



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

XXXX

Dr. Patrick C. Kinlaw  
Superintendent  
Henrico County Public Schools  
3820 Nine Mile Roach  
Henrico, VA 23223

RE: OCR Compliance Review No. 11-10-5003  
Resolution Letter

Dear Dr. Kinlaw:

This letter is to advise you of the outcome of the compliance review conducted by the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) which was initiated on XXXX. The compliance review assessed whether Henrico County Public Schools (the Division) is in compliance with the regulatory requirements of Title VI of the Civil Rights Act of 1964 (Title VI). Specifically, OCR investigated whether the Division discriminated against African-American students by failing to provide them with comparable resources and educational opportunities that are provided to white students to prepare them for postsecondary education and/or careers.

OCR has authority to conduct this investigation under Title VI, and its implementing regulation, at 34 C.F.R. part 100, which prohibit discrimination on the bases of race, color, and national origin in education programs and activities that receive Federal financial assistance from the Department. As a recipient of such assistance, the Division is subject to Title VI and OCR's jurisdiction to conduct this review.

Prior to the conclusion of this investigation, the Division expressed a willingness to voluntarily resolve the compliance review by taking the steps set out in the enclosed Resolution Agreement. This agreement commits the Division to specific actions designed to address the concerns identified during the course of the investigation. As discussed below, OCR recognizes that the Division has already taken affirmative steps to improve student achievement and narrow the achievement gap between students of different races. This letter summarizes the applicable legal standards, the information gathered, initial concerns identified during the course of the investigation, and how the review was resolved in a manner that will address those concerns.

### **Legal Standards**

The applicable standards for determining compliance are set forth in the regulation implementing Title VI, at 34 C.F.R. §100.3(a), (b) (1) and (2). Section 100.3(a) provides that no person shall,

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

on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program operated by a recipient. Section 100.3(b)(1) prohibits a recipient, on the ground of race, color, or national origin, from denying an individual a service or benefit of a program; providing different services or benefits; subjecting an individual to segregation in any matter related to the receipt of a service or benefit; restricting an individual in any way in receiving a service or benefit; treating an individual differently in determining whether the individual satisfies any admission or eligibility requirement for provision of a service or benefit; and, denying an individual an opportunity to participate in a program or affording an opportunity to do so which is different from that afforded to others. Section 100.3(b)(2) prohibits a recipient from utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin.

The administration of student enrollment in courses can result in unlawful discrimination based on race in two ways: first, if students are subject to different treatment based on their race, and second, if a policy is neutral on its face and administered neutrally but has a disproportionate and unjustified effect on students of a particular race.

### **Division Overview and Summary of Review**

During the investigation, OCR conducted multiple onsite visits and interviews, and collected data and information from the Division about its programs and activities, initiatives, policies and practices, and its student body.

#### *Demographics*

The Division has approximately 50,000 students. The overall student population is approximately 36.5% African-American and 42.9% White. According to 2010 U.S. Census Bureau estimates, Henrico County has approximately 262,300 residents. The County population is approximately 68.9% White and 24.7% African-American.<sup>1</sup>

The Division currently has 46 elementary schools, 12 middle schools, 9 high schools. According to the 2013-2014 CRDC, there are three regular high schools with identifiably White student populations: Deep Run, Freeman, and Godwin. There also are three regular high schools with identifiably African-American student populations: Henrico, Highland Springs, and Varina.

#### *Academic Achievement*

##### *Graduation and Dropout Rates*

For 2009-2010, 75% of the Division's students graduated in four years with a Standard or Advanced Studies diploma. The four-year rate was 84% for White students and 65% for African-

---

<sup>1</sup> The Division has undergone demographic changes since the 2010 census. According to the Division's website, as of 2017, the Division serves a county population of approximately 320,000 residents. Its approximately 50,000 students are 36% African-American and 40% White.

American students.<sup>2</sup> For 2008-2009, the Division had an overall dropout rate of 2.45%. The dropout rate was 1.64% for White students and 3.31% for African-American students.

For 2013-2014, 85% of the Division's students graduated in four years with a Standard or Advanced Studies diploma. The four-year rate was 90% for White students and 80% for African-American students.<sup>3</sup> The most recent Division Report Card states that 91% of students graduated in four years with a Standard or Advanced Studies diploma and the four-year rates for White and African-American students was 94% and 90%, respectively. In 2013, overall dropout rates were higher at the schools with the highest populations of African-American students (Henrico, Highland Springs, and Varina) than at the schools with the highest populations of White students (Deep Run, Freeman, and Godwin). OCR notes that in 2017, the overall drop-out rate of African-American students in the Division was 7.2% as compared to 3.8% for White students.

#### *Average GPAs and SAT scores*

In 2009-2010, there were 3,511 12<sup>th</sup> grade students; the average grade point average was 2.7258. At every high school, without exception, the mean and median GPAs of White students were higher than those of African-American students. The largest differences were at Henrico (2.1970 mean vs. 3.6161 mean), Freeman (2.2870 mean vs. 3.1815 mean) and Godwin (2.1077 mean vs. 3.2900 mean). The mean SAT scores for African-American students in all Division high schools were below their White counterparts and below the mean averages of all students in their schools.

These disparities in academic achievement raise concerns that African-American students are less likely to satisfy college admission requirements and expectations at Virginia post-secondary institutions. Students who graduate with an Advanced Studies diploma satisfy the course requirements at many area colleges and universities. Students who graduate with a Standard diploma may not satisfy the course requirements for colleges that require 4 math or 4 science courses or 3 foreign language courses. White graduates in the Division are significantly more likely to graduate with an Advanced Studies diploma than are African-American students; in 2010, only 28.1% of African-American graduates achieved an Advanced Studies diploma whereas 63.4% of White graduates did. In 2017, two-thirds of White students received an Advanced Studies diploma, whereas less than one-third of African-American students received such a diploma.

#### *Standards of Learning (SOL) Pass Rates*

The Commonwealth of Virginia has adopted The Standards of Learning to describe its expectations for student learning and achievement in its public schools in the areas of English, mathematics, science, and history (and social science), among other areas. The Commonwealth has adopted a series of end of course exams to assess student learning and achievement.

The percentage of White students in the Division who passed the English and the Mathematics tests were consistently higher than the percentage of African-American students who passed the

---

<sup>2</sup> 2009-2010 Division Report Card.

<sup>3</sup> Division 2013-2014 Report Card.

tests. OCR compared the passage rates between the racially identifiable White schools with the passage rates of racially identifiable African-American schools in 2014. Generally, 90% or more of all students in identifiably White high schools passed SOL subject matter tests.<sup>4</sup> With the exception of the English test, fewer than 79% of students at identifiably African-American high schools passed their SOLs. OCR has concerns that, according to more recent data, division-wide disparities remain. To wit, in the 2016-2017 school year, 65% of African-American students and 89% of White students passed the Math SOL. Similarly sized disparities also exist for Reading, Writing, Science, and History SOLs.

OCR analyzed multiple years of SOL pass rates in English and Mathematics for students in each racially identifiable high school's elementary and middle feeder schools. Generally, the overall SOL pass rates tended to be higher (generally in the 90 percentiles) at the elementary schools that feed the identifiably White high schools (Deep Run, Freeman, and Godwin) than in the elementary schools that feed the identifiably African-American high schools (Henrico, Highland Springs, and Varina). However, the SOL scores for African-American students were consistent in all those feeder elementary schools; in other words, pass rates for African-American students were no lower in the schools that feed into Henrico, Highland Springs, and Varina than in the schools that feed into Deep Run, Freeman, and Godwin. At the vast majority of Division elementary schools, the pass rate for African-American students on the Mathematics SOL exceeds the state average for African-American students. There is a persistent gap between the pass rates of African-American students and White students in Division elementary schools.

As for middle schools, in addition to differences in SOL pass rates between White students and African-American students within each school, OCR also has concerns that over this period, there was a consistent disparity in SOL pass rates at middle schools that feed into identifiably White high schools and those that feed into identifiably African-American high schools; those middle schools that feed into Henrico, Highland, and Varina high schools have pass rates lower than those that feed into Deep Run, Freeman, and Godwin.<sup>5</sup>

### Resource Comparability

#### *Participation in Advanced Learning Opportunities and Specialty Centers*

Since the initiation of this review, OCR notes that the Division has taken steps to re-examine the role of its Specialty Centers in providing educational opportunities for all its students. Currently, each Division high school houses a Specialty Center, which offers advanced courses to students who have clear interests and specific educational or career goals.

During the 2014-2015 school year, the Division conducted an audit of all its Specialty Centers, resulting in a number of changes and recommendations currently in the development and early implementation stages, including increasing dual-enrollment at local post-secondary institutions and an increase in internships with local businesses and industries.

---

<sup>4</sup> The exception is the Writing test for Freeman students, where only 84% passed.

<sup>5</sup> For example, the 2017 pass rate at Short Pump Middle School, which feeds into Deep Run High School had a 94% pass rate for White students and 73% for African-American students. In contrast, the rates at L. Douglas Wilder Middle School, which feeds into Henrico High School, were 72% and 55%, respectively.

The Division offers a gifted program at the elementary and middle levels. Students may be identified as gifted in English and/or Math starting in kindergarten and as gifted in visual and performing arts starting in grade 6. The identification process for the academic areas is multi-factored, and includes a parent questionnaire, teacher rating sheet, classroom grades, standardized test scores, and classroom work samples. Students can be referred by parents, teachers, peers, community members and by themselves, and the process is available on the Division’s website. The Division provides an appeal process for students who were not identified as gifted; that process is on the Division’s website and also is sent to parents if their child is not identified as gifted.

OCR is concerned, though, by a disparity in gifted identification based on race. According to the 2013-2014 CRDC, at the time when the Division’s student enrollment was 42.8% White and 36.5% African-American, 66% of the gifted population was White and 10.2% was African-American.<sup>6</sup> The Division has acknowledged issues related to outreach and identification and has begun new initiatives to increase gifted identification in traditionally underrepresented groups.

### *School Programs / Course Offerings*

When schools are racially identifiable, as here, resources should be allocated in a comparable way between predominantly African-American schools and predominantly White schools. Here, the students at the predominantly White high schools (Deep Run, Freeman, and Godwin) have greater access to AP courses at their schools than do the students at the predominantly African-American high schools (Henrico, Highland Springs, and Varina). There was also a disparity between predominantly African-American schools and predominantly White schools in the number of non-specialty-center Honors courses in which students enrolled.<sup>7</sup>

The “menus” of Honors courses in which students enrolled at Highland Springs and Varina in 2010-11 were lacking some core content areas, such as Honors English 11, Honors English 12, and Honors Virginia and US History; neither school offered Honors French or Latin classes. No students at Highland Springs enrolled in Honors Earth Science or Math Analysis/Trigonometry. Whereas the number of Honors courses at Henrico High School was the lowest in 2010-11, the courses included Honors English at all grade levels, Honors science classes including Earth Science, and Honors French; Henrico students did not enroll in Advanced Art or Honors Journalism and Photojournalism. In 2010-2011 Highland Springs offered the fewest AP classes and did not offer AP courses in core content areas including AP Calculus BC, AP Environmental Science, and the core language courses (AP Spanish, Latin, and French). The school with the second fewest AP course offerings was Varina, which also did not offer AP Calculus BC or AP French and Latin. Varina was the only school that offered AP World History.

---

<sup>6</sup> 9% of the total student enrollment was identified as gifted.

<sup>7</sup> In 2009-10, additional honors classes were offered only to specialty center students at each school: 6 at Godwin, 3 at Deep Run, 4 at Freeman, 6 at Highland Springs, 12 at Henrico, 4 at Varina, 11 at Tucker, and 6 at Hermitage. In 2010-11, additional honors classes were offered only to specialty center students at each school: 7 at Godwin, 5 at Deep Run, 4 at Freeman, 6 at Highland Springs, 12 at Henrico, 4 at Varina, 11 at Tucker, and 4 at Hermitage.

For the 2013-2014 school year, all high schools in the Division offered certain Honors courses to rising 9<sup>th</sup> graders, including Honors English 9, Honors Algebra II, and Honors Geometry. However, only Freeman, Glen Allen, Hermitage, Tucker, and Deep Run offered AP Environmental Science. Freeman, Glen Allen, and Deep Run are identifiably White. None of the identifiably African-American high schools (Highland Springs, Henrico, and Varina) offered AP Environmental Science to rising 9<sup>th</sup> graders.

During the 2013-2014 school year, two of the three identifiably African-American high schools did not offer Honors English 11 (Highland Springs and Varina) and also offered Honors English 12 only as an on-line course. All of the identifiably White high schools offered Honors English 11 and 12 as in-school courses. Also, all four of the identifiably White high schools offered honors Physics, whereas only one of the identifiably African-American schools (Henrico High) offered that course. Three of the four identifiably White high schools (Deep Run, Godwin, and Freeman) offered AP French, AP Latin, and AP Spanish, and the fourth (Glen Allen) offered AP French and AP Spanish. In contrast, Highland Springs offered no AP foreign language courses; Varina offered only one (AP Spanish); and Henrico High offered only AP French and AP Spanish. Notably, Varina offered no Latin courses at all. Three of the four identifiably White high schools (all but Glen Allen) offered Calculus I; two of the three identifiably African-American high schools (Highland Springs and Varina) did not.

All middle schools offered the same accelerated courses for 6<sup>th</sup> graders during the 2013-2014 school year (English 6 Advances, Math Course 2, Advanced Life Science, and Social Studies 6/Civics Accelerated). Differences start to emerge for 7<sup>th</sup> graders. All middle schools offered the same accelerated English 7, science, and social studies courses. All but Moody offered Algebra 1 to 7<sup>th</sup> graders, though Moody was one of the six (also Brookland, John Rolfe, Wilder, Short Pump, and Pocahontas) that offered Math Course 3 (an 8<sup>th</sup> grade course) to 7<sup>th</sup> graders. Electives somewhat different: Advanced Band for 7<sup>th</sup> graders only at Brookland, Moody, Pocahontas, and Hungary Creek. For 8<sup>th</sup> grade students, some high schools offered French and Spanish for high school credit, while others offered only Spanish. The schools offering only Spanish were: John Rolfe, Elko, and Wilder. Almost all offered Geometry to 8<sup>th</sup> graders (also for high school credit). However, John Rolfe students had to take the course at Varina High School rather than at their middle school, and Elko students were notified on the course selection sheet that Geometry “may be offered at an alternative location.” Also, all middle schools except Brookland, Wilder, and Fairfield offered a year-long Technology Foundations elective for high school credit.

### **Recent Division Initiatives and Resolution Agreement**

Throughout OCR’s investigation, the Division expressed its ongoing commitment to provide all students with equal access and an equal opportunity to achieve college and career readiness. It has further demonstrated a concerted effort to make changes in response to OCR’s investigation. For example, the Division eliminated the use of the un-validated Division-developed test as part of the selection process for Specialty Centers. In 2012, the Division held two open meetings for staff, parents, and community members to discuss the achievement gap between African-American and White students. The Division reported that more than 400 community members attended. Attendees were organized into groups and asked to generate lists of barriers to success and possible solutions. The Division organized the lists into themes and published the

information on its website. The themes of barriers included resources (including limited opportunities available for all students in areas such as advanced math and history courses and large class sizes), staffing and professional development (including concerns about teacher quality and retention and lack of cultural awareness), instruction (including lack of rigorous instruction and low expectations), and family/community (including lack of parent involvement and community issues). The identified possible solutions included increasing communication between schools and parents, raising expectations for students and staff, increasing differentiated instruction and rigor in the curriculum, hiring qualified teachers (more experienced and motivated to work with at-risk students) in hard to staff schools, and providing professional development related to diversity and cultural awareness.

The Division has also recently created a review and is currently in the process of implementing its 2015-2018 strategic plan, which includes a focus on closing achievement gaps. These initiatives cover all stages and programs, from elementary literacy and STEAM modules in middle schools to redesigned high school Specialty Centers and increased community engagement.

In furtherance of the Division's interest in addressing these concerns and to resolve the compliance review, the Division signed the attached Resolution Agreement on December 5, 2017. The Resolution Agreement commits the Division to specific actions which, when fully implemented, OCR believes will resolve the issues investigated in this compliance review.

Specifically, the Division has agreed to consult with the Intercultural Development Research Association Equity Assistance Center south (IDRA EAC-*South*) and community members, including parents and students to assess each of its high schools and its high school programs. Based on that assessment, the Division further agreed to develop and implement a *High School Action Plan* to address identified barriers for African-American students in area of college preparedness and career readiness. The Division agreed to continue to analyze the Plan's impact and effectiveness and to implement modifications as necessary to address these areas.

The Division has also agreed to similarly create an *Elementary and Middle School Action Plan*, in which the Division will assess, create, implement, and review areas of concern including the disproportionately low participation of African-American students in advanced and accelerated courses and gifted programs.

Further, the Resolution Agreement commits the Division to engage in more expansive outreach and engagement to parents with the goal of increasing parental participation. The District also agreed to provide annual training to school site administrators and staff about the Division's college and career readiness efforts.

The provisions of the Resolution Agreement are aligned with the issues raised by the compliance review and the information discussed above that was obtained during OCR's investigation, and are consistent with applicable law and regulation. OCR will monitor the Division's implementation of the Agreement until the Division is in compliance with the statutes and regulations at issue in the case. Failure to implement the Agreement could result in OCR reopening the complaint.

This concludes OCR's investigation of the compliance review. This letter should not be interpreted to address the Division'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 an individual OCR case. 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.

Please be advised that the Division 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 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, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the Division's cooperation in the resolution of this complaint. If you have any questions, please contact Dwayne J. Bensing, the OCR attorney assigned to this review, at 202-453-6910 or [Dwayne.Bensing@ed.gov](mailto:Dwayne.Bensing@ed.gov).

Sincerely,

/s/

Michael Hing  
Team Leader, Team I  
District of Columbia Office  
Office for Civil Rights

Enclosure:

cc: Wade T. Anderson  
Assistant County Attorney; Counsel to the Henrico County School Board  
Legal Services Department  
Henrico County Public Schools  
3820 Nine Mile Road  
Henrico, Virginia 23223