



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

June 19, 2017

Mr. Michael Muñoz
Superintendent
Rochester Public Schools
615 7th Street SW
Rochester, MN 55902

Re: OCR Docket No. 05-10-5003

Dear Mr. Muñoz:

On September 1, 2015, the Rochester Public Schools (District or RPS) entered into a Resolution Agreement (Agreement) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), to resolve the above-referenced compliance review and to ensure the District's compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d-2000d-7, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, and national origin by recipients of Federal financial assistance from the Department.

OCR's review examined the District's disciplinary policies and practices and, specifically, whether the District discriminates against black students by disciplining them more frequently and more harshly than similarly-situated white students. The review examined whether the District suspended, expelled, and/or referred black students to law enforcement authorities more frequently than similarly-situated white students. Finally, OCR considered whether the District maintains disciplinary policies and procedure that have an unjustified disparate impact on black students.

By letter dated May 17, 2017, the District submitted information through its counsel regarding the implementation of the Agreement. Item #1 of the Agreement required the District to notify OCR of the name and qualifications of the individual(s) identified as Discipline Supervisor, a District position responsible for reviewing data and disciplinary records to identify areas of concern and reporting findings to a District administrator. Item #1 also required the District to document that it published the name(s) and/or title(s), office address(es), e-mail address(es), and telephone number(s) of each Discipline Supervisor on its website and in its Student Behavior Handbook.

In previous reports, the District identified the Discipline Supervisor, provided a link to the "Student Behavior Contacts" page on the District's website, which includes the individual's name, title, office address, e-mail address, and telephone number, and noted that the Discipline

Supervisor has also been appointed a Principal on Special Assignment. The required information about the Discipline Supervisor is also in the District's current Student Behavior Handbook.¹

By letter dated February 10, 2017, OCR requested that the District provide a supplemental report to OCR with a summary of the qualifications of the individual identified as Discipline Supervisor.

In the May 17 report, the District provided information regarding the Discipline Supervisor's education and experience. The letter stated that the Discipline Supervisor, who has served in that role since July 2015, has an advanced degree in Education Leadership and completed an administrative licensure program. Prior to joining the District, the Discipline Supervisor worked in other school district in implementing behavior interventions, including Positive Behavior Intervention Strategies (PBIS).

Based on the information provided, OCR determined that the District's actions with respect to the Discipline Supervisor are consistent with the requirements of Item #1 of the Agreement. OCR will continue to monitor the District's implementation of this item, as specified in the terms of the Agreement.

Item #3 of the Agreement required the District to provide documentation to OCR of each meeting of the Student School Board, including the date, time, and location of each meeting; the number, grade levels, and schools of the students on the Student School Board; a list of the District employees who attended each meeting; and a summary of the concerns and suggestions related to discipline policies, practices, or procedures expressed by students.

In a previous report, the District provided agendas for monthly Student School Board meetings held each month between October 2015 and March 2016 and in May 2016. The District also produced a document containing the number, grade levels, and schools of the students who served on the Student School Board, and which students attended which meetings. The District also provided a list of the District employees who attended each meeting. A summary of the concerns and suggestions related to discipline policies, practices, or procedures expressed by students was included for many, but not all, monthly meetings.

OCR requested in its February 10 letter that the District provide the agenda from the April 2016 meeting and a summary of the concerns and suggestions related to discipline policies, practices, or procedures expressed by students at the October, November, January, and April meetings, or a statement explaining why no such document is available. The District provided the requested information in the May 17 report.

Item #3 of the Agreement also required the District to submit to OCR for review and approval the changes, if any, that RPS has taken or plans to take in response to the recommendations or suggestions made by the Student School Board members in its annual written report. In a previous report, the District stated that the District will be implementing through its PBIS

¹http://www.rochester.k12.mn.us/UserFiles/Servers/Server_3083669/Image/Departments/Student%20Support%20Services/Student%20Handbook%20AB.pdf at 4.

teams and equity work the Student School Board's suggestions to improve teacher student relationships and increase classroom engagement. The District also reported that the Student School Board created a Constructive Feedback Teacher survey that students can take to provide feedback to their teachers.

In its February 10 letter, OCR requested that the District provide a copy of any report prepared by the Student School Board for the 2015-16 school year, as well as a summary of the suggestions from the Student School Board that the District received but chose not to implement. If the District chose not to implement a specific recommendation or request, OCR requested that the District provide a written explanation for this decision.

In the May 17 report, the District indicated that the Student School Board did not create a written report for the 2015-2016 school year. The May 17 report included suggestions made by the Student School Board and not implemented by the District and the rationale for the District's decision not to implement the suggestions. For example, the Student School Board suggested that the District keep entrance and bathroom doors unlocked during the school day. The District explained that bathrooms in areas that are not supervised will remain locked due to safety concerns. Administration at John Marshall High School is considering the remaining portions of the suggestion. Another suggestion was that the District extend the time for lunch. This suggestion was not implemented due to the impact an extended school day would have on student transportation.

Based on the information provided, OCR determined that the District's actions to date with respect to the Student School Board are consistent with Item #3 of the Agreement. OCR will continue to monitor the District's implementation of this item, as specified in the terms of the Agreement.

Items #5 and #7 both address the District's Student Behavior Handbook (Handbook). Under Item #7, the District was required to submit to OCR a revised Handbook for review and approval. Items #5 and #7 contained several specific requirements the Handbook was to meet.

In its February 10 letter, OCR notified the District that the Handbook complies with certain specified requirements of Items #5 and #7. OCR spoke with District representatives on March 20, 2017 regarding OCR's concerns with other requirements of Items #5 and #7. On May 8, 2017, OCR provided District counsel a copy of the Handbook with questions and comments regarding specific provisions.

In the May 17 report, the District provided a redlined copy of the 2016-2017 Handbook that addresses the questions and concerns noted by OCR. The District also indicated that it is considering making substantial revisions to the Handbook prior to the start of the 2017-2018 school year following the District's review of discipline handbooks from other school districts. OCR requests that by August 15, 2017, the District submit its revised Handbook to OCR.

Item #9 of the Agreement required the District to provide annual training to all teachers and administrators and other RPS personnel charged with supervising students and making disciplinary referrals or imposing disciplinary sanctions and to provide OCR a copy of training

materials as well as the identity and qualifications of the individual(s) who would be providing the training. The Agreement set forth a number of requirements for the training.

In previous reports, the District provided the names and titles of the lead principals who would be providing the training required under Item #9, indicated that it provided all staff a copy of the Handbook and site-based training on the Handbook, and required all staff members to view a video on the Handbook developed and supervised by the District's Discipline Supervisor.

In its February 10 letter, OCR requested that the District provide OCR copies of the training materials, including training videos, it used with staff to fulfill the requirements of Item #9 of the Agreement. In the May 17 report, the District provided links to the training materials online. OCR reviewed the materials at these links.

Based on the information provided, OCR determined that the District's actions to date with respect to Item #9 are consistent with the terms of the Agreement. OCR will continue to monitor the District's implementation of this item, as specified in the terms of the Agreement.

Item #10 required that the District provide annual training programs regarding discipline to all District students in an age appropriate, easily understood manner and provide OCR a copy of materials and the name(s) and contact information of the individual(s) who will provide the training; the Agreement set forth a number of specific requirements for the training.

In previous reports, the District provided links to training videos narrated by Student School Board members, identified the building principal for each school as the contact person for questions at each building regarding training for students, and indicated that the videos were developed and supervised by the Discipline Supervisor and were shown to all students at each site.

In its February 10 letter, OCR requested that the District document to OCR that the training it provided to students included the following elements: notice to students of their rights to appropriate due process procedures in connection with disciplinary action taken or proposed by the District; information regarding the specific manner in which progressive disciplinary consequences will be employed and, if applicable, the circumstances under which deviations from established policies and procedures may be justified; resources that are available to students to assist them in developing self-management skills; and a discussion of the limited role of Police Liaison Officers, specifically that such Officers are limited to investigating crimes or potential crimes and are not included in recommending or determining student discipline.

In the May 17 report, the District indicated that the RPS Superintendent addressed the items outlined in OCR's request in a May 2017 monthly video update to District students. The District provided a link to the video, which it indicated was viewed by all students and staff, on the District's website. OCR reviewed the video and confirmed that it addresses students' due process rights, progressive discipline, resources that are available to students to assist them in developing self-management skills, and the limited role of Police Liaison Officers. The District also provided a copy of a list of resources to assist students in developing self-management skills, which is referenced in the video, with the May 17 report.

Based on the information provided, OCR determined that the District's actions to date with respect to Item #10 are consistent with the terms of the Agreement. OCR will continue to monitor the District's implementation of this item, as specified in the terms of the Agreement.

Item #11 of the Agreement required that the District make training available to the Police Liaison Officers assigned to its buildings. Under the Agreement, the training was to emphasize the District's obligations under Title VI, the appropriate role of a Police Liaison Officer, the circumstances under which administrators may request assistance from or make a report to a Police Liaison Officer, and the District's and OCR's expectations regarding the equitable treatment of all students. Item #11 further required the District to provide training to school administrators on the District's obligations under Title VI, the appropriate role of a Police Liaison Officer, and the circumstances under which administrators may request assistance from or make a report to a Police Liaison Officer. The training also was to emphasize that teachers are not to refer students to law enforcement because of conduct in the classroom absent an emergency. In a previous report, the District stated that it would provide the training required under this item.

In its February 10 letter, OCR requested that the District document that it met the training requirements under Item #11. In the May 17 report, the District documented that the District provided the required training to Police Liaison Officers and administrators on October 1, 2015.

Item #11 further required the District to submit a report documenting that it reviewed every recorded instance in which a student's conduct was reported to law enforcement during the 2014-2015 school year and considered whether the report was appropriate under the circumstances present at the time and consistent with the treatment of similarly situated students. In its February 10 letter, OCR requested that the District provide documentation of the review required by Item #11.

In the May 17 report, the District indicated that it does not maintain recorded data regarding the number of law enforcement referrals that took place during the 2014-2015 school year and before the District and OCR entered into the Agreement. As a result, the District is unable to review whether law enforcement referrals during the 2014-2015 school year were appropriate under the circumstances and consistent with the treatment of similarly situated students.

Based on the information provided, OCR determined that no further action by the District is necessary with regard to Item #11 of the Agreement.

Item #15 of the Agreement required the District to examine annually how disciplinary referrals occurring at each school compare to those at other District schools and whether any data suggest that black students are disproportionately dismissed from school or are disciplined more harshly than similarly-situated students of other races and then to take actions depending on what the data show. The Agreement required the District to provide to OCR a copy of its analysis of this data.

In a previous report, the District stated that there is inconsistency between referrals in different buildings. The District stated that it believes a number of factors contribute to that inconsistency,

including, but not limited to inconsistent implementation of PBIS, inconsistent perception and practice of which behaviors are addressed by the teacher and which behaviors are referred to a building administrator, differing approaches by building administration, and differing implementation of classroom management strategies.

In its February 10 letter, OCR requested that the District provide a copy of its analysis of how disciplinary referrals at each school compare to those at other District schools or whether any data suggest that black students are disproportionately dismissed from school or are disciplined more harshly than similarly-situated students of other races. OCR also requested that the District indicate what, if any, appropriate corrective action it is taking or considering taking in response to its findings in response to Item #15 and whether, in schools where no disproportion is shown, there are any steps being taken at the school that might be adopted as best practices at those schools where disproportion exists.

In the May 17 report, the District indicated that it has no information responsive to this request other than the summary it previously provided OCR. The District explained that it analyzed data from individual sites by creating various pivot tables within the Excel file sent to OCR, and the information on the pivot table was then compared to District and site enrollment data. The District's counsel stated that the District is willing to work with OCR to address any concerns in the summary outlined in the District's previous submission before it makes the August 15, 2017 submission required by Item #15. OCR will schedule a telephone call with the District counsel to discuss this matter.

Item #17 of the Agreement required each PBIS team to conduct a review of disciplinary interventions at its school and prepare an action plan that includes recommendations on any changes to RPS student discipline policies, practices, and procedures that should be made in light of the team's findings.

In a previous report, the District documented that each RPS site completed a PBIS self-assessment survey and, as a follow-up, each site revised its RTI plan, which identifies academic and behavioral interventions. The District stated that building staff members will use self-assessment surveys to guide their work, and provided OCR a copy of the self-assessment surveys.

In its February 10 letter, OCR requested that the District explain what, if any, action plan(s) the teams prepared, including recommendations on any changes to RPS student discipline policies, practices and procedures that should be made in light of each team's findings.

In the May 17 report, the District indicated that individual sites are at different stages of implementing PBIS strategies. The report stated that the District recognizes that it has not yet achieved the goal of uniform application of PBIS strategies across sites and continues to work toward achieving the goal. The District reported that to date, each building PBIS team has been using an evaluation tool designed to measure the extent to which school personnel are applying the core features of positive behavior interventions and supports. The District provided documentation related to the evaluation tool used at specific school sites, as well as each site's behavior flow chart and site behavior matrix.

Based on the information provided, OCR determined that the District's actions to date with respect to Item #17 are consistent with the terms of the Agreement. OCR will continue to monitor the District's implementation of this item, as specified in the terms of the Agreement.

Item #18 required the District to submit to OCR for review and approval any changes proposed to be made to its discipline policies, practices, or procedures and the rationale for the changes based on its consideration of whether changes to its discipline policies, practices, or procedures are warranted based on its evaluation of the District-wide student discipline data and the other data gathered as a result of the Agreement.

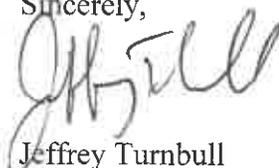
In a previous report, the District stated that it has held meetings with building principals about creating a consistent behavior tier system through PBIS work and better defining classroom-managed behavior versus office-managed behavior. The District also reported that it was proposing to revise the list of disciplinary offenses used by administration, with the goal of further reducing vagueness and subjectivity.

In its February 10 letter, OCR requested that the District provide any changes proposed to be made to its discipline policies, practices, or procedures and the rationale for the changes. In the May 17 report, the District cross referenced the response to Item #17 and also stated that, in terms of formal policy changes, the District updated its School Board policy regarding student discipline. The report contained a link to the updated policy. The report also noted that the District also has implemented a number of other changes. For example: student absences are no longer considered a reason for discipline referrals; the District created a Community Focus Team, which has ongoing meetings to discuss discipline practices; and the District made numerous staff development opportunities on the issue of discipline practices, such as ENVoY training and historical trauma training.

Based on the information provided, OCR determined that the District's actions to date with respect to Item #18 are consistent with the Agreement. OCR will continue to monitor the District's implementation of this item, as specified in the terms of the Agreement.

As noted above, OCR will contact the District's attorney in the near future to schedule a conference call to discuss Item #15 of the Agreement. If you have any questions regarding this letter, please contact Jackie Wernz, Civil Rights Attorney, at 312-730-1486 or via email at jacqueline.wernz@ed.gov.

Sincerely,



Jeffrey Turnbull
Team Leader

cc: Mr. Mick Waldspurger, District Counsel (by electronic mail)