

RESOLUTION AGREEMENT

In re: Loudoun County Public Schools
Virginia OCR Case No. 19-2652

The Office of Attorney General of Virginia, Virginia Office for Civil Rights (Virginia OCR) initiated an inquiry and investigation to determine whether Loudoun County Public Schools (LCPS) denied students an equal opportunity to participate in LCPS's Academies of Loudoun and elementary gifted and talented programs based on their race. This inquiry was based on complaints raised by the NAACP Loudoun Branch to the Office of the Attorney General. The Virginia OCR also investigated whether other LCPS programs, policies, and practices resulted in a pattern or practice of discrimination based on race, national origin, and/or religion in violation of the Virginia Human Rights Act (Act) and Title VI of the Civil Rights Act of 1964 (Title VI). LCPS is subject to Title VI because it receives Federal financial assistance from the United States Department of Education. Title VI, 42, U.S.C. § 2000d et seq., and its implementing regulation at 34 C.F.R. pt. 100 provide, in relevant part, that school districts receiving Federal financial assistance may not discriminate on the basis of race, national origin or religion.

On November 18, 2020, the Virginia OCR issued a letter identifying issues and findings resulting from its inquiry and investigation. The LCPS does not agree with a number of issues and findings identified in the November 18, 2020 letter. Rather than challenging the issues and findings in the November 18, 2020 letter, the LCPS determined that it would enter negotiations with the Virginia OCR to resolve any identified issues and findings. As a result, the LCPS and the Virginia OCR entered into negotiations and have agreed to this Resolution Agreement (Agreement).

LCPS agrees to fully implement this Resolution Agreement (Agreement) to resolve the issues and findings in the November 18, 2020 letter. This Agreement sets forth the actions that LCPS will undertake to assure the Virginia OCR that it will continue to comply with the provisions of the Act and Title VI. This Agreement does not constitute an admission by LCPS of a violation of the Act, Title VI, or any other law that is enforced by the Virginia OCR.

I. GENERAL PROVISIONS

1. This Agreement is subject to the Freedom of Information Act, Code of Virginia § 2.2-3700, et seq., as amended.
2. This Agreement does not in any way limit or restrict the Commonwealth's authority to investigate any other complaint involving LCPS made pursuant to the Act or any other complaint within the jurisdiction of other agencies of the Commonwealth of Virginia.
3. The LCPS and the Virginia OCR further agree that if any section of the Agreement should be held invalid by operation of law or by a tribunal of competent jurisdiction, or if compliance with or enforcement of any section is restrained by such tribunal, the application of any and all other sections, other than those which have been held invalid, will not be affected.

II. Relief to Assure Compliance

1. LCPS agrees that it will continue to be in compliance with the obligations, terms and conditions of the Virginia Human Rights Act and Title VI of the Civil Rights of 1964.
2. LCPS will post the substance of this Agreement on its website. In addition, LCPS will include a link to this Agreement in its electronic Student Rights & Responsibilities Handbook for the 2021-22 and 2022-23 school years.
3. In the summer of 2020, LCPS reviewed and revised its recruitment and outreach plan and its admission criteria and process for the Academies of Loudoun for eighth-grade students applying for admission for the 2021-22 school year. The purpose of reviewing and revising the recruitment and outreach plan and the admission criteria and process was to address issues raised by the pandemic and to ensure equitable access for all students, including by race/ethnicity, socioeconomic status, geography, disability and English Learner status. In the fall of 2020, the LCPS began implementing the revised recruitment and outreach plan and admission criteria and process and will complete the admission process in the spring of 2021 with the selection of students for admission for the 2021-22 school year. Following the completion of the selection process, the LCPS will review and analyze the results of implementation of the revised recruitment and outreach plan and of the revised admission criteria and process, and based on this review and analysis, will consider revisions to the outreach and recruitment plan and to the admission criteria and process. By June 1, 2021, the LCPS will provide its analysis and any proposed revisions to the outreach and recruitment plan and to the admission criteria and process to the Virginia OCR, and at Virginia OCR's request, additional information used to support LCPS's analysis and proposed revisions. The Virginia OCR shall provide any suggested changes to the proposed revisions to the LCPS by July 1, 2021. In addition, by June 1, 2021, the LCPS shall seek input on any proposed revisions from the Equity Committee and the Minority Student Achievement Advisory Committee (MSAAC), and these committees will enable key community stakeholders, including the NAACP Loudoun Branch, to provide their input on any proposed revisions. The Equity Committee and MSAAC shall provide any feedback to the LCPS by July 1, 2021. LCPS shall consider the suggestions and input from the Virginia OCR, Equity Committee and MSAAC in finalizing any revisions to the outreach and recruitment plan and to the admission criteria and process to be implemented in the fall of 2021 for the recruitment and admission of students to be enrolled in ninth grade for the 2022-23 school year.
4. The LCPS is in the process of revising its evaluation and identification procedures for the Futura and SPECTRUM gifted programs. LCPS is revising these procedures because of issues resulting from the pandemic, which include the challenges of school closures and digital learning, and to ensure equitable opportunities and access to these programs for all students regardless of their race/ethnicity, socioeconomic status, residence, language status and disability. During the month of February 2021, the LCPS shall seek input on the proposed revised procedures from the Board's Special Programs and Centers Committee, the relevant subgroups of the Gifted Education Advisory Committee, the Equity Committee, and the MSAAC. The Equity Committee and MSAAC will enable

key community stakeholders, including the NAACP Loudoun Branch, to provide their input on any proposed revisions. In addition, by April 1, 2021, the LCPS shall submit the proposed revised procedures to the Virginia OCR for input, and at Virginia OCR's request, additional information used to support LCPS's analysis and proposed revisions. The Virginia OCR shall provide its input to LCPS no later than May 1, 2021. The LCPS shall take the input from the various groups, including the Virginia OCR, into account in finalizing the revised procedures and shall finalize the procedures by the end of May 2021. The LCPS shall implement the revised procedures in the fall of 2021 to identify students for the 2021-22 school year.

5. The School Board has approved a model for addressing equity in student discipline, described in the Student Rights and Responsibilities (SRR) Handbook and related student and staff disciplinary policies and practices. The model includes the following components:

Plan: Analyze the data and identify root causes

School teams will analyze discipline data to identify patterns, determine root causes of discipline disproportionality, and guide planning and decision-making. School teams must review discipline data disaggregated by race/ethnicity, disability, ELL-status, and sex—at least bi-annually—to identify disparities and monitor progress toward eliminating them.

Do: Decide on a plan and implement

School teams will develop a plan to address its discipline disproportionality and inform changes in practice. Extensive research and resources exist to help districts and schools implement promising practices that promote equity in student discipline while keeping students in school.

Study: Evaluate and monitor progress

School teams regularly will review disaggregated discipline data to monitor the effectiveness of strategies and interventions, measure progress over time, and evaluate how discipline policies, procedures, and practices are impacting different groups.

Act: Adjust the plan, if necessary

School teams will review discipline data to monitor the effectiveness of an intervention or strategy, and adjust the plan if data show little or no progress. To inform this decision, school teams will consider whether additional time or support might be necessary for staff to fully implement the strategy or intervention with fidelity, or whether implementing a new or additional strategy might be necessary.

The model also includes the use of the “LCPS Reflective Considerations Prior to Disciplinary Actions” protocol—a training and decision-making protocol under consideration by the Virginia Department of Education as a model for addressing unconscious/implicit bias. Consistent with the model, changes to the Student Code of Conduct have been implemented to include mandatory alternatives to out-of-school suspension for subjective discipline infractions, such as disrespect, defiance, and classroom/campus disruption.

Supporting the model for equity in student discipline, LCPS has also implemented Positive Behavioral Interventions & Supports (PBIS), a research and evidenced-based framework for creating a common vision of behavioral expectations through consistent language and practices among staff and students. These practices (e.g., explicit instruction of expectations, feedback systems, behavioral definitions and procedures, professional learning for students and staff, etc.) help to ensure that students miss a minimal amount of instructional time due to disciplinary consequences and support all learners across three tiers (universal, targeted, and intensive) based upon student needs.

LCPS will continue its ongoing use of MTSS Data Analytics Tool and Discipline Violation Reports in QLIK for monitoring equity in student discipline, including both the frequency and severity of sanctions.

6. School Board nondiscrimination policies and practices have either been updated or are in the process of being revised and updated. The foundational policy, Policy 1040, Equal Opportunity for Equitable, Safe and Inclusive Environment, was last modified on February 26, 2019, and is applicable to students and staff alike, states, in part: “The Loudoun County School Board is committed to providing for an equitable, safe and inclusive learning and working environment. The Loudoun County School Board affirms a commitment to this principle for all persons regardless of race, color, national origin, religion, sex, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, marital status, disability, age, or genetic information.” LCPS continues to consider improvements to this policy regarding gender pronoun use.

Protocol. Implementing policies and practices flow from Policy 1040. Created in 2019, and then revised in July 2020, LCPS put into practice the LCPS Protocol for Responding to Racial Slurs and Hate Speech in Schools. The Assistant Superintendent for Pupil Services presented the Protocol to the Equity Committee on September 3, 2020, and, various implementation scenarios were discussed. The Protocol provides a series of steps principals are to follow in addressing racial insults, slurs, and/or hate speech to create and maintain a positive culture and climate that supports student growth. The Protocol is implemented in conjunction with the SRR Handbook and related student and staff disciplinary policies and includes the use of the “LCPS Reflective Considerations Prior to Disciplinary Actions” protocol. The Protocol will be reviewed annually.

Policy 8070. Policy 8-10, Comments and Complaints (proposed to be renumbered 8070), is LCPS’s complaint process for parents, students and others for any and all matters, including discrimination. It is one of three policy avenues for students to use in reporting

harassment or discrimination. Last revised in 2013, this policy is under review for a significant overhaul that is envisioned to include a digital online reporting system for students as well as include improvements to transparency and efficiency in the processing, receiving and resolving of complaints, including school-related discrimination complaints. The Board's Student Discipline Committee first considered draft revisions at its October 21, 2020, meeting which was followed by a review of the draft by the Communications and Outreach Committee on October 26, 2020. The next steps are to receive the technology input from the Department of Digital Innovation and then submit the revisions to the Board's Equity Committee for review and input.

Policy 8030. A sister complaint policy for students is Policy 8-6, (proposed to be renumbered 8030), currently entitled "Sex Discrimination and/or Sexual Harassment," (proposed to be re-titled "Harassment and Discrimination of Students"). The draft policy was expanded to incorporate all forms of harassment and discrimination of students while providing for the unique process required by new U.S. Department of Education Title IX regulations regarding sexual harassment investigations and adjudications. The draft is awaiting review by the Equity Committee.

Policy 8250. Policy 8250, Bullying Prevention and Education, another of a trinity of student complaint avenues, provides another means for students to report any form of bullying including "targeting a student's actual or perceived personal characteristics including race, color, national origin, religion, sex, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, physical or mental ability or disability, age, genetic information, socioeconomic status, political affiliation, or on a student's association with a person or group with one or more of these actual or perceived characteristics." This policy has been in place since 2014 and was last revised on December 3, 2019, to add the above-quoted language, among other terms. By law, the next review will be by December 2024.

Policy 8210. Policy 8210, Introduction to Student Discipline, provides a brief orientation to the compilation of student disciplinary policies contained in Chapter 8 of the School Board's Policy Manual. The Student Discipline Committee considered revisions at its September 16, 2020, meeting which included adding the following language to the list of offenses: "12. Hateful language and actions based on race, color, national origin, caste, religion, sex, pregnancy, childbirth or related medical conditions, gender identity, sexual orientation, marital status, disability, age, genetic information, and/or ability or language that encourages discrimination, hatred, oppression, and violence...." The draft policy is awaiting further review by the Equity and SEAC committees.

Policy 8270. Policy 8270, Student Dress Code, was last revised in 2017 and is proposed for revision at the September 22, 2020, Student Discipline Committee, to add the following: "11. Clothing or other accessories or objects free from language, slogans, symbols, icons or images that are highly offensive or threatening to others and impede or distract from the Board's mission of instilling values necessary or appropriate for polite civil discourse or political expression in a school context, social tolerance, nondiscrimination, self-awareness and sensitivity to the feeling of others even if such

does not result in a reasonable fear of immediate disruption. An essential Board mission is to teach students of different races, creeds and color to engage each other in civil terms rather than in terms highly offensive or threatening to others. For example, displays of certain symbols such as Confederate or Swastika images are perceived by many as racially hostile, are associated with racial prejudice, have been a source for conflict among students, and could result in hatred, ill will, and emotional trauma that are all inappropriate in the school context.” This draft awaits review by the Equity Committee.

Student Rights and Responsibilities (SRR) Handbook. Students and parents are expected to read the online SRR Handbook, which is updated annually in June or July prior to the start of school. Hardcopy Handbooks are made available at schools for those in need of an accommodation. The Handbook generally highlights the existing student disciplinary policies as well as any updates that may have occurred during the prior year to the disciplinary policies. The Handbook is reviewed annually. Any changes made to the above policies in the preceding year will be noted in the SRR Handbook for the following school year.

Monitoring. Prior to the School Board’s review and approval of changes to the policies listed in this paragraph 6, LCPS will, within 10 days of a review by the Equity Committee, submit the proposed revisions to the Virginia OCR for review and comment during the term of this Agreement. If the Virginia OCR does not respond within 30 days of receipt of the revisions with its comments, the School Board may proceed with considering the revisions for approval.

7. In addition to the foundational nondiscrimination policy cited above (1040), LCPS has a specific nondiscrimination policy, Policy 7012, Equal Opportunity Employment, in the employment context and in accordance with §22.1-295.2. The language of Policy 7012 applies to both applicants and employees as follows: “The Loudoun County School Board is an Equal Opportunity Employer. The School Board does not discriminate against qualified applicants or employees on the basis of actual or perceived race, national origin, ancestry, color, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, marital status, age, religion, disability, genetic information, veteran status or any basis protected by law.” The complaint resolution process is covered below.

Policy 7018. Policy 7018, Procedures for Adjusting Grievances, covers full-time employees with a “Grievance” which means, for the purpose of Part II (8VAC20-90-20 et seq.), a complaint or a dispute by a teacher relating to his employment, including but not necessarily limited to the application or interpretation of personnel policies, rules and regulations, ordinances, and statutes; acts of reprisal against a teacher for filing or processing a grievance, or participating as a witness in any step, meeting, or hearing related to a grievance; or complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin, or sex. “Teacher” or “teachers” means, for the purposes of Part II (8VAC20-90-20 et seq.), all employees of the school division involved in classroom instruction and all other full-time employees of the school division except those employees classified as supervising employees.

Policy 7014. Policy 7014, Environments Free from Harassment, Discrimination, and Abuse also provides a complaint avenue for everyone covered or not covered by Policy 7018: “The purpose of this policy [7014] is to establish a method for resolving complaints arising from alleged sexual harassment and harassment or discrimination. This includes any harassment or discrimination on the basis of race/ethnicity, national origin, ancestry, color, sex, sexual orientation, perceived sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, marital status, age, religion, disability, genetic information, or veteran status.” This policy was last revised December 3, 2019. By law, the next review will be by December 2024.

Policy 7560. Policy 7560, Professional Conduct, is under consideration by the Human Resources and Talent Development Board Committee currently anticipated for its February 8, 2021, meeting with anticipated review by the Equity Committee.

Training. LCPS will develop and implement a plan to educate school staff, students and families about its EEO, Protocol for Responding to Racial Slurs and Hate Speech in Schools and Policy 7560 annually. The plan will be submitted to the Virginia OCR within 90 days of the signing of this Agreement.

In addition, LCPS is entering its fifth year of unconscious bias training centered around recruitment, hiring, and promotion of LCPS employees. Working with hiring managers to mitigate potential biases in the hiring process, trainings and actions have focused on:

- Year 1 (2016-17) – Introduced concept of unconscious bias, including diversity and inclusion terms, microaggressions, and social identifiers to hiring managers.
- Year 2 (2017-18) – Built on the unconscious bias training and how it relates to hiring as well as best practices to hiring managers. Reviewed terms learned in Part I (i.e., using panels, diversifying interview panels, resume review tips). Invited teachers who sit on interview panels in the schools to training. Covered unconscious bias and the different types of biases (association, confirmation, affinity, etc.). Included scenarios in a live theater format to demonstrate how bias can come out in interviews, and reviewed resume tips.
- Year 3 (2018-19) – Incorporated a “train the trainer” model for administrators in the schools with a review of fall concepts learned. Charged hiring managers to train their staff as they invite more participants to sit on panels or get new staff. Participants were given facilitator guides as well as materials to give to staff for training.
- Year 4 (2019-20) – Participants learned how to conduct good behavior-based interviews, including the preparation before, having a diverse panel, how to do the briefing after an interview and using rubrics to score candidates. Revised LCPS screening interviews to include an equity question. Incorporated behavior-based tasks into second round questions. Reviewed best practices for hiring managers at

training sessions. Hosted Diversity Recruiting Experience for diverse licensed candidates where nearly 90 interviews conducted.

- Year 5 (2020-21) – Reviewed best practices for hiring managers at administrative retreat. Developing training for hiring managers for creation of Employee Value Proposition (EVP) centered around equity. Providing detailed data reports on staff demographics and composition of applicant pools and interviewing panels.

LCPS will continue to explore best practices for equity training for hiring managers and administrators and advise the Virginia OCR of the planned training during the term of this Agreement.

Monitoring. Prior to the School Board's review and approval of changes to the policies listed in this paragraph 7, LCPS will, within 10 days of a review by the Equity Committee, submit the revisions to the Virginia OCR for review and comment during the term of this Agreement. If the Virginia OCR does not respond within 30 days of receipt of the revisions with its comments, the School Board may proceed with considering the revisions for approval. Policies not specifically included for revision need not be revised or slated for review during the term of this Agreement.

8. During the term of this Agreement, the LCPS shall identify a third-party consultant or consultants to assist in monitoring, assessing and making recommendation regarding the obligations in paragraphs 3, 4, 5, 6 and 7 of this Agreement. By April 1, 2021, the LCPS shall provide the name or names of the proposed consultant or consultants to the Virginia OCR for input and approval and the Virginia OCR shall provide this input and approval not later than April 15, 2021.
9. This Agreement shall be in effect until June 30, 2024. During the term of this Agreement, LCPS shall retain logs of discrimination complaints, logs of EEO training, data and analysis of student discipline, data and analysis regarding its Futura and SPECTRUM gifted programs, and data and analysis regarding the Academies of Loudoun admissions process. LCPS shall provide the Virginia OCR the opportunity to review this information and data upon reasonable written notice to Division Counsel. In addition, upon reasonable written notice, during the term of this Agreement, the LCPS will provide the Virginia OCR with the opportunity to interview staff and students to determine whether LCPS is fulfilling the terms of this Agreement.
10. On June 30, 2024, absent any assertion by the Virginia OCR of an alleged LCPS breach of the Agreement, the Virginia OCR shall close and dismiss this matter.

LCPS understands that the Virginia OCR may initiate administrative or judicial proceedings to enforce any alleged breach regarding specific terms and obligations of this Agreement. Before initiating such proceedings, the Virginia OCR shall provide LCPS written notice of the alleged breach and a minimum of 60 calendar days to cure the alleged breach.

By: Scott Linder
Superintendent or Designee
Loudoun County Public Schools

Date: February 9, 2021.

By: R. Thomas Payne II
R. Thomas Payne II,
Section Chief, Office of Civil Rights

Date: Feb. 18, 2021.

By: Mark R. Herring
Mark R. Herring
Attorney General of Virginia