



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION XI  
NORTH CAROLINA  
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WASHINGTON, DC

February 16, 2023

By email only to [cqmoore@wcpss.net](mailto:cqmoore@wcpss.net)

Ms. Cathy Quiroz Moore  
Superintendent  
Wake County Public School System  
5625 Dillard Drive  
Cary, NC 27518

Re: Case Nos. 11-10-1311 and 11-10-1313  
Wake County Public School System

Dear Ms. Moore:

This letter confirms the outcome of the U.S. Department of Education, Office for Civil Rights (OCR) investigation of the Wake County Public School System (the District), which the District resolved through voluntary agreement on November 20, 2018. OCR investigated whether the District discriminated against African American students on the basis of race by disciplining African American students more harshly than white students, and whether the District discriminated on the basis of race when, on April 6, 2010, the Wake County Board of Education (the Board) revised its student assignment policy to eliminate consideration of socioeconomic status in schools and began the process of implementing a neighborhood schools assignment policy. While we strive to resolve the complaints we receive in a timely manner, we acknowledge the length of time OCR took to resolve this case, and we thank the District for its patience.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance from the Department of Education. Because the District receives federal financial assistance from the Department of Education, OCR has jurisdiction over it pursuant to Title VI.

OCR reviewed documentation and data provided by the Complainants and the District. OCR also conducted two onsite visits to the District. During the second visit, OCR went to 11 schools and interviewed school administrators, guidance counselors, Positive Behavior Interventions and Supports coordinators, Alternative Learning Center (ALC) coordinators, and in-school suspension (ISS) coordinators. OCR also interviewed District personnel, including the Equity Coordinator, Director of School Counseling, and School Resource Officer Coordinator, and attended a community meeting hosted by the Complainants. After the onsite visit, OCR distributed an online survey regarding the District's discipline policies and practices to District teachers and staff, and received over 1400 responses. OCR also analyzed data sets of disciplinary incidents obtained from the District for the 2013-14 and 2014-15 school years.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

Before OCR completed its investigation, the District expressed an interest in resolving the discipline allegation. OCR determined that a resolution agreement was appropriate to resolve the allegation, pursuant to Section 302 of OCR's *Case Processing Manual*, as described below, and on November 20, 2018, the District entered an agreement to resolve this investigation.

### *Discipline*

OCR acknowledges the District's efforts to promote equity in its discipline practices during the investigation. The District revised its Code of Student Conduct (Code) to reduce the use of out-of-school suspension (OSS) as a consequence for lower-level offenses, encourage in-school interventions when possible, and require that placement in an alternative program be considered in lieu of long-term suspension. The District's use of short-term and long-term OSS decreased for students of all races, and the gap between the overall African American and white OSS rates narrowed. The District also invested resources in its Office of Equity Affairs and the ongoing implementation of its Comprehensive Plan for Equitable Discipline Practices, including multiple initiatives to expand supports and interventions for students with challenging behavior.

OCR noted the following concerns during its investigation. With respect to the Code in effect at the time the District entered into the Agreement, OCR obtained information suggesting that definitions of certain common offenses were subjective and overlapping. With respect to data collection practices, information provided by the District indicated that its data system did not require the inclusion of all disciplinary referrals and did not distinguish referrals from other information. OCR's analysis of the District's data sets showed that African American students were referred for discipline at higher rates than white students and were overrepresented among frequently referred students. OCR's analysis also showed that African American first-time offenders (FTOs) were suspended at higher rates than white FTOs for certain offenses. With respect to alternatives to suspension, District staff reported uneven implementation of ALCs and an overlap between ALCs and ISS.

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District signed the enclosed Agreement with respect to the student discipline allegation, which, when fully implemented, addresses the evidence obtained and the allegation investigated. Specifically, the District agreed to:

- clarify the definitions of certain offenses in the Code and provide training to staff on the revisions;
- clarify its data collection practices to ensure that it collects information on all disciplinary referrals and that disciplinary referrals are clearly identified in its data system;
- analyze its current data for evidence of unlawful racial discrimination with respect to disciplinary referrals and consequences, including discrimination in failure of administrators to comply with the Code when assigning consequences and inconsistent implementation of the Code across schools, and to put in place appropriate corrective actions to address any concerns identified;

- provide training to staff to prevent unlawful discrimination when referring students for discipline and determining appropriate consequences; and
- review and revise, as appropriate, its procedures for assigning students to ALCs, including to clarify the distinction between ISS and ALCs.

In addition to the commitments described above, the District agreed to take other actions pertaining to staff training, recordkeeping, data collection and analysis, communications, and self-evaluation, all with the goal of promoting equity in its discipline practices. OCR is monitoring the District's implementation of the Agreement.

#### *Student Assignment*

OCR determined to close the student assignment allegation pursuant to Section 110(d) of the *Case Processing Manual*, which states that OCR will close or dismiss an allegation if OCR obtains credible information indicating that the allegation has been resolved.

After the Board revised the student assignment policy (Policy 6200) to eliminate consideration of socioeconomic status (SES), the Board replaced the revised Policy 6200 in May 2012 with a policy that focused on parental choice (controlled choice plan).<sup>1</sup> One month later, the Board discontinued the controlled choice plan, put in place a transition plan, and ultimately adopted in May 2013 a revised Policy 6200 that restored consideration of SES as a factor. Specifically, under the broader goal of student achievement, factors for consideration in the 2013 policy included “minimizing high concentrations of students from low-income families at each school” and “minimizing high concentrations of low-performing students at each school.” The Policy called for development of an assignment plan that would contain “target ranges” for these factors, where appropriate. The current policy (renumbered in 2016 to Policy 4150), which reflects further revisions in April 2017, December 2017, and August 2022, continues to include these two factors.

Based on this information, OCR determined that the District has resolved this allegation. The school assignment plan that was the subject of these complaints was in place for only a brief period before the Board revised its policy and restored consideration of SES as a factor. The current policy continues to emphasize the importance of equity and diversity in terms of academic achievement and SES.

This concludes OCR's investigation of these complaints. This letter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in individual OCR cases. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

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<sup>1</sup> OCR notes that during the period of investigation, the Complainants supplemented their original allegation on June 15, 2012, to include Board actions as they related to the District's controlled choice student assignment plan. OCR also considers this issue to be resolved for the reasons discussed, *infra*.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint against the District with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

We appreciate the District's cooperation in the resolution of these complaints. If you have any questions, please contact me at [David.Hensel@ed.gov](mailto:David.Hensel@ed.gov).

Sincerely,

David Hensel  
Chief Attorney  
District of Columbia Office  
Office for Civil Rights

Enclosure

cc: Jonathan Blumberg and Neal Ramee, Counsel (via email)