SCHOOL REFORM COMMISSION,

Defendants.

10 7301

CIVIL ACTION NO. \_\_\_\_\_

**COMPLAINT**

The United States brings this civil action pursuant to Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c-6 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States to remedy and enjoin named Defendants' unlawful discrimination against Asian students based on race, color, and/or national origin at South Philadelphia High School (SPHS) in the School District of Philadelphia. These students were repeatedly and consistently harassed based on race, color, and/or national origin, which barred the students' access to equal educational opportunities. Defendants had actual knowledge of this severe and pervasive harassment, and were deliberately indifferent to the harassment because their response was clearly unreasonable.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1345, and 1391.
2. The United States is authorized to initiate this action pursuant to 42 U.S.C. § 2000c-6.
3. The Assistant Attorney General for the Civil Rights Division of the United States

A TRUE COPY CERTIFIED FROM THE RECORD  
DATED: DEC 15 2010  
ATTEST: *Spivey Thomas*  
DEPUTY CLERK, UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

Department of Justice, on delegation from the Attorney General, has certified that all pre-filing requirements specified in 42 U.S.C. § 2000c-6 have been met. The Certificate of the Assistant Attorney General is appended to this Complaint and is incorporated herein.

4. Venue in the Eastern District of Pennsylvania is proper pursuant to 28 U.S.C. § 1391(b).

### **DEFENDANTS**

5. Defendant School District of Philadelphia is part of the system of public education in the Commonwealth of Pennsylvania. Phila. Sch. Dist. Policy 002, Sec. 1. SPHS is located in the School District of Philadelphia.

6. Defendant School Reform Commission is the governing body of the School District of Philadelphia and is responsible for, inter alia, setting the policy direction of the School District of Philadelphia. Phila. Sch. Dist. Policy 008, 2(a).

7. Defendants are legally responsible, in whole or in part, for the operation of SPHS, and for the conditions therein.

### **FACTUAL ALLEGATIONS**

8. For numerous school years, including, but not limited to the 2007-08, 2008-09, and 2009-10 school years, Asian students at SPHS have been subjected to harassment based on their race, color, and/or national origin by other students. This harassment consisted of, among other things, verbal abuse and physical assaults, and has occurred in different areas in and around the school, including the cafeteria, hallways, classrooms, and restrooms.

9. For numerous years, students, parents and advocates have informed district-level and school-level officials about incidents of harassment directed against Asian students based on race, color, and/or national origin. For example, throughout the 2008-09 school year, Asian

students and community advocates met with district-level and school-level officials on numerous occasions about this persistent verbal and physical harassment. Additionally during the 2008-09 school year, students and parents reported such incidents to school-level officials, as well as teachers and security officers. Defendants failed to adequately respond to the reports of harassment.

10. Then, on December 3, 2009, dozens of Asian students were repeatedly attacked at SPHS and near school grounds throughout the day and after school. These attacks were based on race, color, and/or national origin. As a result of these assaults, many Asian students did not attend school after December 3 out of fear for their safety and, consequently, were unable to participate in the educational program. Additionally, many Asian students were barred access to an equal educational opportunity on a regular basis, which included moving freely throughout the school without fear for their safety.

### **VIOLATIONS ALLEGED**

11. Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c-6, prohibits discrimination on the basis of, among other things, race, color, and/or national origin in public schools, which deprives individuals of the equal protection of the laws. Actual knowledge of and a clearly unreasonable response to severe or pervasive harassment, which bars students from enjoying the educational benefits afforded to them based on race, color, and/or national origin, constitutes discrimination.

12. Defendants' deliberate indifference to known instances of severe and pervasive harassment to which Asian students were subjected as alleged in paragraphs 8, 9, and 10, effectively barred them equal access to educational opportunities. Defendants' acts and


omissions as alleged in paragraphs 9, 10, and 11, deny Asian students the equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States.

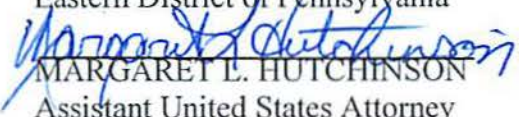
13. Unless the relief requested herein is required by this Court, Defendants will continue to deny Asian students at SPHS equal protection of the laws.

### **PRAYER FOR RELIEF**

WHEREFORE, the United States prays that this Court:

- 1) declare that Defendants have unlawfully discriminated against Asian students at SPHS in violation of the Constitution and the laws of the United States by being deliberately indifferent to the known, widespread discriminatory harassment of these students;
- 2) permanently enjoin Defendants, their officers, agents, employees, successors, assigns, and all persons in active concert or participation with them from all unlawful discrimination on the basis of race, color, and/or national origin in Defendants' operation of SPHS;
- 3) order Defendants to formulate, adopt, and timely implement a plan to remedy fully their discriminatory policies and practices and to comply with the requirements of federal law and the Fourteenth Amendment to the Constitution of the United States; and
- 4) order such additional relief as it deems just and proper.

  
ZANE DAVID MEMEGER  
United States Attorney  
Eastern District of Pennsylvania

  
MARGARET L. HUTCHINSON  
Assistant United States Attorney  
Chief, Civil Division  
Eastern District of Pennsylvania

  
ANNETTA FOSTER GIVHAN  
Assistant United States Attorney  
Eastern District of Pennsylvania  
Tel: (215) 861-3619  
Fax: (215) 861-8618

Respectfully submitted,

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

  
AMY I. BERMAN  
TAMARA H. KASSABIAN  
NICHOLAS U. MURPHY  
Attorneys for Plaintiff  
U.S. Department of Justice  
Civil Rights Division  
Educational Opportunities Section  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530  
Tel: (202) 514-4092  
Fax: (202) 514-8337