

Resolution Agreement
Wake County Public Schools
OCR Cases No. 11-10-1311 & 11-10-1313

Wake County Public Schools (the District) enters into this Voluntary Resolution Agreement (Agreement) for the purpose of resolving the student discipline aspects of OCR Cases No. 11-10-1311 and 11-10-1313, and 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. Entering into a Voluntary Resolution Agreement is not an admission that the District has violated Title VI and should not be construed as such. Further, OCR has not made any findings that the District is in violation of the law. OCR's case processing manual provides that a complaint may be resolved before the conclusion of an investigation when a recipient of federal funding expresses an interest in resolving the complaint. In this case, OCR and the District have entered into this resolution agreement based on the District's desire to resolve the complaint. OCR acknowledges that prior to and during the course of this investigation, the District has taken many voluntary and proactive steps to implement policies, procedures and practices designed to promote fair and equitable discipline practices. The provisions of this Agreement build upon the District's ongoing efforts in this regard. Accordingly, the District agrees to take the following Action Steps:

A. Discipline Policies, Practices and Procedures

1. By February 1, 2019, the Wake County Board of Education Policy Committee will review and revise the disciplinary rules regarding "noncompliance," "disrespect," "inappropriate language," and "disruptive behavior" in Policy 4309, Student Behavior, Code of Student Conduct (the Code) with the goals of making these rules as clear and objective as reasonably possible and distinguishing them from similar disciplinary rules. For example, discipline rules may include specific examples or other provisions to assist staff in understanding each type of misconduct. As an alternative to revision, the District may also delete any of the aforementioned disciplinary rules.

Reporting Requirement:

By February 15, 2019, the District will submit its recommended revised Code (reflecting the changes noted above) for OCR's review and approval.

2. By July 1, 2019, or within 60 calendar days of OCR's approval of the District's revisions under Section A.1 of this Agreement, whichever is later, the District will adopt the OCR-approved revisions and/or deletions of the disciplinary rules described in Section A.1 of this Agreement. As soon as practicable thereafter, the District will publish any such changes to the Code on its website, in its annual Student Due Process Policies & Procedures Handbook (aka the "Red Book"), and in its annual Student-Parent Handbook and will notify students, parents, and staff of such changes and where they be may be accessed online and in each District school.

Reporting Requirement:

By July 1, 2019, or within 60 calendar days of OCR's approval of the District's revisions under Section A.1, whichever is later, the District will provide documentation

demonstrating that it has completed this step, including any board meeting minutes at which the revisions were adopted. Within 30 calendar days of the date that any such changes are published as described in Section A.2, the District will provide documentation demonstrating that it has completed this action step, including a copy of the revised Red Book and Student-Parent Handbook, the web address where the revised Code is posted, and a description of how students, parents, and staff were notified of how to access those revisions.

3. The District will review and revise, as appropriate, its procedures for the assignment of students to Alternative Learning Centers (ALCs), alternative educational programs (ALPs), and alternative educational services (AESs) as a disciplinary consequence and ensure that the procedures address the circumstances under which assignment to each program would be appropriate, the potential length of assignment, any parental consent requirements, educational and behavioral services and/or supports to be provided during assignment, exit criteria, and the distinction between ALCs and in-school suspension.

Reporting Requirement:

By July 1, 2019, the District will provide OCR with a status report on its progress in conducting the review required by this section. By December 1, 2019, the District will provide OCR with documentation that it has completed the review. If the District determines that any revisions to its procedures should be undertaken as a result of its review, it will submit documentation of the revisions.

4. On its website, in its “Red Book”, and in its annual Student-Parent Handbook, the District will notify parents/guardians, students, and staff of how to raise SRO concerns to the District’s Senior Director of Security.

Reporting Requirement:

By February 1, 2019, the District will include the notification required by this section on its website and provide the address of the relevant web page to OCR. By August 1, 2019, the District will submit to OCR documentation of its compliance with the remainder of this provision. In addition, if the District negotiates a new MOU with local law enforcement agencies during the monitoring of this Agreement, the District will submit a copy of the executed MOU to OCR.

B. Data Collection and Self-Monitoring

1. Beginning with the 2018-2019 school year, the District will ensure that its electronic data collection regarding student discipline incidents and consequences includes all student discipline “referrals.” For purposes of this Agreement, “referral” means any referral of a disciplinary incident to an authority outside the classroom, typically a school administrator, requesting discipline, including such referrals that result in no disciplinary action, non-exclusionary disciplinary action, or disciplinary action that is not required to be reported to the state. “Referral” specifically does not include requests for non-disciplinary supports or interventions.

In item (i) below, the term “referred to law enforcement” means the student was reported by a school system employee to any law enforcement agency or official, including a school resource officer (SRO), for purposes of criminal reporting, investigation, arrest, or prosecution, regardless of whether official action was taken; in addition, a school-related arrest of a student is considered a referral to law enforcement. In item (j) below, the term “arrested” refers to an 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 requirements of this section apply only to those law enforcement referrals and school-related arrests of which a school administrator has actual knowledge.

Beginning with the 2018-2019 school year, the District will ensure that for each referral, the information collected will include, but need not be limited to, the following:

- a) The student being referred;
- b) Date of referral;
- c) Staff member making the referral;
- d) Staff member determining the sanction, if any;
- e) Code violation(s);
- f) Description of the conduct that resulted in the referral (not merely identification of the Code violation);
- g) Sanction(s) imposed, if any;
- h) Length of sanction (if any) in number of days;
- i) Whether the student was “referred to law enforcement” as a result of the incident;
- j) Whether the student was arrested as a result of the incident;
- k) Whether the student was assigned to an Alternative Learning Center (ALC), an alternative educational program (ALP) or to alternative educational services (AES) in lieu of out-of-school suspension, the name of the ALC, ALP, or AES assignment, and the length of that assignment;
- l) Outcome of the disciplinary hearing and/or appeal, if applicable; and
- m) Outcome of the manifestation determination review, if applicable.

The District and individual schools may elect to input additional information into the electronic data system beyond that required above. If the District or individual schools choose to input information regarding incidents that do not result in referrals, such as incidents handled by teachers at the classroom level without administrative involvement or formal disciplinary action, beginning with the 2019-2020 school year the District shall ensure that its data system distinguishes between disciplinary “referrals” and incidents not resulting in “referrals.” In addition, if the District or individual schools choose to input information regarding students who were not the perpetrators of an incident (e.g., students who were victims or witnesses), the District shall ensure that such information is distinguished from disciplinary “referrals.” The District shall also take reasonable measures to ensure that, to the extent practicable, staff will adopt consistent practices within each school regarding what information is entered into the data system.

Reporting Requirements:

- A. By February 1, 2019, the District will submit documentation to OCR demonstrating that its electronic data system is equipped to capture the information listed in items (a) through (m) above for each “referral.” By March 15, 2019, the District will submit documentation to OCR demonstrating that it has provided appropriate instructions to relevant staff at all schools to input the required information for each “referral.”
- B. By October 1, 2019, the District will submit documentation to OCR demonstrating that its electronic data collection system is equipped to distinguish between disciplinary “referrals” and incidents not resulting in “referrals,” and equipped to distinguish information regarding students who were not the perpetrators of an incident, and that it has provided appropriate instructions to relevant staff at all schools regarding how to record these distinctions when inputting data.
- C. By February 1, 2019, November 1, 2019, and November 1, 2020, the District will provide to OCR a spreadsheet containing, at a minimum, the following data for each disciplinary “referral” for the 2017-2018, 2018-2019, and 2019-2020 school years, respectively: (1) student name, (2) student identification number, (3) student race/ethnicity, (4) student grade, (5) school name, (6) date of referral, (7) the staff member who made the referral, (8) the staff member who assigned the sanction (if any), (9) the Code violation(s), (10) the sanction(s) imposed (if any), (11) the length of sanction (number of days), (12) whether the student was “referred to law enforcement,” (13) whether the student was arrested, (14) whether the student was assigned to an ALC, ALP, or AES, and (15) the length of any such assignment.
- D. By March 1, 2019, March 1, 2020, and March 1, 2021, the District shall submit a report to OCR describing the District’s self-evaluation of the effectiveness of its efforts to ensure non-discriminatory discipline practices during the 2017-2018, 2018-2019, and 2019-2020 school years, respectively. The report shall document that the District has:
 - i. Reviewed and updated, as necessary, its Comprehensive Plan for Equitable Discipline Practices.
 - ii. Reviewed its progress in implementing the programs and initiatives identified in the Comprehensive Plan for Equitable Discipline Practices and evaluated the effectiveness and scope of implementation of such programs and initiatives.
 - iii. Reviewed and considered any input from stakeholders, including students, parents, instructional staff, administrators, and community groups on fair and equitable discipline practices.
 - iv. Reviewed the previous school year’s discipline data, by race/ethnicity, school level (elementary, middle, high) and individual schools, and level/category of offense, for disciplinary referrals, ISS, short- and long-term OSS, disciplinary reassignment to an ALP or AES as an alternative to out-of-school suspension, ALC placement, and SRO/law enforcement involvement, including ISS and short-term OSS for first-time offenders.

- v. Analyzed the data in Section B.1.C.iv above for evidence of unlawful intentional discrimination in: discipline referrals or sanctions districtwide and at individual schools, failure of administrators to comply with the Code when assigning disciplinary sanctions, and inconsistent implementation of the Code across schools.
- vi. Put in place appropriate corrective actions to address any concerns of unlawful intentional discrimination identified at the District level and at individual schools.

For each item listed above, the District's reports shall describe the process or method the District used and report the results of its review, evaluation, and/or analysis. The initial report, which will cover the 2017-2018 school year, may be limited to items i, ii, and iv. For the 2018-2019 and 2019-2020 school years, reports shall include all items described above. In addition, if the District revised the Code during the preceding year, the District will provide copies of any such revisions in its report.

C. District Staff Training

1. By October 1, 2019, or within 90 calendar days of OCR's approval of the policy changes described in Section A.1, whichever is later, and by October 1 annually thereafter, the District will provide training programs to all District teachers, administrators, and any other District personnel charged with supervising students in the school environment, 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 and annually thereafter. The training will include, but is not limited to:
 - i. The Code and other discipline policies, practices, and procedures;
 - ii. The District's commitment to using its policies to ensure the fair and non-discriminatory treatment of all students when making disciplinary referrals and imposing disciplinary sanctions;
 - iii. Definitions and explanations of common offenses;
 - iv. The information that must be entered into the District's electronic data collection system by District staff who make disciplinary referrals and impose disciplinary sanctions;
 - v. For classroom teachers and school-based administrators (i.e., principals and assistant principals), as well as any other staff designated by the District, training in the fair and equitable administration of student discipline, including the prevention of unlawful discrimination in actions and decisions at the point of referral and in determining appropriate disciplinary consequences, along with any other information deemed relevant by the District;
 - vi. For school-based administrators, the role of SROs in student disciplinary matters and information on how to distinguish between disciplinary infractions appropriately handled by school officials versus threats to school safety that warrant a referral to law enforcement, as required by Article IV, Section 2 of the 2017 MOU; and
 - vii. For school-based administrators, clarification that school bus drivers may report student conduct incidents to administrators but do not have the authority to make disciplinary referrals, and that school administrators are solely responsible for

initiating referrals and determining disciplinary actions for student conduct incidents reported by bus drivers.

Additionally, by April 1, 2020, and annually thereafter, the District will provide training programs to all school-based administrators on revised procedures (per Section A.3 above) for the assignment of students to ALCs, ALPs, and AESs as a disciplinary consequence.

Reporting Requirements:

- A. By November 1, 2019, or within 120 calendar days of OCR’s approval of the District’s revised Code and any other policies or guidance based on the Code pursuant to Section A, whichever is later, the District will provide documentation to OCR showing that it has provided the above training, including the name(s) and qualifications of individual(s) who provided the training, the date(s) and locations(s) of the training(s), a copy of the training materials, and confirmation that all required personnel received the training.
- B. In subsequent school years following the school year in which the initial training was provided and for the duration of the monitoring period, the District will provide the same documentation listed in Section A above to OCR by November 1 of each such school year.

OCR will monitor this Agreement until the District has complied with all terms of the Agreement, including any provisions related to data collection and any provisions requiring the District to engage in independent, good faith self-evaluation or self-monitoring, and submitted spreadsheets (see Section B.1.B) and reports (see Section B.1.C), for the 2017-2018, 2018-2019, and 2019-2020 school years. If, in reviewing the spreadsheets and reports the District provides to OCR during the monitoring period, OCR uncovers evidence of unlawful intentional discrimination that has not already been satisfactorily addressed by the District, OCR will identify those concerns to the District and offer the District a reasonable opportunity to submit any explanation and information it may care to submit. If the District’s response does not provide adequate assurances that the District is or will be in compliance with this Agreement and 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, or if OCR identifies an ongoing or substantial pattern of unlawful intentional discrimination by the District, OCR may initiate a separate investigation to explore those identified concerns. For purposes of this Agreement, statistical disparities alone do not constitute unlawful intentional discrimination.

General Requirements

The District understands that, by signing this Agreement, it agrees to provide data and other 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. Upon the District’s satisfaction of the commitments made under this Agreement, OCR will close this case.

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 will 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.

Board Chair

Date