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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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April 15, 2021

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Cardona:

I write to encourage the U.S. Department of Education (“Department”) to take steps to ensure that K-12 schools and institutions of higher education (“IHEs”) are addressing instances of harassment on the basis of race, ethnicity, or national origin, including those targeted at Asian-American and Pacific Islander (“AAPI”) students and staff. I urge the Department to continue taking proactive steps to ensure that all K-12 schools and IHEs are aware of the Department’s existing guidance regarding harassment and discrimination on the basis of race, ethnicity, or national origin.

Recent reporting has shed light on a trend of AAPI families choosing to keep their students in distance education at disproportionately higher rates compared to other racial and ethnic groups.¹ Though each family’s situation is unique, it is increasingly clear that at least some of these families are worried about the rise of bullying, harassment, and violence targeted at AAPI communities and individuals that may become more prevalent as schools safely reopen for in-person instruction. In some districts, the disparities are stark: in a February study in Fairfax County Public Schools in Virginia, AAPI families chose to send their students back to in-person learning at the lowest rate of any racial or ethnic group.² Metro Nashville Public Schools conducted a similar survey in December 2020, which found the percentage of AAPI families indicating they wanted to return to was lower than the district averages and the percentages of white and Hispanic families that indicated their interest in returning to in-person schooling.³ In

¹ https://www.washingtonpost.com/education/asian-american-students-home-school-in-person-pandemic/2021/03/02/eb7056bc-7786-11eb-8115-9ad5e9c02117_story.html

² [https://go.boarddocs.com/vsba/fairfax/Board.nsf/files/BXXSUP730986/\\$file/Brabrand%20Briefing%20-%20February%205%2C%202021.pdf](https://go.boarddocs.com/vsba/fairfax/Board.nsf/files/BXXSUP730986/$file/Brabrand%20Briefing%20-%20February%205%2C%202021.pdf);

[https://go.boarddocs.com/vsba/fairfax/Board.nsf/files/BXX5YQ128AC2/\\$file/Intent%20Graphs%20by%20Subgroup%202.2.21.pdf](https://go.boarddocs.com/vsba/fairfax/Board.nsf/files/BXX5YQ128AC2/$file/Intent%20Graphs%20by%20Subgroup%202.2.21.pdf)

³ <https://www.tennessean.com/story/news/education/2020/12/17/if-nashville-mnps-schools-reopen-black-students-likely-stay-remote/3903767001/>

New York City, where reports of anti-AAPI assaults have risen at an alarming rate,⁴ AAPI students make up only 12 percent of those returning to classrooms this spring compared to 18 percent of the district’s total enrollment.⁵

The Department has previously provided guidance about the responsibility of K-12 schools and IHEs to protect students from bullying, harassment, and violence. Specifically, the Department’s Office for Civil Rights (“OCR”) has provided a Frequently Asked Questions page about race and national origin discrimination.⁶ In 2016, OCR also issued a fact sheet in coordination with the U.S. Department of Justice’s Civil Rights Division focused on combatting discrimination against Asian American, Native Hawaiian, and Pacific Islander and Muslim, Arab, Sikh, and South Asian students.⁷ OCR also issued a Dear Colleague letter on October 26, 2010 specifically providing information on how anti-bullying policies in K-12 schools can also implicate those schools’ responsibilities to address discriminatory harassment.⁸ That Dear Colleague letter emphasized schools’ responsibility to “eliminate the hostile environment created by the harassment, address its effects, and take steps to ensure that harassment does not recur.”⁹

Given the increasing rates of discrimination and harassment against the AAPI community, I hope the Department will remind K-12 schools and IHEs of their responsibility to provide safe learning environments for students regardless of their race, ethnicity, or national origin, and point them towards new and existing resources to help them navigate their responsibilities to their students and staff members if instances of discrimination or harassment on the basis of race or national origin arise. Re-emphasizing these responsibilities to all K-12 schools and IHEs will help ensure that schools address discriminatory harassment quickly and completely, especially as many schools resume in-person learning.

The Department is already taking several important steps to help ensure that K-12 schools and IHEs are supporting students during the COVID-19 pandemic and developing plans for a stronger, safer, and fairer future once the pandemic ends. Most recently, the Department’s comprehensive review of regulations implementing Title IX of the Education Amendments of 1972 is a critical move toward ensuring that K-12 schools and IHEs are taking the steps necessary to prevent and address sexual harassment and campus sexual assault.¹⁰

In the midst of the rise of anti-AAPI violence, the need for clear guidance to K-12 schools and IHEs takes on a special urgency for students, staff, and community members from AAPI

⁴ <https://www.nytimes.com/2021/02/26/nyregion/asian-hate-crimes-attacks-ny.html>

⁵ https://www.washingtonpost.com/education/asian-american-students-home-school-in-person-pandemic/2021/03/02/eb7056bc-7786-11eb-8115-9ad5e9c02117_story.html

⁶ <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/race-origin.html#racehar1>

⁷ <https://www2.ed.gov/about/offices/list/ocr/docs/aanhpi-massa-factsheet-201606.pdf>

⁸ <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

⁹ Id. at 3-4.

¹⁰ <https://www.ed.gov/news/press-releases/department-educations-office-civil-rights-launches-comprehensive-review-title-ix-regulations-fulfill-president-bidens-executive-order-guaranteeing-educational-environment-free-sex-discrimination>

communities. I hope the Department will consider further steps to ensure K-12 schools and IHEs are taking the steps required to protect all members of their school communities.

Sincerely,

A handwritten signature in blue ink that reads "Patty Murray". The signature is written in a cursive style with a large initial "P".

PATTY MURRAY

Chair, Senate Committee on Health,
Education, Labor and Pensions