



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

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December 22, 2017

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Re: OCR Docket No. 15-14-5001

Dear xx XXXXXXXXXX

On xxxx x xxx, the U.S. Department of Education (Department), Office for Civil Rights (OCR), notified the Cleveland Heights-University Heights City School District (the District) that OCR had selected the District for a compliance review to assess whether the District is discriminating against African American students. Specifically, OCR opened the review to examine whether the District discriminates against African American students by disciplining them more frequently and more harshly than similarly-situated white students with regard to all disciplinary practices, including detentions, in-school suspensions, out-of-school suspensions, expulsions, referrals to law enforcement, and assignment to alternative schools. This letter is to notify you of the resolution of OCR's compliance review.

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 by recipients of Federal financial assistance. The District is a recipient of Federal financial assistance from the Department. Therefore, OCR had jurisdictional authority to investigate this matter under Title VI.

OCR initiated an investigation into the following legal issues:

- Whether the District, on the basis of race, is denying students any service or benefit provided under the program; providing services or benefits that are different from or provided in a different manner from services or benefits provided to other students; restricting students in the enjoyment of any privilege or advantage enjoyed by others; and/or treating students differently from others in determining whether they satisfy any requirement or condition which individuals must meet in order to be provided any service or benefit, in violation of the Title VI implementing regulation at 34 C.F.R. § 100.3(b)(1)(i), (ii), (iv), and (v).

- Whether the District, in determining the types of services, facilities or other benefits to be provided, or the situations in which such services or benefits will be provided, directly or through contractual or other arrangements, utilizes criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, in violation of the Title VI implementing regulation at 34 C.F.R. §100.3(b)(2).

Prior to the conclusion of OCR's investigation, the District expressed an interest in resolving the allegations and issues in this review pursuant to Section 302 of OCR's Case Processing Manual. OCR determined that it was appropriate to resolve the review with the enclosed voluntary resolution agreement (the Agreement) submitted by the District. The applicable legal standards, OCR's investigation to date, and the voluntary resolution are explained below.

Applicable Legal Standards

The standards for determining compliance with Title VI are set forth in the Title VI regulation at 34 C.F.R. § 100.3(a) and (b). The regulation, at 34 C.F.R. § 100.3(b)(1)(i), (ii), (iv), and (v) specifically prohibits a recipient, on the ground of race, color, or national origin, from denying students any service or benefit of its programs; providing students any service or benefit which is different or provided in a different manner from that provided to others under the programs; restricting in any way students' enjoyment of any benefits of its programs; or treating students differently from others in determining whether they meet any requirement or condition to be provided any service or benefit under the programs. The regulation also specifies, at 34 C.F.R. § 100.3(b)(2), that a recipient may not use criteria or methods of administration which have the effect of subjecting individuals to discrimination based on race, color or national origin.

To determine whether a school district has discriminated against a student on the basis of race in the discipline process in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.3(a) and (b)(1), absent direct evidence of racial discrimination, OCR looks at whether there is evidence that the student was treated differently than students of other races under similar circumstances, and whether the treatment has resulted in the denial or limitation of education services, benefits, or opportunities. If there is such evidence, OCR examines whether the school district provided a legitimate, nondiscriminatory reason for its actions and whether there is evidence that the stated reason is a pretext for discrimination.

To determine whether a school district's disciplinary process has an unlawful disparate impact on the basis of race, OCR examines: (1) whether a discipline policy that is neutral on its face has an adverse impact on students of a particular race; (2) whether the policy is necessary to meet an important educational goal; and (3) if so, whether there is a comparably effective alternative policy or practice that would meet the district's stated educational goal with less of a burden or adverse impact on the disproportionately affected racial group.

Summary of OCR's Investigation to Date

- **Background**

The District operates seven elementary schools, two middle schools, one high school, an alternative options school, an early childhood learning center, and a school for students with emotional needs, and participates in a career and technical education consortium. The District was selected for this Title VI discipline proactive review based on Civil Rights Data Collection (CRDC) data, which showed disproportionate rates of suspension for African American students compared to other students. According to 2011-2012 CRDC data, during the 2011-2012 school year there were 5,821 students enrolled in the District, of which 4,336 (74.5%) were African American students and 993 (17.1%) were white students. The CRDC data showed that, of the 551 students (9%) who received more than one out-of-school suspension (OSS) during the 2011-2012 school year, 523 (94.4%) were African American, and 11 (2.0%) were white.

During its investigation to date, OCR reviewed data from the District and in May 2015 conducted onsite interviews of several District administrators and employees at four District schools: the high school, Roxboro Middle School, and Boulevard and Fairfax Elementary Schools. OCR obtained information regarding: the District's disciplinary policies and procedures; how staff apply the District's disciplinary policies and procedures and staff training on disciplinary matters; how the District self-monitors its discipline rates; and the District's discipline rates. OCR's investigation to date has examined the District's discipline policies for the 2013-2014, 2014-2015 and 2015-2016 school years, along with student discipline data from the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 school years. In selecting the specific schools identified above to focus on for interviews and data analysis, OCR looked at the enrollment and discipline numbers from the 2013-2014 school year provided by the District for each of the District's elementary schools, middle schools, and high school. The student discipline data reviewed by OCR included, for each discipline referral, the student's school, race, and grade, the date and type of infraction, the staff person who referred the student, the location of the incident, and the discipline imposed, along with starting and ending dates of the disciplinary action taken. While the District's student information system included a field for a description of the incident, this field was often left blank or included only a one- or two-word description.

Based on OCR's review of the data, OCR focused on two elementary schools (Boulevard and Fairfax), one middle school (Roxboro), and the high school. Boulevard Elementary was chosen because, while white students constituted 13% of its enrollment, no white students were suspended during the time period analyzed. While the District's Noble and Oxford Elementary Schools also suspended no white students, Boulevard had higher rates of discipline overall. Fairfax Elementary was chosen because African American students were suspended at a rate of 9:1 when compared to white students; because of other high rates of discipline; and because it had a higher percentage of white students than some of the other schools. Roxboro Middle School was chosen because it had, by far, the highest ratio of suspended African American students (the data showed that African American students were suspended at a rate 36.39 times

that of white students) when compared to the other middle school. The high school was selected because it had a ratio of 11:1 for suspended African American students when compared to white students, a high number of disciplinary referrals, and a large student population.

Based on the information obtained to date, although OCR has not completed its investigation, OCR has identified concerns with respect to the District's imposition of discipline. Specifically, the information indicates that the District may be subjecting African American students to different, adverse treatment by referring them for discipline at a higher rate than students of other races, without legitimate, nondiscriminatory, non-pretextual reasons for the different treatment. Accordingly, OCR determined that it is appropriate to resolve this compliance review pursuant to Section 302 of OCR's Case Processing Manual. The information OCR obtained is described below.

- **The District's Discipline Policies and Procedures**

The District has two main sources of information related to student discipline - its Bylaws and Policies ("B&P"), and its Tiger Expectations & Guidelines ("TE&G"). Neither is discriminatory on the basis of race on its face. The B&P provides blanket guidelines that apply across the entire District, while the TE&G is separated into three documents based on student grade levels (one each for elementary school, middle school, and high school). The B&P is only made available to students and parents through the District's website, while the TE&G is part of the student handbook, a hard copy of which is given to each student, according to the District. When teachers and administrators referred to the District's discipline policies, they indicated they were speaking of the TE&G, due to its distribution in hard copy and greater specificity. The B&P are the board policies, which lay the framework for discipline, but are not used in everyday application.

The B&P contains several provisions dealing with conduct and discipline, but, aside from a few very serious disciplinary matters, the B&P does not contain specific guidance on what type of discipline applies to given infractions. The B&P at Section 5600 specifies guidelines for doling out sanctions, stating that sanctions shall: 1) relate in kind and degree to the infraction, 2) help the student learn skills to take responsibility, and 3) when possible, reduce the effects of the harm. The B&P contained descriptions of seven types of discipline, including four exclusionary discipline types: emergency removal, suspension, expulsion, and permanent exclusion; and three non-exclusionary discipline types: suspension of transportation privileges, exclusion from extracurricular activities, and in-school suspension. As noted above, the B&P does not specify what infractions are appropriate for each discipline type. The B&P describes only the following nine disciplinary infractions with any specificity: possession of knives and firearms, violent conduct, bomb threats, use of tobacco, threatening behavior toward staff, personal communication devices, internet use, bullying and harassment, and dress and grooming. But even for those nine, the B&P states specific potential disciplinary consequences only for possession of knives and firearms, violent conduct, and bomb threats.

OCR reviewed the District's TE&G for the 2013-2014, 2014-2015, and 2015-2016 school years. All three versions of the TE&G were nearly identical, with a few exceptions. First, after the 2013-2014 school year, the District removed a progressive discipline matrix from the TE&G.

This change is explained more fully below. In addition, the District removed two other matrices, dealing with consequences for failure to serve discipline and limitations on extracurricular participation during suspensions, and made a few other minor changes.

Each version of the TE&G OCR reviewed began with a discussion of the District's anti-bullying campaign, followed by a chart listing "Tiger Expectations" for student behavior in various venues, such as the classroom, school hallways, the office, the community, etc. Some of the expectations very broadly referred to student behavior (e.g., treat staff and fellow students with respect). Included in the TE&G booklet was a separate section entitled "Disciplinary Infractions" (or, in the elementary school version, "Discipline") which listed and defined the behaviors that may lead to formal discipline by the District.

The elementary TE&G contained the least information related to discipline, merely outlining that formal disciplinary measures could include, but were not limited to: family contact, conflict mediation, teacher consequence, removal from class/activity, administrative detention, extended detention, out-of-school suspension, and emergency removal. It did not specify whether the list was progressive in nature.

Unlike the elementary TE&G, both the middle school and high school TE&G for the 2013-2014 school year contained a section specifically labeled as "Discipline Progression," which listed the progressive disciplinary measures to be applied to certain infractions of the Student Code of Conduct. Both the middle school and high school TE&G from 2013-2014 also separated infractions into two large groups, Class A and Class B offenses. Class A offenses were the most severe and the TE&G stated that these offenses would result in police reporting, emergency removal, suspension and/or expulsion. By contrast, Class B offenses included everything not in Class A. One District administrator explained that this was to afford discretion to administrators about how to respond to infractions.

District administrators explained that after the 2013-2014 school year the District eliminated all progressive discipline from the TE&G, while retaining the designation of Class A and Class B offenses. The District explained that, instead of having discipline matrices, the District wanted its building administrators to look at the type of behavioral supports they needed to put in place in order to keep students in class. The District did not want to focus on discipline progression, and instead proposed equity goals around discipline for African American students, using guidance from a consultant and from a national coalition of multiracial school districts that work together to understand and eliminate opportunity/achievement gaps that persist in their schools. Based on the guidance, the District determined that progressive discipline results in inappropriate sanctions, both in terms of sanctions imposed and increased racial disparity, and so the District removed the progressive discipline matrices from its policies after the 2013-2014 school year, prior to the commencement of this compliance review in April 2014.

OCR confirmed that the TE&G in the student handbooks for the 2014-2015 and 2015-2016 school years contained no progressive disciplinary matrices, but maintained the less specific Class A and Class B offense groupings. Despite the District's removal of progressive discipline from its handbooks after the 2012-2013 school year, when OCR interviewed District witnesses in May 2015, five building administrators stated that they used progressive discipline when

determining consequences. Most staff told OCR that they did not know that the District had revised its discipline policy, although many said that the policy had been clarified to require teachers to take certain actions before referring a student to the office, unless it is a serious incident like a fight or worse, which still could be referred immediately to the office.

- **Application of the District’s Disciplinary Policies and Procedures**

OCR interviewed staff at the selected schools regarding the District’s disciplinary policies and procedures as applied in practice and staff training on disciplinary matters. Witnesses stated that teachers are permitted to implement in-class consequences without an office referral and that typically teachers are expected to progress through in-class consequences prior to referring a student to the office. Information obtained from witnesses indicated a lack of consistency in recording in-class consequences, as consequences were recorded in a variety of ways and one witness reported not recording in-class consequences. In addition, the witness interviews indicated a lack of consistency as to what type of behavior warranted an immediate referral to the office. For example, one staff member cited disrespect as an infraction that would result in an immediate referral, two staff members cited profanity, one staff member stated that there was no standard to determine when a referral to the office should be made, and several employees stated that the majority of referrals at the high school were for being tardy to class and inappropriate cell phone use, which administrators considered minor offenses. Overall, the witnesses at the high school provided the most widely varying responses to OCR’s questions about discipline compared to witnesses interviewed from the other schools.

According to information obtained during the interviews, the District’s teachers have the authority to impose the following consequences: teacher detention; lunch or recess detention (these detentions generally last 15-30 minutes); call to a student’s parent; conference with a student or parent; and sending students to the “Alternate Learning Center” (referred to as ALC or ALE), used for in-school suspensions (ISS), during a class period. District principals, assistant principals, and “conduct specialists” assign all other discipline, including ISS, OSS, and Saturday School. Expulsion is determined via a hearing before the District’s board of education, on the recommendation of the superintendent.

Every school had, as of the 2014-2015 school year, a staffed room in the building where students who were removed from class or who were serving ISS could complete their school work. Two teachers at Boulevard Elementary said that ISS was introduced in the building for the 2014-2015 school year. Witnesses stated that students could receive 100% credit for work done in this room. A teacher at Fairfax Elementary said that the addition of ISS and afternoon detention had cut down on the number of referrals, and that prior to the 2014-2015 school year there was no consequence in between losing recess and OSS. Teachers at Roxboro Middle School and the high school did not mention that ISS was a new disciplinary consequence. In addition, one witness noted a lack of District protocol for when students would be sent to ISS during a class period and which staff members could send a student to ISS, to ensure consistency.

In addition, while witnesses stated that students are given credit for work completed during an ISS, information obtained from witnesses indicated that no clear policy exists regarding credit students will be given for work completed during an OSS. Administrators explained that

students could receive 50% or more credit for work completed during an OSS, and that the teacher determined whether or not the student would be given credit, and the percentage of credit given.

District witnesses told OCR that the District uses the software program Infinite Campus to make referrals and record the resulting discipline. While the elementary and middle school teachers used Infinite Campus prior to the 2014-2015 school year, teachers at the high school began using Infinite Campus in January 2015. Prior to this, teachers would send a paper referral to the office, and a secretary would enter the information into Infinite Campus. Although there was a section on the referral form where a referrer could indicate a suggested consequence, witnesses indicated that most teachers either left this blank or chose “administrator discretion.” The building administrators at all three school levels interviewed by OCR stated that they were not bound by the recommendation made by the teacher.

The administrators indicated that, when determining a consequence, they considered the steps the teacher had taken prior to making a referral. If a teacher had not taken appropriate steps prior to making a referral, an administrator might tell the teacher that he or she had to take additional steps before making a referral, e.g., have a telephone call or conference with the student’s parent. Two administrators stated that, in that situation, they could contact their information technology (IT) department to have the referral deleted. While teachers can enter information regarding in-class consequences into Infinite Campus, those notations are recorded in a separate portion of Infinite Campus, called “Personal Learning Plans” (PLP), and do not appear in the section showing referrals. Despite having the ability to record in-class consequences, approximately one-third of the teachers OCR interviewed indicated that they did not enter their in-class consequences into the PLP and one teacher described only using the PLP to record communications with parents.

- **Staff and Administrator Training on Student Discipline**

The information obtained indicates that the District was inconsistent in its training of administrators; while the District trained employees new to the District on its discipline policies and procedures, the interviews revealed that the District did not necessarily provide formalized training to employees who were promoted to a building administrator position. Only two of the five high school principals¹ told OCR that they were trained on the District’s discipline policies and procedures when they were hired.

Information submitted by the District concerning staff training on discipline revealed distinctions between grade levels (i.e., elementary, middle, or high school), staff and administrator roles (i.e., teachers versus principals), the B&P versus the TE&G, and the use of Infinite Campus. As noted above, the District has three separate TE&G documents designed to be developmentally appropriate for students at the elementary school, middle school, and high school levels.

¹ At the time of OCR’s onsite visits, the District’s high school building housed a number of small schools, each with a separate principal. However, as of the 2015-2016 school year, the District ceased operating small schools and the District’s high school was reverted to a traditional high school, which has one principal.

The District provides a week-long training to teaching staff upon first hire that includes a review of board policies and procedures, including those related to discipline. After that initial training, although board policies and procedures may be available on the District's website, the District does not further train its teaching staff on the board policies and procedures. The information obtained indicates that the District was not consistently or regularly providing training to staff on its TE&G, and instead was simply providing teaching staff with a copy of its handbooks, which contain the TE&G, at the beginning of each school year.

During OCR's investigation, the District stated that its plans to address racial disparities in discipline involved broad data collection, strategic data reviews, and professional development. OCR's review of CRDC data showed that the District made significant progress in decreasing its overall rate of OSS from the 2011-2012 school year to the 2013-2014 school year. The rate of OSS decreased by one-third, from 9% of students receiving at least one OSS to 6% of students receiving at least one OSS. However, the racial distribution remained the same, with African American students receiving around 94% of the OSS while only constituting approximately 74% of the student population.

The District stated that during the 2014-2015 school year it focused its professional development efforts on educating staff about the conflict cycle, verbal de-escalation, and basic classroom management techniques. One District witness stated that such training was available to all staff two days per week after school, but was not required. This witness stated that, during the 2013-2014 and 2014-2015 school years, she had trained paraprofessionals, bus drivers, lunch aides, and some special education teachers on avoiding the conflict cycle and behavior management. She also stated that middle school staff received training on "Take 5," which provides strategies to help teachers de-escalate themselves. She stated that she had also trained elementary teachers on the program Positive Behavior Interventions and Supports (PBIS).

Although the witness described above indicated some training was available during at least two school years, witnesses at all four schools informed OCR that the District provided no comprehensive training on classroom management techniques or strategies for decreasing misbehavior. While some of the staff from Boulevard Elementary, Roxboro Middle, and the high school stated that their schools had provided such training, it was not a District-wide program or effort.

The information OCR obtained indicates that the District did not consistently train its high school staff on its discipline policies, but that staff were trained on Infinite Campus when it was implemented at the high school. OCR interviewed two program specialists who dealt with discipline at the high school and seven high school teachers. Regarding training staff, the high school principals stated that staff were given a copy of the handbook that contains the TE&G at the beginning of each school year. Of the seven teachers OCR interviewed at the high school, five stated that they received training on Infinite Campus during the 2014-2015 school year, when the District started using it to input discipline referrals electronically; most of the five teachers stated that it was a half-day training that included how to write a referral and that they reviewed at least some of the infraction codes during the training. One of the xxxxxxx xxxxxxx told OCR that she was familiar with the District's discipline policies and procedures and that she trained high school staff on the use of Infinite Campus for electronic discipline referrals. She

told OCR that part of the training was that referrals should only contain facts, not opinions. One of the teachers told OCR that the District provided no training on its discipline system, but felt that it was self-explanatory. Another teacher stated that the District trains new hires on its discipline policies and procedures, and that each year they review some of the policies during staff meetings. The xxxxx xxxxxxxx at the high school stated that when he started he was not formally trained, but instead was given a copy of the code of conduct. The xxxxx xxxxxxxx stated that he filled out referral forms with the facts, and then gave them to the appropriate administrator responsible for discipline.

Based on witness interviews, the most thorough training for staff occurred at the middle school. At Roxboro Middle School, OCR interviewed a xxxxxx xxxxxxxx, the assistant principal, the principal and five teachers; all five teachers stated that the District had trained them on its discipline policies and procedures. Four of the five teachers said that they were trained on the TE&G and on Infinite Campus at the beginning of the 2014-2015 school year. The teachers stated that, while the training focused on how to write a referral and use Infinite Campus, as Infinite Campus requires entry of a specific infraction code, and all the infractions in the student code of conduct are in Infinite Campus, they also discussed the possible infractions. Two of the teachers explained that, during the training, the building leadership team went over a few discipline scenarios, and then the team told them how the incident should be written up in Infinite Campus. Teachers were told to follow as closely as possible what happened in describing or categorizing an offense. Two of the teachers also said that discipline was discussed throughout the 2014-2015 year, during their monthly staff meetings and during professional development days.

At the elementary level, the schools spent a significant amount of time teaching students the TE&G, with a Tiger Pledge recited every morning, posters of TE&G throughout the buildings, and students having individual weekly reports (“PAWs”) regarding their success in meeting the TE&G. All elementary staff interviewed by OCR stated that they had been trained on the TE&G and that these expectations permeated their school.

- **Monitoring of Discipline Rates and Responsive Action Steps**

The District-level administrators interviewed stated that they were aware of the racial disparity in the District’s rates of discipline, and that the District had been actively trying to reduce discipline referrals.

The District told OCR that, in reviewing its discipline data, it found differences in how staff coded behavior. Therefore, prior to the beginning of the 2014-2015 school year, District administrators, including principals, discussed the District’s discipline rates, and they reviewed examples of behavior and the appropriate coding for each behavior. The principals were expected to relay this information to teachers and staff, along with an increased expectation or clarification that teachers were to use classroom management techniques prior to making a referral.

Almost all of the teachers OCR interviewed confirmed that they had been informed of the requirement to take action in the classroom prior to making a referral—as discussed above, teachers are expected to handle minor behavior infractions in their classroom, and only refer a student to an administrator for discipline when a more serious infraction has occurred or when the teacher believes that the in-class consequences have been exhausted. Although District-level administrators stated this expectation, and most teachers stated that this expectation had been made clear at the beginning of the 2014-2015 school year, and that they were making fewer referrals, as noted above the interviews revealed a wide variety of reasons why staff would refer students to the office.

One of the high school principals interviewed stated that at the high school they had looked for patterns in the data; they tried to look at why students were having issues and how they could help solve the problem, and put into place strategies they thought would help. For example, during the 2014-2015 school year, the District implemented a family engagement series. They had also given awards and acknowledged student gains.

Another of the high school principals interviewed stated that they could self-monitor their administration of discipline and look for racial disparities because they could run reports in Infinite Campus that gave them robust information. The principal said that the District's data department created an equity formula for the high school and that the principals were given goals and targets regarding discipline and that they were trying to reduce referrals by 10 percent. This principal also said that they talked about racial disparities at principal meetings.

The principal at xxxxx xxxxxxxx xxxxxxxxxxxxxxx said that the District monitored its administration of discipline for racial disparities. The xxxxxxxx principal said that he could and did run discipline reports, and he reviewed the number of referrals written by teachers. He said that their system allows them to see the discipline data disaggregated by grade and other factors, including race. The xxxxxxxx principal said that the number of discipline referrals had decreased during the 2013-2014 and 2014-2015 school years, which he attributed to training provided to the teachers. He said that teachers used to make referrals simply to memorialize conflicts, but they had since been trained not to do this. In addition, teachers were taking more ownership of their classrooms and handling behavior themselves; he said that the District provided staff with training on how to avoid the conflict cycle. The xxxxxxxx principal said that he met with certain staff in his building, including the assistant principal, counselors, social worker, nurse, the drug and alcohol counselor, the literacy lead teacher, and the school psychologist, to look at academic and behavior interventions for students. They reviewed discipline data as a regular part of their school improvement process and took actions if they noticed a trend.

The principal at xxxxxx xxxxxxxx said that during a retreat in August 2014 she and the building leadership team looked at their discipline rates and saw the disproportionality in discipline. She said that at her school staff knew about the disproportionality but she did not emphasize it because she believed that her teachers treat the students as individuals.

The principal at xxxxxx xxxxxxxx said that the District held a retreat for administrators prior to the beginning of the 2014-2015 school year at which they looked at discipline data from the prior school year and tried to make adjustments. The principals were to disseminate that information

to their building staff. For the 2014-2015 school year, she reviewed referrals and interventions for repeat offenders. The xxxxxxxxxx principal said that she reviewed her discipline progression and discovered she was giving fifth grade students seven-day suspensions for fighting. For the 2014-2015 school year her building created a Teacher Administration Partnership Committee (TAP), which was a “shared leadership” team, to create buy-in with the building staff. The leadership team looked at the culture and climate and came up with steps they wanted all teachers to take before making a referral. For example, the team reviewed data to determine what a Level A infraction looks like versus a Level B infraction. The team asked for teacher input. Then, the team presented their decisions to the teachers; it was shared leadership because the decisions included the team’s ideas, rather than being a dictate from the principal.

- **District Discipline Data**

OCR reviewed and analyzed discipline and enrollment data provided by the District for the 2014-2015 school year. The District had a total enrollment of 5,436 students, with 3,973 African American students (73%) and 918 white students (17%). Students were referred for discipline 8,250 times during the 2014-2015 school year.

District-wide, the data showed statistically significant racial disparities for African American students with respect to discipline referrals, OSS, and OSS for a first offense, despite the steps the District had taken, discussed above, to address racial disparities in discipline. OCR did not find a statistically significant racial disparity with respect to ISS. OCR also examined if there were racial disparities in the discipline imposed for the most common infractions at the District, e.g., disruption. However, students could be referred for these infractions for a range of behaviors, and OCR’s attempts to find similarly-situated comparators for these top infractions, e.g., to examine individual disciplinary incidents in which an African American student and a white student engaged in similar behavior, were hampered by the fact that many of the discipline entries in Infinite Campus lacked a description of the disciplinary incident, or merely restated the infraction. The lack of descriptions prevented OCR from identifying similarly situated students for comparison. Only in one situation, at Roxboro Middle School, was OCR able to determine that students were similarly situated comparators: one African American student and one white student were both referred for disruption and the description of the events in both cases was listed as profanity. There was no difference in discipline between these two students, as both students were given an extended detention.

During the 2014-2015 school year, the District-wide rate of referrals among African American students was 46%; this was more than 3 times the rate for white students (13%); this disparity is statistically significant. While African American students comprised 73% of the student population that school year, they were the subject of 88% of the disciplinary referrals, while white students, who comprised 17% of the student population, were the subject of 4% of the disciplinary referrals.

District-wide, during the 2014-2015 school year, 18% (711) of enrolled African American students received at least one OSS, compared to 2% (17) of white students. African American students were about 9 times more likely to be suspended than white students, which is statistically significant. In addition, OCR reviewed students who received an OSS for a first-

time offense. The rate of OSS for African American students' committing a first offense was 14% (264 students); this was about 3 times the rate of OSS for white students, which was 5% (6 students), a disparity that is statistically significant.

District-wide, the top four infractions for which referrals were given during the 2014-2015 school year were, in order of most to least referrals: disruption (defined as creating a condition, indulging in any activity or use of any device that disrupts the educational process or is offensive to others), failure to comply with directives (defined as failing to accept discipline and/or follow or comply with the directives of staff, but only after repeated incidents), tardy to class/activity/school (collectively, tardy), and fighting. Students were also frequently referred for truancy, but, as truancy is an objectively defined infraction less likely to be susceptible to bias, OCR did not further investigate that infraction.

OCR reviewed students who received an OSS as a first-time offense for these infractions. OCR's analysis showed that, for the 365 students who were referred for disruption for their first offense, 31 (9%) of the 332 African American students referred received an OSS compared to no (0%) of the 17 white students referred. For the 315 students who were referred for failure to comply with directives as their first offense, 11 (4%) of the 277 African American students referred received an OSS compared to no (0%) of the 17 white students referred. For the 280 students who were referred for fighting as their first offense, 121 of the 249 African American students referred (49%) received an OSS compared to 2 of the 5 white students referred (40%). In total, 280 students were referred for fighting as their first offense and 136 of those students received an OSS; this means that 89% of the students who received an OSS for fighting as their first offense were African American while only 1% of the students were white. None of the 264 students referred for a tardy as their first offense received an OSS.

OCR's review of the District's discipline data for the 2014-2015 school year for the selected schools showed the following:

- Boulevard Elementary School had 325 students, 259 of whom were African American (80%) and 41 (13%) were white. African American students received 379 (94%) of the 405 total disciplinary referrals; white students received 5 (1%) of the referrals. Seven percent of all African American students (18 total students) and 0% of all white students at the school received OSS at least once during the school year. Two percent (2) of the 90 African American students and 0% of the 3 white students documented as having committed a first offense during the school year received OSS as discipline for the offense.
- Fairfax Elementary School had 334 students, 226 of whom were African American (67%) and 72 (21%) were white. African American students received 204 (88%) of the 231 referrals; white students received 11 (5%) of the referrals. Twelve percent of all African American students at the school (28 students) and 3% of white students (2 students) received OSS at least once during the school year. Twenty-two percent (15) of the 67 African American students and 20% (1) of the 5 white students documented as having committed a first offense during the school year received OSS as discipline for the offense.

- Roxboro Middle School had 645 students, 434 of whom were African American (67%) and 141 (22%) were white. African American students received 91% (959) of the 1,056 referrals; white students received 3% (29) of the referrals. Twenty-nine percent of all African American students at the school (124 students) and 4% of white students (5 students) received OSS at least once during the school year. Twenty-six percent (58) of the 225 African American students and 10% (1) of the 10 white students documented as having committed a first offense during the school year received OSS as discipline for the offense.
- The high school had 1,644 students, 1,261 of whom were African American (77%) and 248 (15%) were white. African American students received 91% (3,569) of the 3,912 referrals; white students received 4% (166) of the referrals. Seventeen percent of all African American students at the school (220 students) and 3% of white students (7 students) received OSS at least once during the school year. Seven percent (54) of African American students and 3% (2) of white students documented as having committed a first offense during the school year received OSS as discipline for the offense.

Resolution and Conclusion

During its investigation to date, OCR identified a number of concerns, including, for example, significantly higher discipline referral rates and OSS rates for African American students; a lack of consistency regarding under what circumstances students are to be referred for discipline; a lack of training for staff on the District's discipline policies and procedures and classroom management techniques; the absence of clear and consistent guidelines for when and how students will be given credit for work completed during a suspension or other removal; a lack of criteria for when staff may remove a student from a classroom and send the student to an alternate location within the school building; and a lack of or incomplete documentation regarding individual disciplinary incidents to ensure students engaging in similar behavior are disciplined consistently.

As noted above, before OCR completed its investigation, the District expressed interest in resolving the complaint through Section 302 of OCR's Case Processing Manual. On December 2, 2017, the District signed the enclosed Agreement to resolve the Title VI issues raised in this compliance review.

The Agreement requires the District to take specific steps, including designating an employee(s) responsible for ensuring that the implementation of the District's policies concerning discipline is fair and equitable, oversee a quarterly review of the District's discipline data, and keep apprised of any racial discrimination complaints regarding the implementation of the District's disciplinary policies; creating 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; reviewing and revising the District's student discipline policies, practices and procedures; developing and implementing a system or revising its current system for collecting and reviewing the District's discipline data; and training District administrators and staff on relevant

procedures and policies, as well as evidence-based techniques on classroom management and de-escalation approaches. The District has agreed to provide data and other information, demonstrating implementation of the Agreement, in a timely manner in accordance with the reporting requirements of the Agreement.

This concludes OCR's investigation of the compliance review and 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 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.

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

OCR appreciates the District's cooperation during the investigation of this compliance review. We look forward to receipt of the District's first monitoring report on or before December 29, 2017.

If you have any questions about this letter, please contact Brenda Redmond, Supervisory Attorney/Team Leader. For any questions about the District's implementation of the Agreement, please contact Kimberly Kilby, Senior Attorney, who will be monitoring the District's implementation. Ms. Kilby can be reached by telephone at (216) 522-2574 or by e-mail at Kimberly.Kilby@ed.gov.

Sincerely,

/s

Meena Morey Chandra
Regional Director

Enclosure