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March 9, 2021

*Via Electronic Mail*

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**RE: *Arnold v. Barbers Hill Independent School District, No. 4:20-CV-01802 (S.D. Texas)***

Dear Counsel:

On behalf of our clients, we write to express our concerns regarding the racist incidents at Barbers Hill High School (“BHHS”) following the November 3, 2020 election and during Black History Month. This letter provides recommendations to assist the Barbers Hill Independent School District (“BHISD” or the “District”) in maintaining an environment free of racial hostility for all students.

Concerned parents informed us that someone scrawled “Black Lives Don’t Matter” on the wall of a student bathroom shortly after Election Day.<sup>1</sup> Contrary to BHISD policy, which prohibits harassment such as the display of graffiti promoting racial, ethnic, or other negative stereotypes,<sup>2</sup> the graffiti remained in place for at least three months even though BHHS was aware of the graffiti.

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<sup>1</sup> See Appendix 1; see also ABC 13 Houston, *Barbers Hill High School Under Fire Again After ‘Black Lives Don’t Matter’ Was Painted On Campus*, ABC 13 Houston (Feb. 09, 2021), available at <https://abc13.com/black-lives-dont-matter-spray-painted-at-barbers-hill-high-school-texas-addresses-racist-remarks-students-upset-over-graffiti-painted-in/10322110/> (describing the racist incident in detail).

<sup>2</sup> Barbers Hill Independent School District Board Policy Manual, *Student Welfare: Freedom From Discrimination, Harassment, and Retaliation FFH (LOCAL)*, [https://pol.tasb.org/Policy/Download/280?filename=FFH\(LOCAL\).pdf](https://pol.tasb.org/Policy/Download/280?filename=FFH(LOCAL).pdf).

Additionally, BHHS removed posters of Vice President Kamala Harris and former First Lady Michelle Obama that the BHHS Student Council had displayed in celebration of Black History Month.<sup>3</sup> BHHS claimed that the posters were “political propaganda,” although the posters contained harmless inspirational quotes that promoted unity, e.g., “Our Unity is our strength & our diversity is our power. We reject the myth of us vs. them. We are in this together,” and “Don’t be afraid. Be focused. Be determined. Be hopeful. Be empowered. When they go low, we go high.”<sup>4</sup>

Title IV of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c et seq., prohibits racial discrimination in public elementary and secondary schools, including peer-to-peer racial harassment. *See Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629 (1999). The District must also comply with the Fourteenth Amendment of the U.S. Constitution, Title VI of the Civil Rights Act of 1964, which prohibits racial discrimination by recipients of federal financial assistance, and the Texas Civil Practice and Remedies Code § 106.001, which prohibits racial discrimination by an officer or employee of the state. The District is thus bound both by federal and state law to affirmatively act to prevent students from harassing other students on the basis of race and ensure that students are not subject to a racially hostile environment.

We ask the District to take the following remedial steps:

1. Ensure that there is no retaliation against whistleblowers who report allegations of racial harassment or raise awareness about an alleged act of racial harassment, including whistleblowers who do not report such harassment directly to District personnel;
2. Promptly investigate all allegations of harassment of students based on race, color, or national origin that are known or reasonably should be known to the District;
3. Promptly act to eliminate a hostile environment if one has been created, prevent its recurrence, and remedy the effects of any hostile environment on affected students;
4. As soon as possible, provide District educators with resources for addressing the scrawling of “Black Lives Don’t Matter” on the wall of the student bathroom and

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<sup>3</sup> *See* Appendix 2; *see also* Click 2 Houston, *Some Barbers Hill HS Students, Parents Raise Concern After District Removes Posters During Black History Month*, Click 2 Houston (Feb.09, 2021), available at <https://www.click2houston.com/news/local/2021/02/10/some-barbers-hill-hs-students-parents-raise-concern-after-district-removes-posters-during-black-history-month/> (describing the quotes on the posters).

<sup>4</sup> *See supra* note 3.

other instances of racial harassment (such as [Teaching Tolerance's Guide to Responding to Hate and Bias at School](#))<sup>5</sup>;

5. Issue a statement from the Superintendent, by March 19, 2021, to be posted in prominent locations at each school and on each school's and the District's website, (a) declaring that the District does not tolerate harassment, including harassment based on race, color, or national origin, (b) encouraging students who believe they have been subjected to such harassment or a hostile environment to report it to a designated staff member (whose contact information should be listed), (c) stating that the District is committed to fully investigating such allegations, (d) warning that students who harass other students or otherwise create a hostile environment will be disciplined accordingly, and (e) inviting every member of the school community to work together to create a tolerant and inclusive learning environment;
6. As soon as possible, conduct a school climate survey to assess whether the District's prior interventions, if any, have properly resolved concerns regarding racial harassment and/or a racially hostile environment;
7. Retain an independent consultant (such as the Region II Equity Assistance Center<sup>6</sup>), by March 19, 2021, to (a) conduct a comprehensive review of the District's school climate and the District's practices and policies that pertain to racial harassment and/or a racially hostile environment within the next 120 days, and (b) within the next 120 days, recommend steps the District should take to improve school climate and ensure that all instances of racial harassment and/or a racially hostile environment are properly addressed and remedied, including, but not limited to, revisions to policies, training, and lessons for students;
8. As a part of each school's regular curriculum, provide instruction to students on tolerance, diversity, and respect for others.

We look forward to working with you and your clients to overcome these challenges and ensure that all BHISD students are afforded an equal opportunity to get an education. If you have

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<sup>5</sup> Teaching Tolerance, *A Guide for Administrators, Counselors and Teachers Responding to Hate and Bias at School*, <https://www.tolerance.org/sites/default/files/2017-07/Responding%20to%20Hate%20at%20School%202017.pdf>.

<sup>6</sup> Texas falls within Region II of the U.S. Department of Education's Equity Assistance Centers. The Region II Equity Assistance Center is the South Central Collaborative for Equity of the Intercultural Development Research Association, which is based in San Antonio, Texas.



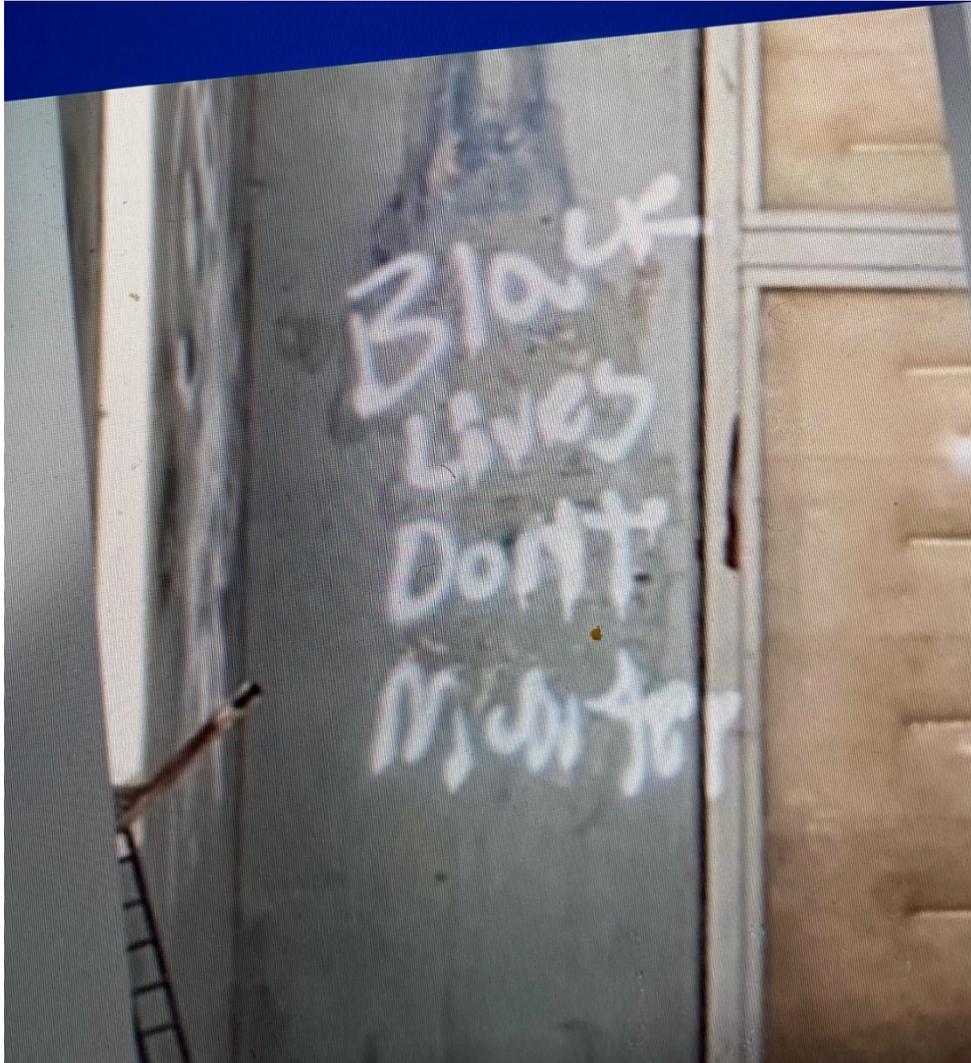
any questions regarding this letter or would like to otherwise discuss this incident, please contact us via our email addresses below.

Sincerely yours,

/s/  
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Cc: Teresa Yeh, Esq, United States Department of Justice, Civil Rights Division, Educational Opportunities Section  
Matt Tiffie, Special Investigative Unit of the Texas Education Agency

Appendix 1



Appendix 2

