



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

September 21, 2015

Dr. Steven Nichols
Superintendent
Amherst County Public Schools
P.O. Box 1257
Amherst, Virginia 24521

RE: OCR Complaint No. 11-14-1224
Resolution Letter

Dear Dr. Nichols:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) received on May 20, 2014 against the Amherst County Public Schools (the Division). The Complainant filed this complaint on behalf of her son (the Student), who previously attended two schools within the Division. The complaint alleged that the Division discriminated against the Student on the basis of disability, race, and sex. The complaint also alleged systemic school-wide race discrimination in school discipline. Accordingly, OCR opened the following allegations:

- 1) Whether XXXX School (the School) denied the Student a free appropriate public education (FAPE) in the fall of 2013 when it failed to timely evaluate him for special education or related aids and services and failed to provide the Complainant with notice of procedural safeguards;
- 2) Whether the School treated the Student differently because he is an African-American male in February 2014 when he was expelled and white and female students were not expelled for similar offenses; and,
- 3) Whether the School discriminates against students based on race by disciplining African American students more harshly than their white peers.

OCR is responsible for enforcing certain federal civil rights statutes and regulations, including Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, at 34 C.F.R. Part 100, prohibit discrimination on the bases of race, color, or national origin in activities or programs that receive federal financial assistance. OCR is also responsible for enforcing Title IX of the Education Amendments Act of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving federal financial assistance. In addition, OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation, which prohibit discrimination on the basis of disability in programs and activities that receive or benefit from federal financial assistance from the Department.

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

Finally, OCR has authority to enforce Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulation, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems, regardless of whether they receive federal financial assistance from the Department. Because the Division receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504, Title VI, Title IX, and Title II.

OCR found insufficient evidence to substantiate Allegations 1 and 2. Before OCR completed its investigation of Allegation 3, the Division expressed a willingness to resolve Allegation 3 of the complaint by taking the steps set out in the enclosed Resolution Agreement. The following is a discussion of the relevant legal standards, findings concerning Allegations 1 and 2, and information obtained by OCR during the investigation that informed the development of the Resolution Agreement.

Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school divisions to provide a FAPE to each qualified individual with a disability in the school division's jurisdiction, regardless of the nature or severity of the individual's disability. The provision of an appropriate education is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met and are based upon adherence to the procedural requirements of Section 504 pertaining to the educational setting, evaluation and placement, and the provision of procedural safeguards. OCR interprets the regulation implementing Title II as imposing substantially similar requirements to those found in the regulation governing Section 504. The Section 504 regulation, at 34 C.F.R. § 104.35, requires a school division to evaluate a student who because of disability needs or is believed to need special education or related services before taking any action with respect to the initial placement of the student in regular or special education and any subsequent significant change in placement.

The standards for determining compliance with Title VI are set forth in the regulation at 34 C.F.R. §100.3(a) and (b). The regulation, at 34 C.F.R. §100.3(a), states that no person shall, on the grounds 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 receiving Federal financial assistance. Section 100.3(b)(1)(i)-(vi), further states that a recipient may not, on the grounds of race, color or national origin, deny an individual any service or benefit of its programs; provide any service or benefit to an individual which is different or provided in a different manner; subject an individual to segregation or separate treatment in any matter related to receipt of any service or other benefit under the programs; restrict an individual in the enjoyment of any benefits of its programs; treat an individual differently in determining continued enrollment in its programs; or, deny an individual an opportunity to participate in a program through the provision of services which is different from that afforded others under the program. The regulation, at 34 C.F.R. §100.3(b)(2), also provides that a recipient may not utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination on the basis of race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

Similarly, the regulations implementing Title IX at 34 C.F.R. § 106.31(a) state that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance. Section 106.31(b)(4) specifically prohibits recipients of Federal financial assistance from, on the basis of sex, subjecting any person to separate or different rules of behavior, sanctions, or other treatment.

OCR investigates alleged discrimination in the application of student discipline consistent with federal statutory authority, the Department’s regulations, policies and pertinent case law. Disciplinary policies and practices can result in unlawful discrimination based on race or sex in two ways: first, if students are intentionally subject to different treatment on account of their race or sex; second, even if a policy is neutral on its face but has a disproportionate and unjustified effect on student(s) of a particular race or sex, referred to as disparate impact.

Different Treatment

Title VI and Title IX prohibit schools from intentionally disciplining students differently based on race or sex. Enforcement of a rule or application in a discriminatory manner is prohibited intentional discrimination. When investigating an allegation of different treatment on the basis of race or sex, OCR generally looks to see whether the student was treated less favorably than students of another race or sex under similar circumstances. If so, OCR then determines whether the recipient has a legitimate, nondiscriminatory reason for the difference in treatment. OCR will then examine that reason to determine if it is a pretext or excuse for unlawful discrimination.

Title VI and Title IX also protect students even if a school contracts or arranges for entities, over which it exercises some control, to be responsible for aspects of a school’s student safety or student discipline program. Schools cannot divest themselves of responsibility for the non-discriminatory administration of school safety and student discipline by relying on school resource officers, school district police officers, “contract” law enforcement companies or other contractors or law enforcement personnel over whom the school can exercise some control.

Whether OCR finds a violation of Title VI or Title IX will be based on the facts and circumstances surrounding the particular discipline incident or series of incidents.

Disparate Impact

In addition to different treatment of students based on race, schools violate federal law when they evenhandedly implement facially neutral policies or practices that, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of discriminating against students on the basis of race. The resulting discriminatory effect is commonly referred to as “disparate impact.” In determining whether a facially neutral student discipline policy has an unlawful disparate impact on the basis of race, OCR engages in the following three-part inquiry:

- 1) Has the discipline policy resulted in an adverse impact on students of a particular race as compared with students of other races?

- 2) Is the discipline policy necessary to meet an important educational goal?
- 3) Even in situations where a school can demonstrate that a policy is necessary to meet an important educational goal, are there comparably effective alternative discipline policies available that would meet the school's stated educational goal with less of a burden or adverse impact on the disproportionately affected racial group or is the school's proffered justification a pretext for discrimination?

Factual Background

The Division comprises seven elementary schools, two middle schools, and one high school, which is the subject matter of this complaint. During the 2013-2014 school year, the School enrolled 1,346 students, of whom 918 (or 68.2%) are white and 309 (23.0%) are African American.

The Student is an African American male. Prior to May 2012, the Student received special education services as a student with an emotional disability. The Complainant revoked consent for those services in or around May 2012. In the 2013-2014 school year, the Student was in the 10th grade at the School. On August 28, 2013, the Student was disciplined for physically assaulting a peer. The Division reported to OCR that the Student approached another student from behind and choked him to the point of unconsciousness with a necktie. The Student's written account of the incident stated, "I walk [*sic*] pass him in the hall and came up behind him and choke [*sic*] him till [*sic*] he fell and left him there. I did this because I was bullied [*sic*] in 9# grade and wanted pay back."

The Principal sent the Complainant a letter that day notifying her that he was recommending that the Student receive a 364-day suspension, and the Division then sent the Complainant a letter on September 3, 2013, notifying her that the Student was being suspended through September 12, 2013, with a recommendation for a 364-day suspension. On or about September 12, 2013, in conjunction with the disciplinary process, the Complainant requested a child study meeting based on the Student's disability. The Division then deferred its consideration of disciplinary matters pending the completion of an evaluation of the Student, and the Student was placed on administrative homebound status.

After an two-week period during which the Student was withdrawn from the Division due to his enrollment in the Juvenile Detention Center, the Division convened a Child Study Team on October 10, 2013, to evaluate the Student for eligibility under Section 504. The Complainant signed a Parental Consent to Evaluate form on October 11, 2013. On December 11, 2014, the Child Study Team determined that the Student was a student with a disability under Section 504.¹ On the same day, the Child Study Team determined that the Student's conduct on August 28, 2013 was not a manifestation of his disability. The Complainant participated in both the eligibility and the manifestation determination meetings.

On February 28, 2014, the School Board released the Student from compulsory attendance in the Division. The Division informed OCR that this option allowed the Student to pursue alternative

¹ The Complainant informed OCR that the Division later determined that the Student is eligible for services under IDEIA.

educational options, such as an online degree or GED, and that the Student also retains the right to re-apply to attend Division schools.

Analysis of Allegation 1

Section 504 regulations require a school division to conduct an evaluation of any student believed to need special education or related services before taking action toward initial placement, but the regulations do not impose a specific timeline for completion of the evaluation. As noted above, the Complainant requested an evaluation on or about September 12, 2013 and signed the consent form for the evaluation on October 11, 2013. The evaluation was complete and the Student was found to be eligible under Section 504 on December 11, 2013, approximately two months after consent was received. Accordingly, OCR found insufficient evidence that the Division failed to timely evaluate the Student after the Complainant requested an eligibility determination and provided consent for the evaluation.

The records reviewed by OCR reflect that the eligibility determination was made consistent with procedural requirements of Section 504. Specifically, the decision was based on information from a variety of sources, including his academic and attendance records, and was made by a group of persons knowledgeable about the Student, the evaluation data, and the placement options. The Complainant attended the eligibility meeting.

The regulation implementing Section 504, at 34 C.F.R. § 104.36, further requires the Division to provide procedural safeguards to the parents or guardians of students who, because of disability, need or are believed to need special instruction or related services. Specifically, the regulation requires that the system of procedural safeguards include notice, an opportunity for the parents or guardians to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardians and representation by counsel, and a review procedure.

OCR reviewed the Division's procedural safeguards and found that they are consistent with the Section 504 regulatory requirements. In addition, the record included several documents signed by the Complainant acknowledging that she had received a copy of the Division's procedural safeguards.

Based upon the information and documents provided, OCR concluded that there is insufficient evidence to conclude that the Division denied the Student a FAPE in the fall of 2013.

Analysis of Allegation 2

The Complainant alleged that he was treated differently in February 2014 when he was expelled and white and female students were not expelled for similar offenses. At the outset, OCR notes that the record shows that the Student was not expelled in February 2014. Rather, as a result of the August 28, 2013, incident, the Student received a ten-day suspension with a recommendation from the principal that the Student also receive a long-term 364 day suspension. The disciplinary process was postponed pending the Student's evaluation for eligibility for services as a student with a disability. Ultimately, the School Board released the Student from compulsory attendance in the Division in February 2014. The Student's discipline records in the system that the Division maintains (i.e., PowerSchool) reflect only the short-term suspension (coded as

discipline consequence “02”) with an explanatory note regarding the Student’s release from compulsory attendance.

As described earlier, the Student was disciplined for choking another student to the point of unconsciousness with a necktie. The Student’s written account of the incident indicated that he choked the other student intentionally as retribution for bullying in a prior school year. The School’s Handbook prohibits “Assault and Battery,” which is defined as “physical fighting that causes injury to another.” School Board Policy JFC, which addresses Student Conduct, includes Assault and Battery among the offenses that “may lead to suspension from classes, exclusion from activities, or expulsion.” The offense was coded in Power School as a “BA3” offense, which is Battery/Assault against student with weapon. School administrators clarified to OCR that they considered the necktie used by the Student to choke his peer as a weapon.

There were no other students in the 2012-2013 or 2013-2014 school years who were disciplined for BA3 offenses. One student (Student A) was disciplined for a BA3 offense in the 2011-2012 school year. The Power School records for that incident indicate that the student hit another student “aggressively” with a stick, leaving a “deep bruise.” The student received a seven-day out-of-school suspension.

OCR noted that the School conducted a full investigation of the Student’s behavior in August, upon which it concluded that this was not a “mutual combat” situation and severe injury was inflicted upon the other student. OCR also noted that a number of white and female students received long-term suspensions (364 days) for other serious offenses, including drug offenses and threats to staff. The fact that the Principal’s recommendation of a long-term suspension for the Student was consistent with the sanctions available under School Board Policy and that he recommended similar long-term suspensions for white and female students who committed other serious offenses provide evidence that the treatment of the Student was not a pretext for race or sex discrimination.

OCR concluded that there was insufficient evidence to find that the Division’s explanation for its treatment of the Student was a pretext for discrimination. Accordingly, OCR determined that there was insufficient evidence to conclude that the Division discriminated against the Student based on race and sex by expelling him in February of 2014, as alleged.

Analysis of Allegation 3

School Policies, Procedures and Processes Related to Discipline

The School’s disciplinary procedures are set forth in the School Board Policies and the Student Handbook (the Handbook). The School Board Policies are available on the Division’s website, and School students are provided a copy of the Handbook annually.

Disciplinary Policies:

OCR reviewed the 2013-2014 disciplinary policies of the Division. OCR found that the 2013-2014 Handbook does not specifically describe the process by which a disciplinary referral is made. In many instances, the Handbook does not clearly explain the potential consequences for

a particular violation. The Handbook lists twenty-two infractions that are violations of School Board policy. The chart in the Handbook addressing possible consequences for infractions indicates that students may be disciplined for additional conduct, including display of inappropriate affection, failure to identify to a school official, skipping class, skipping detention, and dress code violations.

The Handbook includes definitions of most infractions, though some do not clarify what actions may be considered violations of the policy. For example, the section of the Handbook titled **Classroom or Other Disruption**, states simply, “[a]ny behavior as determined by the classroom teacher or other school staff that interrupts or disrupts the learning environment.” The section of the Handbook titled **Gang Activity**, states, “[a]ny group activity that threatens, that is illegal or violent, or that supports the development of gang activity, which may include wearing gang-related apparel, inappropriate congregating, bullying, and harassment of others.” The Division did not clearly identify the behavior expectations described within these provisions.

Regarding consequences for infractions, the Handbook includes a chart in which each violation is followed by possible actions for that violation. The possible actions that are listed are: warning, loss of driving privileges, vehicle towing, parent conference, bus suspension, in-school detention, overnight detention,² loss of internet use, and out-of-school suspension. The Handbook states further, “[i]n addition, the administrator may incorporate other behavioral modifications (i.e., social probation, school service and after school detention when deemed necessary). Some situations requiring discipline of students may not be listed above.” The Handbook does not indicate any specific consequence for eleven offenses, stating only, “[c]onsequences will be based on severity and frequency of offense as deemed necessary by administration.”

Assignment/Selection of Disciplinary Penalties

Administrators are provided the disciplinary consequence matrices as guidance in determining what consequence will be assigned for a violation. School administrators reported that they have some discretion as to what sanction to impose, but attempt to maintain consistency. Generally speaking, discipline is utilized in a progressive manner; that is, least severe penalties are typically assigned for first offenses, and then increase from there with successive offenses, depending upon the nature or frequency of the behavior. OCR noted that expulsion is included in the continuum of sanctions for all violations; however expulsion was rarely assigned in the Division as a penalty, and the School has not expelled any students for the period from 2011-2012 to 2013-2014.

Involvement of Local Law Enforcement in School Discipline

Under the 2013-2014 School policies and procedures, and as required by Virginia Commonwealth law, the Principal has a duty to report certain acts to local law enforcement which occur on school property or in the course of a School function, including physical assault, assault and battery, and threats of bodily injury. Staff also has an obligation to report knowledge

² A student who is assigned overnight detention or overnight suspension completes the school day. The student’s parent/guardian is notified and must contact the principal in order for the student to return to school. Thus, if a parent/guardian contacts the principal that evening or in the morning, the student does not miss any school.

of students who are victims of felony offenses or abuse and neglect.

The Division contracts with the Amherst County Sheriff’s Office to provide School Resource Officer (SRO) presence at the School. The School has one SRO on its premises during school days approximately two to three days a week. That SRO is responsible for other Division schools as well. The Memorandum of Understanding between the Division and the Amherst County Sheriff’s Office states expressly, “[a]t no time . . . will a SRO become involved in assigning discipline to a student.”

The Principal reported to OCR that the SRO’s primary responsibilities at the School are related to student programs of which he is in charge, including alcohol awareness, safe driving, and drug awareness programs. The Principal said that if the SRO happens to witness a fight, he could intervene, but otherwise he does not get involved with student discipline issues unless the School requests his involvement. The Principal said that the SRO is not a disciplinarian and does not have the authority to write referrals. In the 2011-2012, 2012-2013, and 2013-2014 school years, there were 231 disciplinary incidents in which SROs were involved.

Of the 231 referrals noted above, all but 20 resulted in an exclusionary penalty. Eighty-six (37.2%) of the 231 referrals involved African American students and 127 (55.0%) involved White students. The discipline records indicate that in some of these incidents the SRO’s role was to escort the student from a classroom to another location. Sixty-five of the referrals involved possession of drugs, alcohol, tobacco or a weapon, and an additional forty-four involved fighting or assault and battery.

Evaluation and Monitoring

The Division reported that School administrators meet “on a regular basis” throughout the school year to discuss discipline and that discipline data is reviewed on a yearly basis “to insure referrals and sanctions are applied in a consistent manner.” The Assistant Principal told OCR that administrators meet during the summer month prior to the start of a school year to discuss consistency in discipline and any changes, but the disciplinary data they review are not broken down by race.

The Principal and Assistant Principal told OCR that they were unaware of the racial disparities in discipline at the School. There are no specific safeguards in place to ensure that discretion was exercised in a nondiscriminatory manner. In addition, the School has no system for monitoring and evaluating its disciplinary policies and practices to ensure that they are nondiscriminatory.

School Climate Surveys

The School participated in the Student/Teacher Perception of School Climate survey conducted by the Virginia Department of Criminal Justice and the Curry School of Education in spring 2014. Ninety-six students and sixty-three teachers at the School responded to the survey. The survey included seven items about the School’s disciplinary structure. As shown below, students at the School generally rated the School less favorably than other schools in the state and region:

Student Perceptions	Percent Agree or Strongly Agree
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	Amherst County High School	The School's Region	Virginia
The school rules are fair.	48%	64%	67%
The punishment for breaking school rules is the same for all students.	43%	55%	61%
Students at this school are only punished when they deserve it.	53%	60%	62%
Students are suspended without good reasons.	42%	31%	32%
When students are accused of doing something wrong, they get a chance to explain.	63%	68%	63%
Students are treated fairly regardless of their race or ethnicity.	72%	80%	79%
The adults at this school are too strict.	33%	34%	37%

The survey of teacher perceptions did not include an item asking whether students are treated fairly regardless of their race or ethnicity. However, in response to the item, “[t]he punishment for breaking school rules is the same for all students,” 29% of teachers strongly disagreed, disagreed, or somewhat disagreed (as compared to 41% of teachers in the region and 44% of teachers in the state) and 72% either somewhat agreed, agreed, or strongly agreed (as compared to 59% in the region and 56% in the state).

Analysis of Discipline Data

During the school years reviewed by OCR, the average number of referrals per student (derived by dividing the number of referrals by the number of students referred) was higher for African American Students. In the 2013-2014 school year, African American students had a higher average number of referrals per student ($910/191 = 4.8$) than for white students ($1221/368 = 3.3$). In the 2011-2012 and 2012-2013 school years, African American students had an average number of referrals per student of 4.5 and 5.4, respectively, whereas white students had an average number of referrals per student in those years of 3.4 and 4.1.

The disproportionate representation of African American students who were referred for discipline at least once was statistically significant when compared to white students referred for discipline at least once in each of the 2011-2012, 2012-2013, and 2013-2014 school years.

The following table shows the number of students referred for discipline at least once, by race. For the 2013-2014 school year, the rate of referral for African American students was 61.8% and for white students it was 40.1%. In other words, African American students were 1.54 times more likely to be referred than White students.

	Total School Population / Students with One or More Referrals³	African American Representation in School	% of Students with One or More Referrals who are African American	White Representation in School	% of Students with One or More Referrals who are white
2011-2012	1,440 / 670	23.6%	30.7%	68.5%	61.2%
2012-2013	1,392 / 749	22.8%	29.4%	68.7%	61.8%
2013-2014	1,346 / 611	23.0%	31.3%	68.2%	60.2%

The following chart shows the percentages of African American and white students who were referred for the most frequent offenses in the 2013-2014 school year. This chart illustrates that African American students are disproportionately represented in many of the identified infractions. OCR’s review of the data for 2011-2012 and 2012-2013 school years also showed a disproportionate African American representation in the majority of the identified infractions, especially subjective infractions.

2013-2014	African American Total	African American Percentage	White Total	White Percentage
Population	317	22.8%	956	68.7%
Subjective Offenses				
Disrespect / Defiance / Minor Insubordination (D1C, D2C, D8C)	74	37.2%	110	55.3%
Disruptive Demonstrations / Classroom or Campus Disruption (D3C, D5C)	87	39.0%	119	53.4%
Using Obscene or Inappropriate Gestures (D6C)	42	35.0%	66	55.0%
Objective Offenses				
Attendance (A1T)	123	33.7%	206	56.4%
Electronic Devices (C1M, C2M, C3M)	55	32.5%	96	56.8%
Tobacco Use, Possession, Sale, Distribution (TB1, T4B)	3	14.3%	16	76.2%
Altercation / Confrontation / Fighting with No Injury or Minor Injury (F1T, FA2)	14	40.0%	19	54.3%

³ This number represents that number of individual students who were referred for discipline at least once during the school year. Each student is counted only one time, even if he or she received multiple referrals.

2013-2014	African American Total	African American Percentage	White Total	White Percentage
Drug Violations (DR1, DR2, DR3, DR4, DR5, D5G, DG1, DG2, DG7, DG8, D20, DG5, D15, D16)	2	25.0%	5	62.5%
Sexual Offenses (all SB and SX offenses)	1	25.0%	2	50.0%
Other Offense				
“Other School Code of Conduct Violation Not Otherwise Included” (S3V)	30	38.5%	40	51.3%

The following table shows the total number of students assigned out of school suspension (OSS) by race for the 2011-2012, 2012-2013, and 2013-2014 school years. The disproportionate representation of African American students who were assigned OSS at least once was statistically significant when compared to white students assigned OSS at least once in each of the 2011-2012, 2012-2013, and 2013-2014 school years. The School does not generally provide academic services to students who are serving short-term OSS (ten days or fewer), but the Division has alternative placements available for students serving longer-term suspensions.

	Total Population / Suspensions	African American Population	African American OSS	White Population	White OSS
2011-2012	1,440 / 701	23.6%	39.8%	68.5%	53.9%
2012-2013	1,392 / 489	22.8%	43.4%	68.7%	48.7%
2013-2014	1,346 / 373	23.0%	44.2%	68.2%	48.0%

The disproportionate representation of African American students who received at least one referral to law enforcement was statistically significant when compared to white students who received at least one referral to law enforcement in each of the 2011-2012 and 2012-2013 school years, but was not statistically significant in the 2013-2014 school year.

Alternative School Placements

In the 2011-2012 school year, the School assigned twenty students to alternative placements. The alternative school placement is an all-day program operated at Amherst Educational Center that offers the core curriculum; transportation is provided to students. Assignments to the alternative school are for either one semester or one year. Ten (or 50%) of those students are African American, and nine (or 45%) are white. In the 2012-2013 school year, the School assigned thirteen students to alternative placements. Four (or 30.8%) of those students are African American, and nine (or 69.2%) are white. In the 2013-2014 school year, the School

assigned twenty-one students to alternative placements. Six (or 28.6%) of those students are African American, and 12 (or 57.1%) are white. Thus, while African American students were overrepresented in alternative school placements in all three of the most recent years (2011-2012, 2012-2013, and 2013-2014), that overrepresentation has declined over that time period.

Resolution

Pursuant to Section 302 of OCR's Case Processing Manual, the Division signed the enclosed Resolution Agreement on September 1, 2015, which, when fully implemented, will address the school-wide allegations raised in this complaint. The provisions of the Agreement are aligned with the school-wide allegations and issues raised by the Complainant, and the information that was obtained during OCR's investigation. The provisions are also consistent with applicable laws and regulations. OCR will monitor the Division's implementation of the Agreement.

The Agreement requires the Division to take specific steps to:

- Designate an employee to serve as the Division's Discipline Supervisor and be responsible for overseeing the implementation of the Division's discipline policies in a fair and equitable manner;
- Require staff at the School to employ a range of corrective measures before referring a student to disciplinary authorities;
- In a structured way, involve students, parents, and staff at the School in improving the Division's disciplinary policies, including a focus on non-discriminatory disciplinary practices;
- Review and revise Division student discipline policies, practices, and procedures to clarify definitions of infractions, referral procedures, and available disciplinary responses to infractions;
- Provide training to Division staff and students on Division disciplinary procedures and equitable treatment in school discipline;
- Conduct a comprehensive review of the use of law enforcement officials to assess effectiveness and identify needed changes to the current SRO program;
- Regularly collect and evaluate data on discipline referrals and sanctions and monitor for inequitable school discipline.

Conclusion

This concludes OCR's investigation of the complaint. 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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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, or participates in an OCR proceeding. 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 Martha Russo at 214-661-9622 or Martha.Russo@ed.gov.

Sincerely,

/S/

Kristi Harris
Team Leader
District of Columbia Office
Office for Civil Rights

Enclosure