



November 20, 2016

VANESSA TORRES HERNANDEZ
YOUTH POLICY DIRECTOR

Superintendent Dr. Shelley Redinger
Spokane Public Schools
Administration Building
200 N. Bernard
Spokane, WA 99201
Via hand delivery

**AMERICAN CIVIL
LIBERTIES UNION OF
WASHINGTON
FOUNDATION**
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JEAN ROBINSON
BOARD PRESIDENT

KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

Dear Superintendent Redinger,

This week, the American Civil Liberties Union of Washington received reports of troubling incidents of bullying, intimidation, and harassment of students in Spokane Public Schools. Students of color in Spokane reported being repeatedly told to “go back to Mexico” or “go back to Africa.” These incidents, coupled with recent racially motivated vandalism of Spokane’s Martin Luther King Center, indicate a real and immediate need for the Spokane Public Schools to respond.

Public school students are protected by state and federal law from discrimination or harassment in education based on race, color, religion, sex, national origin, or disability.¹ The right to equal educational access includes the right to be free from harassment, intimidation, and bullying that interferes with a student’s education.² Washington law similarly requires school districts to adopt a harassment, intimidation, and bullying prevention policy.³

We appreciate that Spokane Public Schools has taken steps to address the reported incidents, but encourage the district to take additional action to prevent future instances of racially motivated harassment or bullying. In particular, we encourage the Spokane Public Schools to reiterate its commitment to creating a safe and inclusive learning environment, and to provide opportunities for students and staff to engage in open dialogue on the

¹ See, e.g., Titles IV and VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation of 1973, Titles II and III of the Americans with Disabilities Act, and the Individuals with Disabilities Education Act; RCW 28A.642.010.

² See, e.g. *Nabozny v. Podlesny*, 92 F.3d 446, 458 (7th Cir. 1996); *Flores v. Morgan Hill Unified School District*, 324 F.3d 1130, 1134-35 (9th Cir. 2003).

³ RCW 28A.300.285; WAC 392-190-059.

racial divides splitting our nation. The District could also carefully deploy restorative practices as a preventative or responsive tool.⁴

Schools, of course, have an obligation to respect students' First Amendment rights, but that is in no way inconsistent with an obligation to prevent racial, religious, or other harassment. Under Washington law, harassment, intimidation, and bullying include intentional verbal acts motivated by a protected characteristic, if the speech also has the effect of interfering with a student's education or is so severe that it creates an intimidating educational environment.⁵ This standard balances the non-discrimination principles of civil rights law with First Amendment protections.

We trust that the District will take the necessary steps to ensure that Spokane Public Schools remain safe and inclusive places for all students. Please let us know if we can assist in that regard.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vanessa Hernandez', with a stylized flourish at the end.

Vanessa Hernandez
Youth Policy Director

⁴ See Center for Safe Schools, *Integrating Bullying Prevention and Restorative Practices in Schools: Considerations for Practitioners and Policymakers*, at

<http://www.safeschools.info/content/BPRPWhitePaper2014.pdf>

⁵ RCW 28A.300.2851.

