

**Resolution Agreement
Durham Public Schools
OCR Cases No. 11-13-1175**

Durham County Public Schools (the District) enters into the following Voluntary Resolution Agreement to resolve Office for Civil Rights (OCR) Case No. 03-10-5001 to ensure compliance with 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, Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 et seq., and its implementing regulation, at 28 C.F.R. Part 35. Title VI and its implementing regulation prohibit discrimination on the basis of race, color or national origin by recipients of federal financial assistance from the U.S. Department of Education (the Department). Section 504 and Title II prohibit discrimination on the basis of disability by recipients of federal financial assistance from the Department and public entities. Prior to and during the course of this investigation, the District has implemented a number of policies, procedures and practices to improve its disciplinary policies and practices specific to the administration of discipline for African American students and students with disabilities. Those policies, procedures and practices are referenced in further detail throughout this Agreement. OCR has not made a finding of noncompliance regarding the allegations in this complaint and the District voluntarily enters into this Agreement and commits to implement the provisions set forth in this Agreement in order to resolve the complaint. By entering into this agreement, the District does not admit liability and this agreement is not to be construed as an admission of liability by the District. Accordingly, the District agrees to take the following Action Steps:

A. Designation of Responsible Employee(s) and Development of Discipline Action Plan

1. By February 28, 2018, the District will designate a responsible district-level employee (Discipline Supervisor) to convene and lead a team of cross-departmental district staff members who are knowledgeable about non-discriminatory discipline practices, data analysis, and research-based strategies to address racially disproportionate disciplinary referrals and sanctions. The Discipline Supervisor will be responsible for ensuring that the implementation of the District's policies concerning discipline is fair and equitable, will oversee a bi-annual review of the District's discipline data, and will be kept apprised by District staff of all racial discrimination complaints from parents, guardians, students and others regarding the implementation of the District's disciplinary policies. The Discipline Supervisor will coordinate the District's activities to comply with this Agreement.

Reporting Requirements: By February 28, 2018, the District will provide OCR with the name and qualifications of the Discipline Supervisor.

2. By February 28, 2018, the District will draft and submit to OCR for review and approval a plan to achieve the District's goal of ensuring that discipline referrals and sanctions are appropriately and equitably applied to all students regardless of race or disability status. The District's plan will include an analysis of discipline data from at least the 2016-2017 school year at both the school and district levels.

3. By February 28, 2018, the District will publish the name and/or title, office address, e-mail address, and telephone number of the Discipline Supervisor on its website, in all school publications regarding discipline, and in any notices that the District sends to parents annually.

Reporting Requirements: By March 31, 2018, the District will provide OCR with a copy of its final plan developed pursuant to Action Step A.2, for OCR’s review and approval, and documentation showing that the District has fully implemented Action Step A.3, including the location(s) on the District’s website where the Discipline Supervisor’s information is published and a copy of any school publications regarding discipline, and any notices that the District sends to parents annually.

B. Discipline Policies, Practices and Procedures

1. The District will provide the revisions of student discipline policies and completed in June 2016 which included the following:
 - a. Definitions of misconduct that are clear and objective to the maximum extent possible, that: clearly distinguish between similar acts (e.g., assault and fighting; disruption, disorderly conduct, and horseplay; bullying/harassment/intimidation; and victimizing/threatening/bullying); define quantitative terms (e.g., repeated offenses, multiple offenses, etc.), especially where such terms increase the level of offense or severity of punishment; and that include specific examples where necessary to assist staff in understanding each listed type of misconduct.
 - b. The range of sanctions for each type of misconduct and the criteria for selection within the range of sanctions, including but not limited to when a student may be removed from a classroom.
 - c. The types of misconduct that should be addressed through the use of methods or techniques short of disciplinary sanctions.
 - d. A requirement that alternatives to suspension or to other sanctions that require removal from the educational setting be considered in all cases, except those where the immediate safety of students or staff is threatened or the behavior in question is such that the disruption to the educational environment can only be remedied by removal.
 - e. Clear and consistent requirements for staff and administrators concerning the documentation of disciplinary referrals and sanctions, including a requirement for data entry into the District’s electronic recordkeeping system of the information listed below in Action Step C.

Reporting Requirements: By February 28, 2018, the District will submit to OCR the work that has been completed to review and revise its student discipline policies. OCR will review the information provided and submit to the District any recommendations for revisions to the policies. Within 60 calendar days of OCR’s submission, the District will notify OCR of its decision to implement the recommendation or, if not, the reason for the decision not to implement the recommendations.

2. Within 60 calendar days of the adoption of any OCR-approved policies, practices, and procedures regarding student discipline, the District will post the policies on the District website and include it in the Parent/Student Handbook.

Reporting Requirements: Within 60 calendar days of OCR’s approval of any revised student discipline policies, practices and procedures, the District will provide OCR documentation demonstrating that it has fully implemented Action Step B.2, including evidence that the revised policies were posted on the District website and included in the Student/Parent Handbook.

C. Data Collection and Self-Monitoring

1. The District will continue to electronically collect data regarding student discipline referrals and sanctions at all District schools including in-school suspension and out of school suspension, or for any of the following offenses: assault resulting in serious injury, assault involving use of a weapon, assault on school official, bomb threats or hoaxes, burning of a school building, homicide, kidnapping, possession or use of alcohol, possession or use of a controlled substance, possession of a firearm, possession of a weapon, rape, robbery with a weapon, sexual assault, sexual offense, and taking indecent liberties with a minor; any assignment to an alternative school; any act of corporal punishment; any of the following offenses, regardless of the consequence: gang activity, bullying/harassment, discrimination, verbal or sexual harassment, violent assault not resulting in serious injury, fighting (or affray), communicating threats, extortion, property damage, possession or use of a tobacco product, and robbery w/out a weapon. . The data collection system will include, but not be limited to:
 - a. For each student referred for discipline: First name, last name, identification number, race, sex, disability status (including special education status), grade level, and school.
 - b. An incident number, allowing reports to be run by incident number for incidents that were entered with multiple students
 - c. Time and date of the offense, detailed narrative description of the incident, staff identification of referrer, location of incident (e.g. classroom, bus, hallway, lunch, afterschool activity, sporting event), staff-recommended resolution, staff member who assigned the penalty/sanction (by staff ID), misconduct for which discipline was imposed, resolution or consequence received, resolution/consequence start date, and number of days of resolution/consequence.
 - d. The number of total offenses, including the current offense, for the student during that school year.
 - e. The name of any other students involved in the incident.
 - f. The arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official.

The following data will be collected and maintained at the school level:

- a. A list of any actions taken in the classroom prior to making a referral.
- b. The name and/or identification number of any student or staff witness.
- c. Minor referrals [those that do not meet the criteria listed above]

Reporting Requirements: By February 28, 2018, the District will submit documentation to OCR demonstrating that its electronic data collection system is equipped to capture the information required by Action Step C.1.

By September 1, 2018, the District will provide to OCR the data referenced in Action Step C.1 for the 2017-2018 school year although the data will be unverified by the North Carolina Department of Public Instruction. By September 1, 2019, the District will provide to OCR the data referenced in Action Step C.1 for the 2018-2019 school year although the data will be unverified by the North Carolina Department of Public Instruction.

By September 1, 2018, and at a quarterly principal’s meeting thereafter, the superintendent or superintendent’s designee(s) and Discipline Supervisor will meet with the principals of all District schools to discuss the data gathered by the District under Action Step C.1. The meeting will examine how discipline referrals and disciplinary sanctions imposed at each school compare to those at other District schools and consider any data suggesting that African American students are disproportionately referred for discipline or sanctioned more harshly than similarly-situated students of other races. An example of such data would be a significant increase in the overall rate of suspension. Additionally, the superintendent or superintendent’s designee(s) and Discipline Supervisor may meet with individuals and/or groups of principals to further address concerns regarding disproportionately, school culture, and/or adherence to policies, practices, and procedures.

If the information suggests that the principal or other school staff are failing to adhere to the District’s student discipline policies, practices, and procedures or are engaging in discrimination, the District will take appropriate corrective action, including but not limited to additional training. Where the data shows no disproportion at a school, the meeting will examine steps that should be taken to ensure the fair and equitable enforcement of the District’s student discipline policies, practices, and procedures that might be adopted as “best practices” at those schools where disproportion exists.

D. District Staff Training

1. The District will provide ongoing training to all District teachers, administrators, paraprofessionals, school aides, bus drivers, and any other District personnel charged with supervising students, making disciplinary referrals, or imposing disciplinary sanctions. New administrators who impose disciplinary sanctions will receive training on the appropriate imposition of sanctions within 30 calendar days of their position start date.

For administrators and school staff, training will include but not be limited to reviewing the District’s discipline policies, practices, and procedures and discussing the District’s commitment to using its policies to ensure a safe and orderly educational environment and the fair and equitable treatment of all students when making disciplinary referrals and imposing disciplinary sanctions. Training will also include the documentation that must be developed and maintained by all District staff who make disciplinary referrals or

impose disciplinary sanctions and the information that must be input into the District’s electronic discipline data system. Training will provide employees the opportunity to raise concerns or suggestions regarding the improvement of the District’s disciplinary policies, including any issues in connection with fairness and nondiscrimination on the basis of race and disability status.

Training will also provide evidence-based techniques on classroom management and de-escalation approaches, including restorative justice and/or positive behavior interventions, information on how to administer discipline fairly and equitably, the concept of implicit bias and corresponding techniques to ameliorate implicit bias, resources that are available to staff who are having difficulty with classroom discipline, resources that are available to students to assist them in developing self-management skills, the value of recognizing and reinforcing positive student behavior, and the importance of ensuring to the maximum extent possible that misbehavior is addressed in a manner that does not require removal from the educational program.

For bus drivers, training will include but not be limited to reviewing the District’s discipline policies, practices, and procedures and discussing the District’s commitment to using its policies to ensure a safe and orderly transportation experience and the fair and equitable treatment of all students when making disciplinary referrals and imposing disciplinary sanctions. Additionally, the process for referring a disciplinary infraction will be included. Training will also provide the process for raising concerns or suggestions regarding the improvement of the District’s disciplinary policies, including any issues in connection with fairness and nondiscrimination on the basis of race and disability.

Reporting Requirements: By June 30, 2018, the District will submit documentation to OCR of its training materials and activities for the 2017-2018 and 2018-2019 school years, including training for the data collection software, for all administrators and school staff regarding discipline. This information reported to OCR will include a summary of: the names or position titles of individuals who provided the training; and, the groups of attendees or audience for any training sessions. For the 2018-2019 school year, the District will submit documentation to OCR by June 30, 2019 showing its compliance with all training requirements.

E. Law Enforcement Action

- a. The District will record information for the arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official. The District will ensure that all discipline-related actions taken by school resource officers (SROs) that were initiated by School staff or administrators within District schools are reported to the Discipline Supervisor.
- b. By February 28, 2018, the District will develop guidelines for investigating SRO concerns raised by staff, students or parents/guardians.
- c. By February 28, 2018, the District will undertake a review of any data previously compiled concerning criminal offenses reportable to law enforcement under state law.

Reporting Requirements: By February 28, 2018, the District will submit to OCR documentation of its compliance with Action Step E. In addition, if the District negotiates a new MOU with local law enforcement agencies during the monitoring of this case, the District will submit a copy of the executed MOU to OCR.

F. Community Involvement in the Development of Student Discipline Policies

- a. The District will develop a district-wide plan to engage with school community stakeholders, including students, parents, District instructional staff, and community members. The District will utilize strategies and programs designed to solicit input from various members of the school community, including representation from various racial groups, such as school climate surveys, forums, committees, advisory councils, and community meetings. The District’s plan will encourage participation that is representative of the District’s population and offer stakeholders the opportunity to make suggestions and recommendations to improve student behavior and the District’s disciplinary practices. The District will appoint a District-level staff person to coordinate the District’s efforts and report on the results of these efforts to the Superintendent.

Reporting Requirements: By February 28, 2018, the District will submit to OCR a summary of the work of the Task Force, including documentation that its activities fulfilled the requirements listed above. The report will include documentation of the District’s implementation of the plan, concerns identified by the community, and the District’s response to such concerns and recommendations.

G. Alternative School Placements

- a. The District will review its guidance for District schools to follow when referring students to alternative schools. Specifically, the guidelines will provide factors to consider in assessing the appropriateness of an alternative school referral.

Reporting Requirements: By September 1, 2018, and annually thereafter during the monitoring of this Agreement, the District will provide OCR with documentation of its review of its Alternative School Placement procedures. OCR will notify the District when it has completed its review of any revised policies.

General Requirements

The District understands that, by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with Title VI and its implementing regulation at 34 C.F.R. § 100.3. Upon completion of the dated obligations under this Agreement, OCR will close this compliance review.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to

enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effectively immediately upon the signature of the District's representative below.

/s/
Superintendent or Designee

02/01/2018
Date