

June 1, 2022

Via Email to OCR@ed.gov
United States Department of Education
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100

Re: Federal Civil Rights Complaint Concerning Racially Discriminatory Grading Policies by Oak Park and River Forest School District 200

To Whom It May Concern:

The Defense of Freedom Institute for Policy Studies (“DFI”) is an independent, nonpartisan 501(c)(3) tax-exempt nonprofit organization dedicated to defending freedom and opportunity for every American family, student, entrepreneur, and worker, as well as to protecting their civil and constitutional rights at school and in the workplace.

Pursuant to the discrimination complaint resolution procedures of the U.S. Department of Education’s Office for Civil Rights (“OCR”), DFI brings this federal civil rights complaint against Oak Park and River Forest School District 200 (“District 200”) in Oak Park, Illinois for discrimination on the basis of race, color, and national origin in programs or activities that receive federal financial assistance in violation of Title VI of the Civil Rights Act of 1964 (“Title VI”)¹ and the Equal Protection Clause of the 14th Amendment of the U.S. Constitution. DFI files this complaint as an interested third-party organization that strongly supports constitutional and statutory prohibitions on school policies that are based on race-based stereotypes or that arise from adverse or preferential treatment based on race.

At a school board meeting on May 26, 2022, District 200’s Assistant Superintendent for Student Learning, Dr. Laurie Fiorenza, presented PowerPoint slides attributed to “Oak Park and River Forest High School District 200.”² As part of its “Transformative Education” plan, the slides

¹ 42 U.S.C. § 2000d *et seq.*

² Oak Park and River Forest High School District 200, Strategic Plan Priority 2: Transformative Education, Professional Development & Grading, May 26, 2022 (hereinafter “Strategic Plan”),



indicate that District 200 will implement a strategy, by Fall 2023, to “consistently integrate equitable assessment and grading practices into all academic and elective courses.”³

In the presentation, District 200 describes a years-long review of grading and assessment conducted by a team of its teachers and administrators, including examination of texts such as *Grading for Equity* by Joe Feldman and participation in a “learning opportunity” with “equity” advocate Dr. Douglas Reeves.⁴ It summarizes the findings of this review as follows: “Traditional grading practices perpetuate inequities and intensify the opportunity gap.”⁵ District 200 applauds its “[m]any” teachers who “are successfully exploring and implementing more equitable grading practices such as: utilizing aspects of competency-based grading, eliminating zeros from the grade book, and encouraging and rewarding growth over time.”⁶ It declares that District 200 teachers and administrators “will continue the process necessary to make grading improvements that reflect our core beliefs.”⁷

Leaving no doubt as to the inclusion of racial bias in its definition of “grading with equity,”⁸ District 200 states that its personnel will use “evidence-backed research and the *racial equity analysis tool*” to review grading practices across its courses.⁹ District 200 explains that, as part of this process, it will require administrators and teachers to “clearly define” the “[p]urpose for grading” and “[p]roficiency” as it creates a “Philosophy of Grading” at the conclusion of its review process.¹⁰

The announced policy is consistent with District 200’s pattern of statements and policies in pursuance of a “racial equity” statement published by Oak Park and River Forest High School in

available *at*
[https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CELJGA4D1599/\\$file/Professional%20Development%20and%20Grading%20BOE%20Presentation_.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CELJGA4D1599/$file/Professional%20Development%20and%20Grading%20BOE%20Presentation_.pdf). For OCR’s ease of reference, DFI has attached to this letter as “Exhibit” A the available slides from this presentation.

³ *Id.* at 3.

⁴ *Id.* at 8. Dr. Reeves founded an education consultancy called Creative Leadership Solutions, whose website states, “Through our coaching of leaders and of collaborative teams of teachers, we instill the core competencies of Equity and Excellence Schools – focus, feedback, instruction, leadership, and efficacy.” Creative Leadership Solutions, Discover Equity Solutions, <https://www.creativeleadership.net/equity> (last visited May 31, 2022).

⁵ Strategic Plan, *supra* note 2, at 9.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 8.

⁹ *Id.* at 10 (emphasis added).

¹⁰ *Id.*



2019.¹¹ The statement indicates that school administrators “believe it is our responsibility as an institution to identify and remove unconscious biases and system-wide barriers that inhibit success for all students.”¹² To do so, the school pledges to “eliminat[e] policies, practices, attitudes, and cultural messages that reinforce or fail to eliminate different outcomes by race.”¹³ The statement concludes, “Oak Park and River Forest High School is committed to taking actions that will create equitable opportunities for all our students to achieve their full potential.”¹⁴

On August 26, 2021, District 200 sent a letter co-authored by Dr. Fiorenza to the Illinois State Board of Education demonstrating the underlying motivations of its equity-focused grading policies.¹⁵ The letter contains evidence from the review of data from the 2018–19 school year indicating that there was “a learning impact with a slight increase in failing grades, falling disproportionately on our students of color.”¹⁶ In the letter, District 200 argues that “the [COVID-19] pandemic further exposed the structural inequities that previously existed within school systems and, in many cases, amplified them.”¹⁷ In furtherance of its policy to focus not on individuals but on systems when dealing with various types of learning loss, “[District 200’s] administration will adopt language that makes and keeps the system visible and continues to name racism as a complex interconnected structure.”¹⁸

The letter sets out the overarching, race-based rationale for why District 200 policies must be reviewed and revised, whether in messaging or grading practices: “In a district committed to racial equity, we must not re-traumatize already marginalized students and families by labeling them as

¹¹ Oak Park and River Forest High School, Racial Equity at OPRF, <https://www.oprfhs.org/racial-equity-program/index#:~:text=One%2520of%2520the%2520unique%2520aspects,and%25203%2520percent%2520as%2520Asian> (hereinafter “Racial Equity at OPRF”) (last visited May 31, 2022). Oak Park and River Forest High School is the only school in District 200. See Illinois State Board of Education, Illinois Report Card 2020–2021, Oak Park – River Forest SD 200, <https://www.illinoisreportcard.com/district.aspx?districtid=06016200013&source=schoolsindistrict&source2=Schools> (last visited May 31, 2022).

¹² Racial Equity at OPRF, *supra* note 11.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Letter from Oak Park and River Forest High School District 200 to Board of Education, Aug. 26, 2021, *available at*

[https://go.boarddocs.com/il/oprfhs/Board.nsf/files/C62RNH6ECF73/\\$file/Final%20BOE%20Report%20Organizational%20Lessons%20Learned%20During%20COVID-19.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/C62RNH6ECF73/$file/Final%20BOE%20Report%20Organizational%20Lessons%20Learned%20During%20COVID-19.pdf).

¹⁶ *Id.* at 1.

¹⁷ *Id.* at 3 (citation omitted).

¹⁸ *Id.* (citation omitted).



less than whole persons who have lost something.”¹⁹ District 200 explains that, at the center of each of its findings on its response to the pandemic, it places a priority on racial equity “at the center.”²⁰ With the aim of “restor[ing] our student’s social and emotional capacities,” District 200 states that it “must recognize the unique challenges faced during the pandemic intensify the need for a systemic approach to confronting the racial and socioeconomic discrepancies often experienced by our underrepresented student population.”²¹

According to the 14th Amendment to the U.S. Constitution, “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”²² Title VI states, “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”²³ District 200’s announced intention to revise grading policies to benefit students from particular racial or ethnic backgrounds blatantly violates both of these commands.

DFI’s review of OCR’s published resolutions²⁴ of its investigations of Title VI complaints of discrimination based on race, color, or national origin reveals a dearth of matters involving facially discriminatory policies by state education agencies, their subrecipients, and vocational rehabilitation agencies. District 200’s Strategic Plan is particularly outrageous in its abandonment of racially neutral assessment and grading policies. Similarly, in violation of federal constitutional and statutory requirements, District 200 conscripts teachers to abandon race-neutral practices and actually trains them to apply race-based “equitable assessment and grading practices” that place each student’s racial makeup at the forefront of grading considerations.²⁵

Historically, OCR has sometimes found permissible “race-themed” programs involving a school district’s constructive outreach efforts to involve more racial minority students in school academic

¹⁹ *Id.* at 4 (emphasis in original).

²⁰ *Id.* at 5.

²¹ *Id.* at 9.

²² U.S. CONST. amend. XIV, § 1.

²³ 42 U.S.C. § 2000d.

²⁴ See U.S. Dept. of Educ., Office for Civil Rights Recent Resolution Search (Elementary and Secondary, Race and National Origin Discrimination), https://ocrcas.ed.gov/ocr-search?f%5B0%5D=it%3AElementary%20and%20Secondary&f%5B1%5D=ocr_statutes%3A526 (last visited May 31, 2022).

²⁵ Strategic Plan, *supra* note 2, at 3.



programs, so long as those programs remained open to all students.²⁶ The nature of such an outreach program (to enhance minority participation in academic programs where minority participation in more rigorous academic coursework had fallen behind) stands in sharp contrast to District 200's proposed grading practices, which favor certain students based on race – inherently discriminating against others because of race.

DFI requests a prompt investigation of the allegations in this complaint because the policy at issue threatens irreparable harm to all students attending Oak Park and River Forest High School, no matter their race or background. The grading policy, with its focus on “racial equity,” explicitly seeks to benefit students of racial minorities at the expense of other students. In doing so, the policy relies on the tired, wrong-headed justification of discrimination on the basis of race: students of particular races, nationalities, and ethnic backgrounds need special treatment by schools and other institutions in order to succeed. This justification not only stigmatizes and patronizes students but also sends the message that they can succeed only with the help of benevolent patrons.²⁷

Accordingly, we ask OCR to investigate the allegations in this complaint and ensure that District 200 complies with Title VI of the Civil Rights Act of 1864, as well as provide other appropriate relief.

Thank you for your prompt assistance. Please feel free to contact me at (202) 627-6735 or robert.eitel@dfipolicy.org with any questions related to this request. My address is set forth above.

Sincerely,

Robert S. Eitel
President

²⁶ See U.S. Dept. of Educ., Office for Civil Rights, Title VI: Indian Prairie Community Unit Sch. District (IL) OCR Complaint No. 05-10-1173, Nov. 26, 2012, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/05101173.html>.

²⁷ See, e.g., *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 241 (1995) (Thomas, J., concurring in part and concurring in the judgment) (“[T]here can be no doubt that racial paternalism and its unintended consequences can be as poisonous and pernicious as any other form of discrimination. So called ‘benign’ discrimination teaches many that because of chronic and apparently immutable handicaps, minorities cannot compete with them without their patronizing indulgence. Inevitably, such programs engender attitudes of superiority or, alternatively, provoke resentment among those who believe that they have been wronged by the government's use of race. These programs stamp minorities with a badge of inferiority and may cause them to develop dependencies or to adopt an attitude that they are ‘entitled’ to preferences.”)



Exhibit A

Oak Park and River Forest High School District 200, Strategic Plan Priority 2: Transformative Education, Professional Development & Grading, May 26, 2022.



Strategic Plan Priority 2: Transformative Education Professional Development & Grading

May 26, 2022



Priority 2: Transformative Education

Strategy 2:

Throughout the 2022-2023 school year, OPRFHS will implement a professional development plan that is comprehensive and differentiated to support the needs of all teachers and the learning of all students.



Priority 2: Transformative Education

Strategy 3:

By Fall of 2023 consistently integrate equitable assessment and grading practices into all academic and elective courses.



Executive Summary

Goal: Implement a professional development plan that is comprehensive and differentiated, and integrate equitable assessment and grading practices into all academic and elective courses.

- Current Professional Development
- District Initiatives: Assessment, Instructional Technology, Restorative Practices
- Summary of Findings
- Next Steps
- Grading and Assessment
- Summary of Findings
- Next steps



Professional Development

- Structure of professional learning time during the 2021-2022 school year
 - Wednesday Late Start
 - 90 minutes of time split into two parts
 - First 30 minutes was district-led professional learning
 - Second 30 minutes was time for application of learning
 - Professional development aligned to district initiatives and centered in equity
 - Assessment
 - Instructional Technology
 - Restorative practices
 - A detailed summary of the PD provided this year is in the Board document



Summary of Findings

- Survey responses following most Institute and Staff Development Days indicated that
 - over 70% of the teachers agreed that the professional development would impact professional or student growth
 - Over 90% agreed that the professional development aligned with the district school improvement plan
 - Some indication of need for more differentiated PD and centered on their immediate classroom needs
- TCT leaders provided feedback - split time was hindering ability to collaborate and work productively
 - Split time was stopped
 - Focused shifted to three of the four essential questions of a collaborative team:
 - How will we know when students have learned the standard(s) (analysis and discussion of formative assessment data)?
 - How will we respond when they don't learn?
 - How will we respond when they already know it?



Next Steps

Administration

- Provide resources and time for teachers to collaborate around assessment and student performance.

Teacher Collaboration Team Leaders

- Leadership training for the 2022-2023 Teacher Collaborative Team leaders will be provided on an ongoing basis beginning May 2022

Instructional Coaches

- Two focused on literacy, one focused on classroom environment, and two from special education (Math/Science, English/History) will work with teachers in classrooms, during teacher collaboration time, division meetings, and other professional learning occasions
 - Instructional coaches will provide job-embedded professional development to teachers based on their learning needs



Grading and Assessment

During the 2020/2021 school year, a team of teachers and administrators read and discussed five texts, including:

- *Grading for Equity* - Joe Feldman
- *Get Set, Go* - Thomas Guskey
- *Pointless* - Sarah Zerwin
- *What We Know About Grading* - Thomas Guskey & Susan Brookhart
- *On Your Mark* - Thomas Guskey

During the 2021/2022 school year:

- Utilized the text *Get Set Go* by Thomas Guskey to continue discussions
- Panel discussion - three students shared their experiences with grading and assessment while at OPRFHS
- Collaborative team leaders recently participated in a learning opportunity with Dr. Douglas Reeves
 - discussed grading with equity and shared practical issues for immediate impact with the group



Summary of Findings

- Traditional grading practices perpetuate inequities and intensify the opportunity gap
- Integrating equitable assessment and grading practices into all academic and elective courses requires the collaborative effort of a team of educators committed to improvements that benefit all students
- Many OPRFHS teachers are successfully exploring and implementing more equitable grading practices such as: utilizing aspects of competency-based grading, eliminating zeros from the grade book, and encouraging and rewarding growth over time
- Teachers and administrators at OPRFHS will continue the process necessary to make grading improvements that reflect our core beliefs



Next Steps

Oak Park and River Forest High School administration and faculty will examine grading and reporting practices in academic and elective courses utilizing evidence-backed research and the racial equity analysis tool. The examination and reflection of practices will require that OPRFHS administration and faculty clearly define the following:

- Purpose for grading
- Proficiency

Oak Park and River Forest High School will establish a Philosophy of Grading that reflects a rigorous, meaningful, and evidence-based process by which student learning is understood.



Questions

June 30, 2022

Via Email to OCR@ed.gov and OCR.Chicago@ed.gov
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202-1100

**Re: OCR Docket #05-22-1469 - Oak Park & River Forest District 200
Supplement to June 1, 2022, Complaint Concerning Racially Discriminatory
Policies of Oak Park and River Forest School District 200**

To Whom It May Concern:

The Defense of Freedom Institute for Policy Studies (“DFI”) is an independent, nonpartisan 501(c)(3) tax-exempt nonprofit organization dedicated to defending freedom and opportunity for every American family, student, entrepreneur, and worker, as well as to protecting their civil and constitutional rights at school and in the workplace.

Pursuant to the discrimination complaint resolution procedures of the U.S. Department of Education’s (“Department”) Office for Civil Rights (“OCR”), on June 1, 2022, DFI filed an administrative complaint¹ against Oak Park and River Forest School District 200 (“District 200”) in Oak Park, Illinois for discrimination on the basis of race, color, and national origin in programs or activities that receive federal financial assistance in violation of Title VI of the Civil Rights Act of 1964 (“Title VI”)² and the Equal Protection Clause of the 14th Amendment of the U.S. Constitution.

DFI files this supplemental complaint to make OCR aware of further information we have received demonstrating that discrimination by District 200 on the basis of race, color, and national origin goes far beyond the school district’s grading policy. District 200 has, in fact, established a general policy of impermissible discrimination that—as touted in materials posted on the Oak Park and River Forest High School (“OPRF”) website, presentation materials for District 200 Board of

¹ Letter from Robert S. Eitel, President, Defense of Freedom Institute for Policy Studies, to the U.S. Dept. of Ed., Office for Civil Rights, Jun. 1, 2022, at 2 (hereinafter “DFI Letter”), *available at* <https://dfipolicy.org/wp-content/uploads/2022/06/OCR-Complaint-OPRF-06.01.2022-signed.pdf>.

² 42 U.S.C. § 2000d *et seq.*



Education (“District 200 Board”) meetings, and other resources—subjects nearly all decisions made by OPRF administrators to a zero-sum review of whether such decisions will help one racial grouping (“people of color”) at the expense of white students, or vice versa.

District 200 Board and OPRF personnel published many of these policies years ago, and they pursue a District 200 Board policy that treats students differently based on race. DFI thus requests that OCR investigate not only District 200’s announcement of a race-based grading policy, but all of District 200’s activities pursuant to its racial equity policy, which, as explained below, impermissibly mandates the consideration of the race of students and the racial makeup of student groups across the school’s decision-making processes.

The day before DFI filed its initial complaint, OPRF published a statement on its website denying a news report that it plans to establish a “race-based grading system” for the 2022-2023 school year.³ On June 3, OPRFHS’s Assistant Superintendent for Student Learning, Dr. Laurie Fiorenza, denied any connection between “equitable grading practices” and race.⁴ In light of District 200’s policies, statements, and actions set out in detail below, DFI believes these denials are inaccurate and misleading not only to the public but also the Department and require OCR’s investigation.

District 200 Board’s Racial Equity Policy

Background and General Provisions

On April 25, 2019, the District 200 Board, “acknowledg[ing] that complex societal and historical factors, such as racism, contribute to inequities in our society,”⁵ adopted a “racial equity” policy.⁶ The policy states that its aim is “to address the systemic barriers to equity and access that disproportionately affect our students of color, who have experienced marginalization as shown through historical data, and to take into account how race plays out in our daily lives and in our

³Oak Park and River Forest High School, Statement Regarding Grading Practices, <https://www.oprfhs.org/news/1742090/statement-regarding-grading-practices>, May 31, 2022 (hereinafter “May 31 Statement”).

⁴ Quoted in F. Amanda Tugade, *One School Board Member Anticipated Equitable Grading Practices Would Be Misunderstood. He Was Right*, WED. J. OF OAK PARK AND RIVER FOREST, Jun. 3, 2022, available at <https://www.oakpark.com/2022/06/03/oprf-responds-to-fake-news-story/>.

⁵ Oak Park and River Forest H.S.D. 200, Policy Manual, 298 (2002) (hereinafter “District 200 Policy Manual”) (Section 7:12: Racial Equity Policy), available at <https://campussuite-storage.s3.amazonaws.com/prod/1558748/bd01c7ae-765f-11e9-9402-0a56f8be964e/2390643/b78a28aa-a921-11ec-8a55-0e37078c7be1/file/PolicyManual2022.pdf>.

⁶ *Id.* at 300.



education system.”⁷ In light of the negative impacts “[i]nstitutional racism, cultural biases, and other societal factors” have on “a student’s sense of belonging” and “disparities in achievement and graduation rates between students of different races,” the policy commits that the District 200 Board “will follow this policy in conducting its business and exercising its responsibilities.”⁸ It also “directs the Superintendent to establish, in accordance with this policy, written procedures and other guidance to implement this policy.”⁹

Incompatibility Between Equality and Race-based Equity

Critically, District 200’s race-based equity policy explicitly states that its pursuance of “equity” is incompatible with the principle of equality enshrined in Title VI and the U.S. Constitution’s Equal Protection Clause:

Educational equity and equality are not the same principles and should not be used interchangeably. Equality means treating all students the same regardless of differences. Equality can only succeed if all students start with the same needs and challenges. Equity rests on principles of justice and fairness and aims to remove barriers to provide each student the opportunity to benefit equally from the high-quality educational experience and outcomes that OPRFHS offers. OPRFHS recognizes that fostering educational equity may require allocating resources unequally to focus on barriers that may uniquely impact students of diverse backgrounds.¹⁰

Ignoring these legal mandates, the school district’s policy focuses on race-based equity, defining “Racial Equity” as “the systematic fair treatment of people of all races and ethnicities that allows equitable outcomes. Once racial and ethnic inequities are eliminated, race and ethnicity are not factors in outcomes.”¹¹ At its base, “equity” is thus a comparison of some racial and ethnic groups with others, rather than an individualized inquiry recognizing differences in each student across racial or ethnic groups.

The policy defines “Institutional Racism” as “social policies, practices, procedures, and/or discourse that benefit people who are white at the exclusion of people of color, often unintentionally.”¹² In this definition, District 200’s manual indicates the racial groupings that it

⁷ *Id.* at 298.

⁸ *Id.*

⁹ *Id.* at 299.

¹⁰ *Id.* at 298 (emphasis added).

¹¹ *Id.* at 299.

¹² *Id.*



will consider in pursuing “educational equity,” as well as the monolithic direction in which it plans to discriminate (*i.e.*, in favor of “people of color” and against “people who are white”).

Influence of Board Vice President Ralph Martire on Equity Policies

District 200 and OPRF’s policies regarding “racial equity” are driven by individuals like the District Board of Education’s Vice President Ralph Martire, a Professor of Public Policy at Roosevelt University in Chicago who served as a member of the Equity and Excellence in Education Commission established during the Obama Administration¹³ and Executive Director of the Illinois-based Center for Tax and Budget Accountability, whose purpose is “to identify evidence based reforms that promote social and economic justice.”¹⁴ When asked about his thoughts on a racial equity policy during his 2019 campaign for a seat on the Board, he answered, “I not only believe that a racial equity policy is necessary, I know that the research clearly shows that implementing a strategic, evidence-based approach to equity is one of the surest ways a school district can create a truly excellent learning environment for all students.”¹⁵ He wrote, “I believe my work experience over the last 15 years demonstrates that I can help facilitate the very type of systemic changes needed to address even issues fraught with polarizing emotions—like creating a racially equitable school system.”¹⁶

The District 200 Board fulfills Dr. Martire’s race-conscious vision by mandating 12 procedures and guidance for OPRF administrators to implement the school district’s race-based equity policy.¹⁷ The sections that follow describe the racial equity policy’s commands in the context of how OPRF leadership is implementing them in a wide range of areas affecting their students and faculty.

OPRF’s Strategic Plan for Racial Equity

In a statement posted to its website, OPRF manifests a lockstep commitment to the race-based equity policy created by the District 200 Board and lays out a plan for the broad implementation of the policy:

¹³ Roosevelt University, Ralph Martire, <https://www.roosevelt.edu/academics/faculty/profile/rmartire> (last visited Jun. 10, 2022).

¹⁴ *Ralph Martire*, WED. J. OF OAK PARK AND RIVER FOREST, Mar. 14, 2019, <https://www.oakpark.com/2019/03/14/ralph-martire/>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 299–300.



We believe it is our responsibility as an institution to identify and remove unconscious biases and system-wide barriers that inhibit success for all students. To achieve racial equity we must work to address the root causes of inequities, not just their manifestation. This includes eliminating policies, practices, attitudes, and cultural messages that reinforce or fail to eliminate different outcomes by race. The time for talking about systemic change is over. Oak Park and River Forest High School is committed to taking actions that will create equitable opportunities for all our students to achieve their full potential.¹⁸

At the District 200 Board’s January 27, 2022 meeting, Dr. Patrick Hardy, OPRF’s Executive Director of Equity and Student Success,¹⁹ presented a strategic plan, along with supporting documentation, to fulfill the Board’s policy mandates and OPRF’s public commitments to the principle of “racial equity.”²⁰ One of the documents, labeled an “Action Plan,” envisions that OPRF “will become a model school for racial equity within four years.”²¹ To achieve this vision, the action plan calls for “building organizational capacity for engaging in racial equity work” through the following four projects: “Strengthen racial equity professional development programming”; “Establish an Office of Equity and Student Success Advisory Team”; “Develop and implement a resource allocation review process in alignment with board policy 7:12 [discussed below in the “Capital Expenditures” section]”; and “Implement comprehensive administrative equity procedures and analysis throughout the organization.”²²

The documentation presented to the District 200 Board at its January meeting reveals the substantial staff commitment OPRF has devoted to the implementation of its “racial equity” vision. In a PowerPoint presentation entitled “Strategic Plan Update,” Dr. Hardy lists 18 individuals as members of a “Development Team” charged with work, including “Racial Equity Protocols,

¹⁸ Oak Park and River Forest High School, Racial Equity at OPRF (hereinafter “Racial Equity at OPRF”), <https://www.oprfhs.org/racial-equity-program/index> (last visited Jun. 8, 2022).

¹⁹ An April 2022 news report indicates that Dr. Hardy will leave OPRF’s equity office in July 2022 for the principal position at Hinsdale South High School in Darien, Illinois. *Michael Romain, OPRF Equity Director to Leave for Principal Position*, WED. J. OF OAK PARK AND RIVER FOREST, Apr. 6, 2022, available at <https://www.oakpark.com/2022/04/06/oprf-equity-director-to-leave-for-principal-position/>.

²⁰ Oak Park and River Forest High School, Agenda Item Details: Jan 27, 2022 – Regular Board of Education Meeting (Virtual), <https://go.boarddocs.com/il/oprfhs/Board.nsf/vpublic?open> (last visited Jun. 7, 2022).

²¹ Oak Park and River Forest High School, Office of Equity and Student Success: Action Plan, at 1 (hereinafter “OPRF Equity Action Plan”), available at [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CAS4JM0BCC1A/\\$file/Office%20of%20Equity%20and%20Student%20Success%20Action%20Plan%20\(003\).pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CAS4JM0BCC1A/$file/Office%20of%20Equity%20and%20Student%20Success%20Action%20Plan%20(003).pdf).

²² *Id.* at 2.



Onboarding Content, Culturally Responsive and Relevant Teaching and Learning, [and] Monthly Opt-in.”²³ The slides also indicate that OPRF provides two faculty advisors to an initiative called S.A.F.E., which the presentation describes as “a student-led group advocating for equity within the school and community” that “serves as the Advisory Committee to [Dr. Hardy’s] Office of Equity and Student Success.”²⁴

In a document labeled “Strategic Plan 2020 – 2025,” OPRF identifies as one of its “Long-Term Strategic Goals” the full implementation of its “racial equity procedures throughout the organization” by June 2023.²⁵ As part of its fulfillment of this goal, OPRF commits to “[a]nnually report progress to the Board for accountability and modification in the ongoing pursuit of ensuring equitable academic and social outcomes for BIPOC (Black, Indigenous, People of Color) students.”²⁶

Racial Equity Analysis Tool

OPRF’s long-term strategic plan indicates that, “[w]hile Equity is one of the individual goals in this plan, all work of the district should be viewed through the filter of producing more equitable outcomes for students.”²⁷ For all work of the district, the plan indicates that decision-makers should “keep at the forefront” the following questions: “[W]ho are the racial/ethnic groups affected by a particular policy, procedure, program, etc.? Will disparities remain or be made worse? What might the unintended consequences be? What about this decision presents barriers to more equitable outcomes, and how can they be removed?”²⁸ To consider these questions, OPRF has developed a Racial Equity Analysis Tool (“REAT”) with the aim of filtering all school and district decisions through a race-centered process.

²³ Dr. Patrick Hardy, Oak Park and River Forest High School District 200, Strategic Plan Update ~ Priority 1: Racial Equity, at 13, *available at* [https://go.boarddocs.com/il/oprfrhs/Board.nsf/files/CAS4JP0BCC39/\\$file/BOE%20Report_Strategic%20Plan%20Update_Priority%201_Racial%20Equity.pdf](https://go.boarddocs.com/il/oprfrhs/Board.nsf/files/CAS4JP0BCC39/$file/BOE%20Report_Strategic%20Plan%20Update_Priority%201_Racial%20Equity.pdf).

²⁴ *Id.* at 14.

²⁵ Oak Park and River Forest High School District 200, Strategic Plan 2020 – 2025, at 3 (last updated Winter 2021) (hereinafter “Strategic Plan 2020 – 2025”), *available at* <https://campussuite-storage.s3.amazonaws.com/prod/1558748/bd01c7ae-765f-11e9-9402-0a56f8be964e/2251258/a2764622-9baf-11eb-aa10-0a362c75f02f/file/OPRF%20D200%20Strategic%20Plan.pdf>.

²⁶ *Id.*

²⁷ *Id.* at 12.

²⁸ *Id.*



The District 200 Board established the parameters of this comprehensive tool in its “racial equity” policy: “The administrative procedures shall include the use of a racial equity impact assessment tool to help decision makers consider racial equity when assessing policies, procedures, professional development, and other practices and choose options that mitigate the risk of racial inequity, implicit bias, and other unintended consequences.”²⁹ The sweep of this race-based equity review extends to “OPRFHS practices, procedures, and programs to consider whether they result in over- or under-representation of any group of students on the basis of race.”³⁰ The policy categorically declares that, “[i]f such disparity is found, the District will consider revision or elimination of the practice.”³¹

In a document posted to its website, OPRF explains the purpose of REAT as follows:

By using [REAT], District 200 will provide a common language and protocol to evaluate *all policies, programs, practices, and significant decisions*. The purpose of the tool is to mitigate and eliminate the presence of racial inequity, implicit bias, and other unintended consequences of decision making. [REAT] is utilized to consistently, deliberately, and thoroughly apply a rigorous equity lens to the decision making process in order to remove structural barriers that impede access to opportunities for all students, with particular attention to removing barriers for those student groups who have been historically and currently marginalized.³²

A separate OPRF document confirms that REAT “provides a *required* set of guiding questions to determine if existing and proposed policies, resource allocations, curricular programming, [sic] professional development are likely to close the opportunity gap for marginalized populations in District 200.”³³ This document describes the procedure for using REAT, including the submission of a REAT form to the Executive Director of Equity for review by “the District Equity Leadership

²⁹ District 200 Policy Manual, *supra* note 5, at 299.

³⁰ *Id.*

³¹ *Id.*

³² Racial Equity Policy 7:12, Procedures, at 1 (2020) (hereinafter “Racial Equity Policy 7:12, Procedures”) (emphasis added), available at https://campussuite-storage.s3.amazonaws.com/prod/1558748/bd01c7ae-765f-11e9-9402-0a56f8be964e/2242777/12d5b6da-8b22-11eb-a66b-0ec8fc0ddee1/file/Racial%20Equity%20Policy%20Procedures%207_12%202020627%20Final.pdf.

³³ District 200 Racial Equity Analysis Tool, 1 (emphasis added), available at https://campussuite-storage.s3.amazonaws.com/prod/1558748/bd01c7ae-765f-11e9-9402-0a56f8be964e/2242778/2d6e097a-8b22-11eb-9f95-0ec8fc0ddee1/file/District%20200%20Racial%20Equity%20Analysis%20Tool_WS.pdf.



Team and the Executive Cabinet.”³⁴ OPRF indicates that it adapted REAT in part from an organization called Race Forward,³⁵ whose projects seek to “bring[] systemic analysis and an innovative approach to complex race issues to help people take effective action toward racial equity” and to “catalyze[] community, government, and other institutions to dismantle structural racial inequity and create equitable outcomes for all.”³⁶

In his presentation to the District 200 Board on January 27, 2022, OPRF’s Executive Director of Equity and Student Success Dr. Hardy declared his office’s vision of the comprehensive scope of REAT and other “racial equity policy” tools in examining decisions across OPRF, including in grading analysis:

Equity is everywhere Everything is about equity. And Dr. Fiorenza has been doing a phenomenal job **racializing** our work, the **racialization** of assessment [W]e have to not let the word equity become a siloed thing that is a side conversation, but that it is permeating our organization.³⁷

The following sections will review a non-exhaustive range of areas where OPRF, true to the words of Dr. Hardy and at the behest of the District 200 Board, is “racializing” school policies, practices, and decisions in line with a vision of “racial equity” and in violation of Title VI and the Federal Constitution. As we shall see below, this “racialization” is unlawful and racially discriminatory because it is rooted in policies that explicitly seek to divide the resources offered to and treatment of students based on race.

Equitable Grading

DFI’s June 1 complaint described in detail District 200’s conclusion that “[t]raditional grading practices perpetuate inequities and intensify the opportunity gap”³⁸ and its use of the REAT to

³⁴ Racial Equity Policy 7:12, Procedures, *supra* note 32, at 2.

³⁵ *Id.* at 3.

³⁶ Race Forward, About Race Forward, <https://www.raceforward.org/about> (last visited Jun. 8, 2022).

³⁷ Dr. Patrick Hardy’s Presentation at Oak Park and River Forest High School, D200 Board of Education Regular Meeting – Jan 27, 2022, https://www.youtube.com/watch?v=2-g952fOI0&list=PLy60NMMcuTof1uE8nBnG2QrB9wYj1jy_r&index=15, at 2:13:23 mark.

³⁸ DFI Letter, *supra* note 1, at 2 (quoting Oak Park and River Forest High School District 200, Strategic Plan Priority 2: Transformative Education, Professional Development & Grading, May 26, 2022, at 9 (hereinafter “Strategic Plan”), available at [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CELJGA4D1599/\\$file/Professional%20Development%20and%20Grading%20BOE%20Presentation_.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CELJGA4D1599/$file/Professional%20Development%20and%20Grading%20BOE%20Presentation_.pdf)).



implement the practice of “grading with equity.”³⁹ As described above, District 200’s protests to the contrary are unavailing because, to state it simply, the District’s equity policy defines equity as a racially based concept that includes, according to the District’s own documents, the practice of “allocating resources unequally” on the basis of race.⁴⁰ Therefore, by the District’s own terminology, “grading with equity” will include differentiation of practice based on whether a student is a “person of color” or white.

DFI has discovered additional District 200 resources that make plain the illegal racialization of grading practices entailed in OPRF’s plans for “grading with equity” for Fall 2023.⁴¹ In OPRF’s long-term strategic plan, the school lists the following as a focus for 2020–21: “By fall 2021, conduct a review of assessment and grade-point average practices, to include best practices in equitable grading”⁴² In an apparent attempt to instill such “best practices,” a PowerPoint presentation to the District 200 Board on March 10, 2022, includes a “Prototype Example” of a “Formative Assessment Analysis Tool” that allows users to sort data on achievement grouped by race.⁴³ In an obvious indication that District 200 policy requires consideration of a student’s race, the tool includes a “Student Details Table” that lists the name of each student, then their race, prior to any details about the assessment of each student.⁴⁴

According to the presentation, OPRF’s “data strategy plan” for assessing students “advances racial equity through intentionally collecting and disaggregating data across racial lines and using the evidence to respond to individual students [sic] learning needs through intentional changes to instructional practices.”⁴⁵ OPRF’s breakdown of student data by race is clearly not intended to respond to individual needs, but rather to inform OPRF’s race-based equity policies treating students differently based on race.

Capital Expenditures

District 200’s “racial equity” policy declares that “[t]he administrative procedures” issued by OPRF to implement the policy “shall afford flexibility to differentiate resource allocation on the

³⁹ Strategic Plan, *supra* note 38, at 8, 10.

⁴⁰ District 200 Policy Manual, *supra* note 5, at 298.

⁴¹ See DFI Letter, *supra* note 1, at 2.

⁴² Strategic Plan 2020 – 2025, *supra* note 25, at 5.

⁴³ Oak Park and River Forest High School District 200, Strategic Plan Priority 2: Transformative Education, Data Driven Instruction, at 15 (2022), available at [https://go.boarddocs.com/il/oprfrhs/Board.nsf/files/CC7MJ95B7026/\\$file/Final%20Data%20Strategy%20Plan%20BOE%20Presentation.pdf](https://go.boarddocs.com/il/oprfrhs/Board.nsf/files/CC7MJ95B7026/$file/Final%20Data%20Strategy%20Plan%20BOE%20Presentation.pdf).

⁴⁴ *Id.*

⁴⁵ *Id.* at 16.



basis of student need in an effort to promote and provide equity in education while complying with all requirements of relevant state and federal law.”⁴⁶ Pursuant to this command, which OPRF interprets as charging the school “with disrupting structures that create inequities in our school system,” OPRF has stated that “[t]he principles of equity shall guide funding decisions in District 200.”⁴⁷ Accordingly, “[a]ny decisions made regarding the allocation of resources within [OPRF] shall be filtered through the [REAT].”⁴⁸

On February 25, 2021, OPRF personnel presented to the District 200 Board a PowerPoint presentation that, in part, considered various capital expenditures in light of the question “Does [the proposed expenditure] align with the strategic plan goal on racial equity?”⁴⁹ The presentation links to a document entitled “Capital Expenditure sheet,” which breaks down various expenditures into three categories: “Liability Risk,” “Financial Risk,” and “Accessibility and/or Upgrades.”⁵⁰ For each category, the chart considers whether the project is compatible with OPRF’s strategic plan goal on racial equity.⁵¹

“Liability Risk” projects include “Fire suppression sprinkler system – auditorium” and roofing projects.⁵² According to the chart, OPRF personnel consider some of these projects necessary to comply with the law and some “urgent due to leaking and water damage.”⁵³ Nevertheless, OPRF dutifully considers whether these “urgent” projects comply with District 200’s race-based equity plan, concluding: “Yes. There has been an inentinal [sic] effort to seek out minority, women, and disadvantaged business enterprises in the bidding process and labor [sic] pool for the capital improvement projects.”⁵⁴

“Financial Risk” projects include upgrading the conditions of OPRF’s tennis courts and replacing the turf on a field used by the field hockey, lacrosse, and soccer teams.⁵⁵ According to the chart, OPRF finds that neither project aligns with the strategic plan goal on racial equity because tennis, field hockey, and lacrosse have “historically” involved “higher levels” of participation by white

⁴⁶ District 200 Policy Manual, *supra* note 5, at 299.

⁴⁷ Racial Equity Policy 7:12, Procedures, *supra* note 32, at 4.

⁴⁸ *Id.*

⁴⁹ 2020–2021 Superintendent Goal #2, at 9, available at [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/BYDUJ47C39A0/\\$file/20210225%20BRD%20Superintendent's%20Goals%20-%20%20%232.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/BYDUJ47C39A0/$file/20210225%20BRD%20Superintendent's%20Goals%20-%20%20%232.pdf).

⁵⁰ *Id.* at 10 (accessible by clicking chart to access a two-page pdf).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*



students.⁵⁶ Therefore, upgrading these spaces “would mean that we are prioritizing [sic] spaces that advantage White students over spaces that students of color occupy.”⁵⁷ In the column labeled “Evidence,” the chart contains what appear to be links to the demographics of students in the tennis and field hockey programs.⁵⁸ In a column labeled “Recommendations/Next steps (timeframes),” OPRF indicates that, for each project, it will examine race data with the school’s athletic director and coaches, strategize how to increase “student of color participation” in each program, and “[r]eview racially disaggregated [sic] data on athletics [sic] and student activities to determine how capital improvement can be equitably allocated.”⁵⁹

At the February 25 meeting, the OPRF presenter explained that, while the spending on the tennis and turf fields were necessary “from an instructional standpoint,” “we also have to be mindful and really understand from an extracurricular standpoint, who are we . . . **what’s the racial makeup in terms of teams** . . . the tennis team, our field hockey team, also, the lacrosse team”⁶⁰ The presenter also said OPRF would have to examine “how we are prioritizing our expenditures for these areas relative to other spaces that may be occupied by students of color, so there’s something to be mindful of and thinking about going forward as we are building capital.”⁶¹ He stated that reviewing “data, or **racialized data**, in these areas” would give OPRF and its athletic director the opportunity to “think of other sports, clubs, activities, and groups that we can look at those racial demographic breakdowns and get a better understanding of the organization to allocate more funds in spaces that are occupied by students of color.”⁶²

Mentorship Program

At the District 200 Board meeting on January 27, 2022, OPRF offered an addendum to the materials it presented labeled “Racial Equity Initiatives Overview.”⁶³ One initiative listed in the

⁵⁶ *Id.* OPRF notes that “soccer has had a more diverse representation of the student body over time,” *id.*, but, for unexplained reasons, it appears this fact was not enough to overcome the proportion of white students in the other sports when it came to complying with the strategic plan.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Oak Park and River Forest High School, D200 Board of Education Regular Meeting – Feb. 25, 2021, <https://www.youtube.com/watch?v=oiAR4ZDhktk>, at 3:11:47 mark (emphasis added).

⁶¹ *Id.* at 3:16:20 mark.

⁶² *Id.* at 3:16:35 mark (emphasis added).

⁶³ Department of Equity and Student Success, Racial Equity Initiatives Overview, Jan. 27, 2022 (hereinafter “Racial Equity Initiatives Overview”), available at [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CAYPQC63E64B/\\$file/20220127%20Reg%20OESS%20Initiatves%20Metrics%20and%20Research.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CAYPQC63E64B/$file/20220127%20Reg%20OESS%20Initiatves%20Metrics%20and%20Research.pdf).



materials is “Motivational Mentorship,” for which the column “Research Synopsis” states, “Group mentorship is derived from West African traditions and mitigates the imbalanced ratio of mentor to mentees, views participants within the context of the group or community, and relies on the importance of the collective/community subscribed to in African and other non-European cultures.”⁶⁴

According to the presentation by the coordinator of the Motivational Mentorship Program to the District 200 School Board on January 27, the mentorship program is “dedicated to the success and security of *students of color* as they explore the many ways of knowing in academia . . . We lean into transformative learning and care via culturally relevant teachings that inform our daily plus weekly practices, inspiring critical discourse, vulnerability, authenticity, and joy.”⁶⁵

Professional Development, Race-based Equity Coaching, and Discipline

District 200 Board Policy

District 200’s race-based equity policy requires OPRF to include in its administrative procedures “a plan to provide professional development to strengthen employees’ knowledge and skills of strategies for eliminating bias and disparities in student achievement and district hiring practices.”⁶⁶ The policy requires professional development involving “strategies to limit and/or mitigate the harm of such disparities; implicit bias in hiring practices; cultural responsiveness; the historical roots of institutional racism; and equitable, inclusive, and anti-oppressive methods.”⁶⁷ The policy mandates that implementing procedures “include a plan to provide alternatives to punitive discipline, including a focus on social-emotional learning and restorative practices.”⁶⁸

Professional Development Plan

As part of its ongoing race-based equity work pursuant to this policy, OPRF launched a “six-year professional development plan to eliminate racial bias in classroom practices,” in which “approximately 40 teachers received intensive training as Collaborative Action Research for

⁶⁴ *Id.* at 1.

⁶⁵ Shannon Perryman, coordinator of Motivational Mentorship Program, Oak Park and River Forest High School, D200 Board of Education Regular Meeting – Jan 27, 2022, https://www.youtube.com/watch?v=2-g952fOIo&list=PLy60NMMcuTof1uE8nBnG2QrB9wYj1jy_r&index=15, at 1:56:15 mark (emphasis added).

⁶⁶ District 200 Policy Manual, *supra* note 5, at 299-300.

⁶⁷ *Id.* at 300.

⁶⁸ *Id.*



Equity (CARE) team leaders.”⁶⁹ These teachers studied a number of texts oriented toward race-based equity principles, including *What Does It Mean to Be White: Developing White Racial Literacy* by Robin DiAngelo; *Despite the Best Intentions: How Racial Inequality Thrives in Good Schools* by Amanda E. Lewis and John B. Diamond; and *Everyday AntiRacism: Getting Real about Race in School*, edited by Mica Pollock.

OPRF then assigns every teacher in the school to small groups with a CARE team leader, and they must “spend[] five years analyzing their curriculum, teaching methods, practices, processes, and classroom relationships through a racial lens,” ensuring that they “develop healthy racial consciousness” with the goal of “eliminat[ing] racial bias in instruction.”⁷⁰

“Racial Equity Coaching”

A related OPRF race-based equity initiative is called “Racial Equity Coaching,” which the school describes as follows: “Coaching for equity means recognizing inequities in schools and classrooms and knowing how to address them . . . Teachers who receive coaching improve skills and gain better concepts. They also improve their lesson planning, culturally responsive behaviors, and self-efficacy.”⁷¹

“Alternatives to Punitive Discipline”

Under the District 200 School Board’s policy mandate to “provide alternatives to punitive discipline,”⁷² OPRF has declared that it will pursue “an approach to discipline that is grounded in restorative practices and social-emotional learning in order to focus on repair, healing, reconnection and reduce racial discipline disparities.”⁷³ An OPRF initiative called “Trauma-Informed Climate and Culture” aims to implement “trauma-informed care in school discipline practices” to “acknowledge and center the unique forms of trauma experienced by Black and Brown students.”⁷⁴ (Underscoring its racially discriminatory approach to discipline, the initiative assumes that students who are not black or brown do not require trauma-informed care but that students who are black and brown require it.) OPRF praises this concept for “allow[ing] teachers to view problematic behaviors through inclusion and equity lenses rather than individual

⁶⁹ Oak Park and River Forest High School, Ongoing Racial Equity Work, <https://www.oprfhs.org/racial-equity-program/ongoing-work> (hereinafter “Ongoing Racial Equity Work”) (last visited Jun. 8, 2022).

⁷⁰ *Id.*

⁷¹ Racial Equity Initiatives Overview, *supra* note 63, at 5–6 (citations omitted).

⁷² *Supra* note 68.

⁷³ Racial Equity Policy 7:12, Procedures, *supra* note 32, at 10.

⁷⁴ Racial Equity Initiatives Overview, *supra* note 63, at 3.



deficits.”⁷⁵ Citing an article from *Children & Schools* called “Keeping Race at the Center of School Discipline Practices and Trauma-Informed Care: An Interprofessional Framework,” OPRF argues that “[c]ombining trauma-informed care with other key leadership practices can improve efforts to dismantle institutional racism and address trauma resulting from race and socioeconomics with Black and Latinx students”⁷⁶

In addition to abstract teaching strategies directed specifically at students of a certain racial grouping, OPRF has demanded concrete results in reducing the discipline disparity between what it calls “Black and Brown students” and white students. In the 2019–20 section of its long-term strategic plan, the school lists its arbitrary discipline goals and progress under “Transformative Education” as follows: “By June 2020, decrease by 10% the disparities between overall school demographics and (1) students receiving at least one discipline referral and (2) students receiving more than five tardies.”⁷⁷ The document indicates that the goal is “50% completed” and calls for it to be “[c]arr[ied] over to new year.”⁷⁸

Hiring Practices

In addition to the hiring practices noted in District 200’s policies quoted above, the Board’s race-based equity policy requires OPRF to develop “a plan to recruit, employ, support, retain, and develop racially and linguistically diverse and culturally responsive administrative, instructional, and support personnel throughout its divisions and departments.”⁷⁹

It appears that OPRF has interpreted this instruction as an opportunity to implement racial quotas in the hiring of teachers and other employers. In the 2019–20 section of its long-term strategic plan, the school lists its hiring goals and progress under “Transformative Leadership” as follows: “By July 2024, increase representation of minority teachers to 35% of the overall faculty. 55%

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Strategic Plan 2020 – 2025, *supra* note 25, at 7.

⁷⁸ *Id.*

⁷⁹ District 200 Policy Manual, *supra* note 5, at 299.



completed. Carry over to new year.”⁸⁰ For all employees, the goal for July 2024 was a more-ambitious 50% minority representation, with “65% completed.”⁸¹

Curricula and “Detracking”

Race-based Equity in Curriculum Planning

District 200’s policy requires OPRF to produce “a plan to intentionally seek out and consider diverse perspectives of students, faculty, and staff when developing and implementing teaching and learning practices and curriculum.”⁸² The policy calls for the school to “address selection of classroom materials, assessments, and teaching that reflect diversity and encourage understanding and appreciation of unique cultures, classes, languages, and ethnicities.”⁸³

One way in which OPRF attempts to implement these mandates is the “Racial Equity Course” initiative, based on the argument that “[c]urricula and strategies designed to raise students’ critical and racial consciousness can create a link between the classroom and students’ lived realities while challenging anti-Blackness structures.”⁸⁴ OPRF policies make clear that “equity principles set by the District Equity Leadership Team” and the REAT guide review and design of curricula in this manner,⁸⁵ with benefits that “show promise, particularly for African American and Latinx students.”⁸⁶

“Detracking” Students

In the 2019–20 section of its long-term strategic plan, OPRF again arbitrarily establishes a racial quota of decreasing by half the gap between white students and “our Black-African American and Latinx students, as measured by the percentage of students who earn honors credit during freshman

⁸⁰ OPRF Strategic Plan 2020 – 2025, *supra* note 25, at 8. OPRF confirms this goal on its website under the heading “Ongoing Racial Equity Work”: “The demographics of our teaching staff, which is about 80 percent white, do not reflect the demographics of our students, who are 44 percent young people of color. The district’s strategic plan calls for increasing representation of minority teachers to 35% of the overall faculty by July 2024.” Ongoing Racial Equity Work, *supra* note 69.

⁸¹ OPRF Strategic Plan 2020 – 2025, *supra* note 25, at 8.

⁸² District 200 Policy Manual, *supra* note 5, at 300.

⁸³ *Id.*

⁸⁴ Racial Equity Initiatives Overview, *supra* note 63, at 4 (citations omitted).

⁸⁵ Racial Equity Policy 7:12, Procedures, *supra* note 32, at 12.

⁸⁶ *Id.* (citations omitted).



year.”⁸⁷ For June 2024, the strategic plan sets the same race-based quota for every grade of high school.⁸⁸ In each case, OPRF states that the goal is “50% completed” and should be “[c]arr[ied] over to new year.”⁸⁹

Perhaps dismayed by a lack of progress toward these goals, and in pursuit of what it calls “Equitable Excellence,” OPRF retreated from any pretense of academic rigor, making the following announcement in 2021: “In 2022-2023, to increase access to rigorous coursework for all students, the high school will eliminate separate college-prep and honors level classes for freshman English, science, history, and world languages, replacing them with a single, rigorous, high-level honors curriculum for all.”⁹⁰ OPRF states that its goal in “detracking” the freshman curriculum “is for race and ethnicity to cease being predictors of enrollment in high-level course work, so that students earning honors and AP credits will mirror the demographics of our overall population.”⁹¹ Confronted by the question posed by some community members regarding why it will deny students and parents the opportunity to choose their classes, OPRF answers, “Choice is essentially what we currently have in place. The shortcoming with choice is that it does not lead to more equitable outcomes, something this [sic] is a core value and goal of our school district.”⁹²

Analysis

According to the 14th Amendment to the U.S. Constitution, “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”⁹³ Title VI states, “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”⁹⁴ District 200’s policies requiring personnel to consider every aspect of its programs, policies, and significant decisions in terms of their impacts on two different racial groups – “people of color” versus white people – are contrary to both provisions.⁹⁵ Indeed, the

⁸⁷ OPRF Strategic Plan 2020 – 2025, *supra* note 25, at 7.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Oak Park and River Forest High School, Equitable Excellence: Freshman Curriculum Restructuring, <https://www.oprfhs.org/academics/access-for-all> (last visited Jun. 8, 2022).

⁹¹ Oak Park and River Forest High School, Questions from Community Meetings, <https://www.oprfhs.org/academics/questions-from-community-meetings> (last visited Jun. 8, 2022).

⁹² *Id.*

⁹³ U.S. CONST. amend. XIV, § 1.

⁹⁴ 42 U.S.C. § 2000d.

⁹⁵ Because the Supreme Court has concluded that the prohibition of racial classifications by Title VI is co-extensive with the same prohibition by the Equal Protection Clause, *see Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 287 (1978) (opinion of Powell, J.), *cited by Grutter v. Bollinger*,



Supreme Court has repeatedly rejected the use of race as a factor in affording educational opportunities.⁹⁶

The U.S. Supreme Court has held that, “when the government distributes burdens or benefits on the basis of individual racial classifications,” it will review the action under strict scrutiny.⁹⁷ To satisfy this standard of review, the government must show that its use of racial classifications “is ‘narrowly tailored’ to achieve a ‘compelling’ government interest.”⁹⁸

One of the two interests the Supreme Court has recognized as compelling in this context is “remedying the effects of past intentional discrimination.”⁹⁹ However, the Court has been clear that this interest does not justify racial classifications for the sake of correcting for general “societal discrimination” that does not spring from government action.¹⁰⁰ In this case, of course, District 200 is explicitly not imposing racial classifications for the purpose of alleviating the impacts of intentional discrimination. The school district’s race-based equity policy states that its purpose is to correct for “[i]nstitutional racism, cultural biases, and other societal factors.”¹⁰¹ District 200’s policy defines “institutional racism” as “social policies, practices, procedures, and/or discourse that benefit people who are white at the exclusion of people of color, *often unintentionally*.”¹⁰² This is not the kind of intentional discrimination that justifies race-conscious government action under Supreme Court precedent.

The second interest the Supreme Court has recognized as compelling is “diversity in higher education.”¹⁰³ District 200’s policies and actions do not qualify under this interest for the simple reason that OPRF is not an institution of higher education, which the Court has held “occupy a special niche in our constitutional tradition” due to “the expansive freedoms of speech and thought

539 U.S. 306, 343 (2003), we will focus in this analysis solely on the Court’s Equal Protection Clause jurisprudence.

⁹⁶ *Brown v. Board of Education*, 347 U.S. 483 (1954); *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007).

⁹⁷ *Parents Involved*, 551 U.S. at 720 (citing *Johnson v. California*, 543 U.S. 499, 505–506 (2005); *Grutter v. Bollinger*, 539 U.S. 306, 326 (2003); *Adarand Constructors v. Peña*, 515 U.S. 200, 224 (1995)).

⁹⁸ *Id.* (citing *Adarand*, 515 U.S. at 227).

⁹⁹ *Id.*

¹⁰⁰ *Parents Involved*, 551 U.S. at 731–732 (citing *Shaw v. Hunt*, 517 U.S. 899, 909–910 (1996); *Richmond v. J. A. Croson Co.*, 488 U.S. 469, 498–499 (1989); *Wygant v. Jackson Bd. of Education*, 476 U.S. 267, 276 (1986) (plurality opinion); *id.* at 288 (O’Connor, J., concurring in part and concurring in the judgment)).

¹⁰¹ District 200 Policy Manual, *supra* note 5, at 298.

¹⁰² *Id.* at 299 (emphasis added).

¹⁰³ *Parents Involved*, 551 U.S. at 722.



associated with the university environment.”¹⁰⁴ And, of course, District 200’s racial classifications have no bearing on the diversity of the OPRF student body. It is safe to say that, no matter the date on which the school system achieves its goal of equity by closing all perceived gaps between one racial group and another, the student body will remain just as racially diverse as it was the day before.

Moreover, the Supreme Court has only recognized a diversity interest as compelling when the institution treats each student or applicant as an individual “and not simply as a member of a particular racial group.”¹⁰⁵ In direct contrast, in funding considerations and grading and discipline policies, OPRF is considering students not as individuals, but as members of racial groups. This unconstitutional practice is emphasized by the listing of each student’s race directly next to his or her name in the Data Driven Instruction table prototype produced by the school district,¹⁰⁶ indicating that the most important factor to District 200 in the assessment of each student is his or her race. This fact is also borne out in initiatives ranging from “Racial Equity Coaching” to “Motivational Mentorship,” where the explicit goal is to target “people of color” with unique interventions based on how OPRF classifies them according to race.

In addition to the fact that District 200 cannot assert an interest the Supreme Court has found to be compelling to justify its racial classifications, it cannot show that its racial equity programs and practices are narrowly tailored to any interests it might assert. The purpose of the Supreme Court’s narrow tailoring analysis in the case of racial classifications is “to ensure that the use of racial classifications was indeed part of a broader assessment of diversity, and not simply an effort to achieve racial balance, which the Court [has] explained would be ‘patently unconstitutional.’”¹⁰⁷

OPRF’s policies engage in repeated and comprehensive racial balancing. The school has explicitly considered the racial makeup of athletic teams and other groups in its decisions on capital expenditures.¹⁰⁸ The school has set specific targets (*i.e.*, quotas) for reducing racial disparities in its hiring, grading, and discipline policies, considering only the race of students and teachers without considering individual factors underlying each decision.¹⁰⁹ Such policies fail to recognize the unique characteristics of each individual and, due to their blunt, categorical treatment of students as “people of color” or white people, are not narrowly tailored to achieve any interest of helping individual students succeed academically, socially, athletically, artistically, or otherwise. Therefore, District 200’s racial equity policies cannot survive strict scrutiny.

¹⁰⁴ *Grutter*, 539 U.S. at 329, 334, *quoted in Parents Involved*, 551 U.S. at 724.

¹⁰⁵ *Parents Involved*, 551 U.S. at 722.

¹⁰⁶ *Supra* note 44.

¹⁰⁷ *Parents Involved*, 551 U.S. at 723 (quoting *Grutter*, 539 U.S. at 330).

¹⁰⁸ *Supra* Capital Expenditures discussion, at 10–11.

¹⁰⁹ Strategic Plan 2020 – 2025, *supra* note 25.



District 200 policies imposing a regime of racial discrimination cannot be justified by arguing that such discrimination is motivated by a benign desire to help minorities. As the Supreme Court has explained:

The Court's emphasis on “benign racial classifications” suggests confidence in its ability to distinguish good from harmful governmental uses of racial criteria. History should teach greater humility. “[B]enign” carries with it no independent meaning, but reflects only acceptance of the current generation's conclusion that a politically acceptable burden, imposed on particular citizens on the basis of race, is reasonable.¹¹⁰

Whether or not the aim of District 200 is “benign” in attempting to help minorities the District considers to be in need of assistance, its policies and practices considering race in its assessment, distribution of resources, and consideration of whether to adopt, maintain, or cut specific programs are still unconstitutional due to their blatant preoccupation with the race of the students they are supposedly helping. As we explained in our initial complaint,¹¹¹ these policies’ obsession with race helps no one—other than perhaps the people employed to create and implement them.

If District 200’s aim is truly to help students who have fallen behind in academics due to circumstances beyond their control, the appropriate course is not to use race clumsily as the indicator of whether the student should receive more help and resources, but to provide supports tailored to each student as an individual, no matter his or her race, color, or national origin.

District 200’s Denial of “Race-Based” Policy

On May 31, 2022, OPRF published a “Statement regarding grading practices” on its website denying a report in a local digital news publication that OPRF plans to establish a “race-based grading system” for the 2022–2023 school year.¹¹² The statement declares, “OPRFHS does not, nor has it ever had a plan to, grade any students differently based on race.”¹¹³ Dr. Laurie Fiorenza,

¹¹⁰ *Metro Broad. v. FCC*, 497 U.S. 547, 609–610 (O'Connor, J., dissenting), *quoted with approval in Parents Involved*, 551 U.S. at 742.

¹¹¹ DFI Letter, *supra* note 1, at 5 (“[T]he policy relies on the tired, wrong-headed justification of discrimination on the basis of race: students of particular races, nationalities, and ethnic backgrounds need special treatment by schools and other institutions in order to succeed. This justification not only stigmatizes and patronizes students but also sends the message that they can succeed only with the help of benevolent patrons.”) (footnote omitted).

¹¹² May 31 Statement, *supra* note 3.

¹¹³ *Id.*



OPRF’s Assistant Superintendent for Student Learning who presented the “Transformative Education” plan on the implementation of “equitable assessment and grading practices” to the District 200 Board of Education (“District 200 Board”) on May 26,¹¹⁴ told the *Wednesday Journal of Oak Park and River Forest* that “equitable grading practices . . . has [sic] nothing to do with race.”¹¹⁵

The materials and statements District 200 and OPRF have posted online and otherwise made available to the public regarding its racial equity policies belie OPRF’s contention that it does not plan to engage in “race-based grading.” The fact that OPRF has carefully avoided using the term “racial equity” in its May 31 statement does not change the fact that Dr. Fiorenza’s May 26 presentation to the board abounds with references to the need for “equitable grading practices” – including “utilizing aspects of competency-based grading, eliminating zeros from the grade book, and encouraging and rewarding growth over time.”¹¹⁶ It also does not change the fact that these practices are filtered through District 200’s “racial equity analysis tool,”¹¹⁷ or that OPRF is formulating these practices based on its view, pursuant to the school’s “racial equity” statement referenced in DFI’s original complaint, pledging to “eliminat[e] policies, practices, attitudes, and cultural messages that reinforce or fail to eliminate different outcomes by race.”¹¹⁸

Furthermore, Dr. Fiorenza’s statement that OPRF’s plans to reform grading practices have nothing to do with race is simply untenable. As described above, the “Prototype Example” of the “Formative Assessment Analysis Tool” OPRF presented to the District 200 Board on March 10, 2022 permits users to sort data on achievement by racial grouping.¹¹⁹ The same tool includes a “Student Details Table” identifying students by their race.¹²⁰ OPRF’s “data strategy plan” for student assessment “intentionally collect[s] and disaggregat[es] data across racial lines”¹²¹ Plans for “equitable grading” are based on OPRF’s fundamental policy that “all work of the district should be viewed through the filter of producing more [racially] equitable outcomes for students.”¹²² If such policies, plans, and tools are not related to race, it is difficult to envision a policy that is.

¹¹⁴ Strategic Plan, *supra* note 38.

¹¹⁵ *Quoted in* Tugade, *supra* note 4.

¹¹⁶ Strategic Plan, *supra* note 38, at 9.

¹¹⁷ *Id.* at 10.

¹¹⁸ Racial Equity at OPRF, *supra* note 18.

¹¹⁹ *Supra* note 43.

¹²⁰ *Supra* note 44.

¹²¹ *Supra* note 45.

¹²² *Supra* note 27.



Through these denials, District 200 is attempting, too late, to inoculate its policies “racializing” all significant decisions from scrutiny and criticism. The statements mislead the public, and ultimately the U.S. Department of Education, about OPRF’s use of racial classifications, providing an additional reason why an OCR investigation is necessary.

Accordingly, DFI urges OCR to investigate the allegations in this complaint, as supplemented, and ensure that District 200 complies with Title VI of the Civil Rights Act of 1964, as well as provide other appropriate relief.

Thank you for your prompt assistance. Please feel free to contact me with any questions related to this request.

Sincerely,

Robert S. Eitel
President



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

230 SOUTH DEARBORN ST., 37th FLOOR
CHICAGO, IL 60604

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

August 26, 2022

Mr. Robert S. Eitel
President
Defense of Freedom Institute for Policy Studies

Via electronic mail to: robert.eitel@dfipolicy.org

Re: OCR Docket# 05-22- I469

Dear Mr. Eitel:

On June 1, 2022, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the complaint you filed against the Oak Park - River Forest District 200 (District) alleging discrimination based on race, color, and/or national origin.

OCR is responsible for enforcing 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 prohibits discrimination on the basis of race, color, and national origin by recipients of Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the District is subject to this law. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

OCR is evaluating your complaint in accordance with its *Case Processing Manual* (CPM) to determine whether to open an investigation. Pursuant to subsection 108(d) of the CPM, OCR will dismiss an allegation if the allegation(s) lacks sufficient detail (i.e., who, what, where, when, or how) for OCR to infer that discrimination may have occurred or is occurring.

After reviewing your complaint and the supplemental information provided on June 30, 2022, OCR has determined that it needs additional information. Please provide the following information within 20 calendar days of the date of this letter:

- I. Your complaint states the District has announced its intention to implement a strategy by Fall 2023 to "consistently integrate equitable assessment and grading practices into all academic and elective courses" after its determination that traditional grading practices "perpetuate inequities and intensify the opportunity gap." You allege the District's stated intention discriminates against District students in violation of Title VI. Please provide the following information:
 - a. State whether the District has implemented the strategy referenced in Item I.
 - i. If the strategy has been implemented by the District, describe how the strategy, as implemented, discriminates against District students in violation of Title VI.

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

2. In the complaint supplement, you provide information that you state is related to the District's consideration of capital expenditure proposal through the lens of its Racial Equity Plan. Does your complaint allege the District discriminates in violation of Title VI in this area? If yes, provide:
 - a. The specific act(s) of alleged discrimination.
 - b. The date on which the alleged act of discrimination occurred.
 - c. The individual(s) who engaged in the alleged discriminatory act.
 - d. The specific facts that lead you to believe the conduct constituted discrimination in violation of Title VI.
3. In the complaint supplement, you state the District has implemented a six-year professional development plan to eliminate racial bias in the classroom. Does your complaint allege the District's professional development plan discriminates in violation of Title VI? If yes, provide:
 - a. The specific act(s) of alleged discrimination.
 - b. The date on which the alleged act of discrimination occurred.
 - c. The individual(s) who engaged in the alleged discriminatory act.
 - d. The specific facts that lead you to believe the conduct constituted discrimination in violation of Title VI.
4. In the complaint supplement, you state the District provides "Race Equity Coaching" to its teachers. Does your complaint allege the coaching provided by the District discriminates in violation of Title VI? If yes, provide:
 - a. The specific act(s) of alleged discrimination.
 - b. The date on which the alleged act of discrimination occurred.
 - c. The individual(s) who engaged in the alleged discriminatory act.
 - d. The specific facts that lead you to believe the conduct constituted discrimination in violation of Title VI.
5. In the complaint supplement, you provide information you state is related to the District's implementation of District Policy 200, which you state requires the District to provide alternatives to punitive discipline. Does your complaint allege the District discriminates in violation of Title VI in this area? If yes, provide:
 - a. The specific act(s) of alleged discrimination.
 - b. The date on which the alleged act of discrimination occurred.
 - c. The individual(s) who engaged in the alleged discriminatory act.
 - d. The specific facts that lead you to believe the conduct constituted discrimination in violation of Title VI.
6. In the complaint supplement, you provide information you state is related to the District's hiring practices. You state the District has established hiring goals to increase the number of minority teachers and employees in the District. You characterize the hiring goals as a "racial quotas." Please provide:
 - a. Any information regarding any specific employee who has been denied employment by the District due to the hiring goals referenced in Item 6.
 - b. Any additional information you have in support of your contention that the District utilizes race-based quotas in its hiring practices.
 - c. Any additional information you have regarding actions done by the District in support of the above-referenced hiring goals that violate Title VI.

7. In the complaint supplement, you state that, for the 2022-23 school year, the District has announced the elimination of separate college-prep and honors level classes for freshman English, science, history, and world languages, with these courses being replaced with a single curriculum for all students. Does your complaint assert that the District's action constitutes discrimination in violation of Title VI? If yes, provide the specific facts that lead you to believe the act constituted discrimination in violation of Title VI.

If any of the acts of alleged discrimination occurred more than 180 days prior to the date on which you filed your complaint (June 1, 2022), please state whether you are requesting a waiver of OCR's timeliness requirement and, if so, the specific reason you did not file the complaint within 180 days of the alleged discrimination.

Please be advised that, if OCR does not receive the above-requested information within 20 calendar days of the date of this letter (September 15, 2022), OCR will dismiss these allegations.

If you have any questions about this letter, please contact Jason Frazer, Senior Attorney, 312-730-1653 at jason.frazer@ed.gov.

Sincerely,

[Illegible signature]

Marcela Sanchez Aguilar
Supervisory Attorney

September 15, 2022

Via Email to jason.frazer@ed.gov

Marcela Sanchez Aguilar
Supervisory Attorney
Region V, Office for Civil Rights
U.S. Department of Education
230 S. Dearborn Street, 37th Floor
Chicago, Illinois 60604

**Re: OCR Docket # 05-22-1469—Oak Park & River Forest District 200
DFI’s Response to OCR’s August 26, 2022, Letter Regarding DFI’s Administrative
Complaint Against Oak Park and River Forest School District 200 for Racially
Discriminatory Policies**

Dear Ms. Aguilar:

The Defense of Freedom Institute for Policy Studies (“DFI”) is an independent, nonpartisan 501(c)(3) tax-exempt nonprofit organization dedicated to defending freedom and opportunity for every American family, student, entrepreneur, and worker, as well as to protecting their civil and constitutional rights at school and in the workplace. DFI includes former U.S. Department of Education (“Department”) officials who are experts in education law and policy and the operation of the Department. DFI is committed to ensuring that no educational institution receiving federal financial assistance discriminates against any student on the basis of race, color, or national origin in violation of Title VI of the Civil Rights Act of 1964 (“Title VI”).¹

This letter serves as DFI’s response to your August 26, 2022, written request for additional information as the Department’s Office for Civil Rights (“OCR”) “evaluat[es] [the] complaint [filed by DFI] in accordance with its *Case Processing Manual* (CPM” to determine whether to open an investigation.”² In its very detailed complaint and supplemental complaint filed on June 1 and 30, 2022, respectively, DFI has provided more than sufficient detail to justify OCR’s statutory obligation to conduct an investigation to determine whether race-based discrimination is

¹ 42 U.S.C. § 2000d *et seq.*

² Letter from OCR, Region V, Aug. 26, 2022, at 1 (hereinafter “August 26 Request”).



occurring in Oak Park River Forest District 200 (“District 200”) in violation of Title VI. As a result of District 200’s illegal and unconstitutional race-based policies described in DFI’s complaint and supplemental complaint, thousands of students are being discriminated against based on their race and color, while others are being explicitly favored because of their race and color. District 200’s policies are explicitly race-based and constitutionally suspect, and DFI has presented sufficient detail for OCR to infer the “who, what, where, when, or how” of the violations of Title VI and the Constitution that OCR must investigate. DFI provides additional detail below.

OCR’s request to DFI for “additional information”

Section 108 of OCR’s “Case Processing Manual” provides that OCR will dismiss complaints for several specific reasons. Cited by OCR in its request to DFI for additional information, Section 108(d) provides for dismissal of a complaint by OCR when an “allegation(s) lacks sufficient detail (*i.e.*, who, what, where, when, or how) for OCR to infer that discrimination or retaliation may have occurred or is occurring.”³ As described *infra*, DFI has provided more than sufficient factual detail about racially discriminatory policies already adopted and implemented by District 200.

OCR asks DFI to identify further details about the alleged discrimination. The following facts are clear and should be readily discernible by OCR (and apply to OCR’s questions 2–5, which are more fully addressed *infra*):

- The identifiable victims of District 200’s racially discriminatory policies consist of each student who falls into disfavored racial categories—failing to benefit from OPRF’s race-conscious policies designed to promote students of other particular racial backgrounds.
- The identifiable dates on which the alleged acts of discrimination occurred is readily apparent: those discriminatory acts occur on every school day when students of certain, non-preferred racial backgrounds are treated differently because of the color of their skin (by school personnel) in accord with District 200’s racially discriminatory policies. The discriminatory acts occur on every single day when students of particular racial backgrounds are not afforded equal opportunities in the school district’s federally funded activities and programs. Based on the documents made publicly available by District 200, this conduct appears to have commenced in late 2019 and is ongoing.

³ See <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.



- The individuals who engaged in the alleged discriminatory acts involving racially discriminatory policies are the school district’s personnel who, acting under the District 200’s racially discriminatory policies, are required to subject students to differing treatment according to the racial backgrounds of the students.

OCR’s statutory obligation to conduct an investigation pursuant to Title VI’s anti-discrimination provisions is readily obvious, particularly where, as here, those policies clearly include race-based discriminatory treatment.

DFI presents Subsection 108(d) facts in more than sufficient detail to OCR in its complaint and supplemental complaint

On June 1, 2022, DFI filed an administrative complaint⁴ against District 200 for discrimination on the basis of race, color, and national origin in programs or activities that receive federal financial assistance in violation of Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. On June 30, 2022, DFI followed that submission with a supplemental complaint to make OCR aware of further information we received demonstrating that, inclusive of and in addition to District 200’s race-based grading policy, District 200 has established a general policy of impermissible discrimination on the basis of race, color, and national origin requiring administrators at Oak Park and River Forest High School (“OPRF”)—the only school in District 200—to review nearly every decision they make in light of whether it will help one racial grouping (“people of color”) at the expense of other groups based on race.⁵

Specifically, DFI’s June 1st complaint and June 30th supplemental complaint documented the following racially discriminatory policies and conduct:

- OPRF is currently governed by a Racial Equity Policy adopted in 2019 by the District 200 Board that conflicts with the Equal Protection Clause of the Fourteenth Amendment to the Constitution and Title VI by “recogniz[ing] that fostering educational equity **may require allocating resources unequally [on the basis of race]** to focus on barriers that may

⁴ Letter from Robert S. Eitel, President, Defense of Freedom Institute for Policy Studies, to the U.S. Dept. of Ed., Office for Civil Rights, Jun. 1, 2022, at 2 (hereinafter “DFI Complaint”), available at <https://dfipolicy.org/wp-content/uploads/2022/06/OCR-Complaint-OPRF-06.01.2022-signed.pdf>.

⁵ Letter from Robert S. Eitel, President, Defense of Freedom Institute for Policy Studies, to the U.S. Dept. of Ed., Office for Civil Rights, Jun. 30, 2022 (hereinafter “DFI Supplemental Complaint”).



uniquely impact students of diverse backgrounds.”⁶ The policy commits the District 200 Board to follow its racially discriminatory demands and orders the Superintendent “to establish, in accordance with this policy, written procedures and other guidance to implement this policy.”⁷

- OPRF is executing this mandate to discriminate on the basis of race through its Strategic Plan for Racial Equity, which, according to documentation presented to the District 200 Board in January of this year by OPRF’s then-Executive Director of Equity and Student Success Dr. Patrick Hardy, envisions that OPRF “will become a model school for racial equity within four years.”⁸ As part of OPRF’s fulfillment of its goal fully to implement “racial equity procedures throughout the organization” by June 2023, OPRF commits to “[a]nnually report progress to the Board for accountability and modification in the ongoing pursuit of **ensuring equitable academic and social outcomes for BIPOC (Black, Indigenous, People of Color) students.**”⁹ This policy by its terms excludes students who are not “BIPOC”, a violation of Title VI and the Equal Protection Clause of the Constitution.
- OPRF’s long-term strategic plan requires decision-makers to “keep at the forefront” in “all work of the district” questions including the following: “[W]ho are the racial/ethnic groups affected by a particular policy, procedure, program, etc.? Will disparities remain or be made worse?”¹⁰ The strategic plan establishes a Racial Equity Analysis Tool (“REAT”)

⁶ DFI Supplemental Complaint at 3 (quoting Oak Park and River Forest H.S.D. 200, Policy Manual, 298 (2002) (hereinafter “District 200 Policy Manual”) (Section 7:12: Racial Equity Policy), *available at* <https://campussuite-storage.s3.amazonaws.com/prod/1558748/bd01c7ae-765f-11e9-9402-0a56f8be964e/2390643/b78a28aa-a921-11ec-8a55-0e37078c7be1/file/PolicyManual2022.pdf> (emphasis added)).

⁷ *Id.* (quoting District 200 Policy Manual at 298–299).

⁸ *Id.* at 5 (quoting Oak Park and River Forest High School, Office of Equity and Student Success: Action Plan, at 1 (hereinafter “OPRF Equity Action Plan”), *available at* [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CAS4JM0BCC1A/\\$file/Office%20of%20Equity%20and%20Student%20Success%20Action%20Plan%20\(003\).pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CAS4JM0BCC1A/$file/Office%20of%20Equity%20and%20Student%20Success%20Action%20Plan%20(003).pdf)).

⁹ *Id.* at 6 (quoting Oak Park and River Forest High School District 200, Strategic Plan 2020 – 2025, at 3 (last updated Winter 2021) (hereinafter “Strategic Plan 2020 – 2025”), *available at* <https://campussuite-storage.s3.amazonaws.com/prod/1558748/bd01c7ae-765f-11e9-9402-0a56f8be964e/2251258/a2764622-9baf-11eb-aa10-0a362c75f02f/file/OPRF%20D200%20Strategic%20Plan.pdf> (emphasis added)).

¹⁰ *Id.* (quoting Strategic Plan 2020 – 2025 at 12).



for filtering “**all policies, programs, practices, and significant decisions**” through a racially discriminatory process.¹¹

- In his January 2022 presentation to the District 200 Board, Dr. Hardy blatantly revealed the comprehensiveness and racially discriminatory aim of REAT and other “racial equity policy” tools in examining decisions across OPRF, including in grading analysis, stating: “Equity is everywhere . . . Everything is about equity. . . . And Dr. Fiorenza has been doing a phenomenal job **racializing our work, the racialization of assessment** [W]e have to not let the word equity become a siloed thing that is a side conversation, but that it is permeating our organization.”¹²
- In an extraordinarily transparent, *post hoc* attempt to inoculate OPRF’s racially discriminatory grading policies against scrutiny by the public and by OCR, Dr. Fiorenza, praised just above by Dr. Hardy for her “racialization of assessment,” publicly stated that “equitable grading practices . . . has [sic] nothing to do with race.”¹³
- As part of OPRF’s plans for “grading with equity” for Fall 2023,¹⁴ OPRF included in a PowerPoint presentation to the District 200 Board on March 10, 2022, a “Prototype Example” of a “Formative Assessment Analysis Tool” helping users sort data on achievement based on race and including a “Student Details Table” that identifies each student by race prior to listing any details about the student’s assessment.¹⁵

¹¹ *Id.* at 7 (quoting Racial Equity Policy 7:12, Procedures, at 1 (2020) (hereinafter “Racial Equity Policy 7:12, Procedures”) (emphasis added), available at <https://campussuite-storage.s3.amazonaws.com/prod/1558748/bd01c7ae-765f-11e9-9402-0a56f8be964e/2242777/12d5b6da-8b22-11eb-a66b-0ec8fc0ddee1/file/Racial%20Equity%20Policy%20Procedures%207%2012%202020627%20Final.pdf>).

¹² *Id.* at 8 (“Dr. Patrick Hardy’s Presentation at Oak Park and River Forest High School, D200 Board of Education Regular Meeting – Jan 27, 2022 (emphases added), https://www.youtube.com/watch?v=g952fOIo&list=PLy60NMMcuTof1uE8nBnG2QrB9wYj1jy_r&index=15, at 2:13:23 mark).

¹³ *Id.* at 19–20 (quoting Dr. Laurie Fiorenza in F. Amanda Tugade, *One School Board Member Anticipated Equitable Grading Practices Would Be Misunderstood. He Was Right*, WED. J. OAK PARK & RIVER FOREST, Jun. 3, 2022, available at <https://www.oakpark.com/2022/06/03/oprf-responds-to-fake-news-story/>).

¹⁴ DFI Complaint at 2.

¹⁵ DFI Supplemental Complaint at 9 (quoting Oak Park and River Forest High School District 200, Strategic Plan Priority 2: Transformative Education, Data Driven Instruction, at 15 (2022), available at [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CC7MJ95B7026/\\$file/Final%20Data%20Strategy%20Plan%20BOE%20Presentation.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CC7MJ95B7026/$file/Final%20Data%20Strategy%20Plan%20BOE%20Presentation.pdf)).



- As OPRF followed the District 200 Board’s commands to filter all capital expenditure decisions through a racially discriminatory process, in February 2021, OPRF presented a PowerPoint presentation to the District 200 Board that weighed whether to perform certain projects based on the race of the individuals who would benefit from such projects, including **a finding that spending capital on upgrading facilities for OPRF’s tennis, field hockey, and lacrosse teams does not align with OPRF’s racially discriminatory goals because these sports “have ‘historically’ involved ‘higher levels’ of participation by white students.”**¹⁶ The presenter at the meeting made the racially discriminatory nature of the mandated decision-making process even clearer, stating that “we also have to be mindful and really understand from an extracurricular standpoint, who are we . . . **what’s the racial makeup in terms of teams** . . . the tennis team, our field hockey team, also, the lacrosse team”¹⁷ OPRF makes use of illegal categories based on race for capital spending for facilities and athletic teams.
- OPRF launched a “Motivational Mentorship” program specifically to help students of one racial grouping but not others. As an OPRF presenter explained to the District 200 Board, this program is **“dedicated to the success and security of students of color** as they explore the many ways of knowing in academia”¹⁸ The program uses racially discriminatory criteria for the program.
- In implementing District 200’s racially discriminatory demands in the area of curricula, OPRF has launched an intensive training program for approximately forty teachers to learn how to “analyz[e] their curriculum, teaching methods, practices, processes, and classroom relationships through a racial lens” and train other teachers in these discriminatory practices over the course of five years.¹⁹

¹⁶ *Id.* at 10–11 (quoting 2020–2021 Superintendent Goal #2, at 10, available at [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/BYDUJ47C39A0/\\$file/20210225%20BRD%20Superintendent's%20Goals%20-%20%20%232.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/BYDUJ47C39A0/$file/20210225%20BRD%20Superintendent's%20Goals%20-%20%20%232.pdf)).

¹⁷ *Id.* at 11 (quoting Oak Park and River Forest High School, D200 Board of Education Regular Meeting – Feb. 25, 2021, <https://www.youtube.com/watch?v=oiAR4ZDhktk>, at 3:11:47 mark (emphasis added)).

¹⁸ *Id.* at 11–12 (quoting Shannon Perryman, coordinator of Motivational Mentorship Program, Oak Park and River Forest High School, D200 Board of Education Regular Meeting – Jan 27, 2022, https://www.youtube.com/watch?v=2-g952fOIo&list=PLy60NMMcuTof1uE8nBnG2QrB9wYj1jy_r&index=15, at 1:56:15 mark (emphasis added)).

¹⁹ *Id.* at 12–13 (quoting Oak Park and River Forest High School, Ongoing Racial Equity Work, <https://www.oprfhs.org/racial-equity-program/ongoing-work> (hereinafter “Ongoing Racial Equity Work”) (last visited Jun. 8, 2022)).



- As part of its long-term strategic plan, OPRF implements a policy using illegal racial quotas to reduce disparities in punitive discipline between “students of color” and white students. In its 2019-2020 “Transformative Education” goals, OPRF states that it fell short by 50% of its racially discriminatory goal to reduce disparities in discipline referrals and “tardies” between “students of color” and white students, vowing to “[c]arry over” this goal to the new year.²⁰
- Interpreting the District 200 Board’s employment diversity commands as instruction to implement racially discriminatory hiring quotas, OPRF established July 2024 for its goal to **“increase representation of minority teachers to 35% of the overall faculty”** and to **“increase representation of minority employees to 50% of all employees**, with 55% and 65% respectively completed.²¹
- OPRF announced in 2021 its plan to “eliminate separate college-prep and honors level classes for freshman English, science, history, and world languages, replacing them with a single, rigorous, high-level honors curriculum for all,” stating that its reason for doing so “is for **race and ethnicity to cease being predictors of enrollment in high-level course work**, so that students earning honors and AP credits **will mirror the demographics of our overall population.**”²²

DFI responds to the questions in OCR’s August 26, 2022, letter as follows (and incorporates is all discussion *supra*):

1. Your complaint states the District has announced its intention to implement a strategy by Fall 2023 to “consistently integrate equitable assessment and grading practices into all academic and elective courses” after its determination that traditional grading practices “perpetuate inequities and intensify the opportunity gap.” You allege the District’s stated intention discriminates against District students in violation of Title VI. Please provide the following information:

a. State whether the District has implemented the strategy referenced in Item 1.

DFI notes that it appears that District 200 has begun to implement its “grading with equity” strategy. Dr. Fiorenza’s presentation celebrates the “[m]any” teachers who “are successfully exploring and implementing more equitable grading practices such as: utilizing aspects of

²⁰ *Id.* at 14 (quoting Strategic Plan 2020 – 2025 at 7).

²¹ *Id.* at 14–15 (quoting OPRF Strategic Plan 2020 – 2025 at 8 (emphasis added)).

²² *Id.* at 16 (quoting Oak Park and River Forest High School, Questions from Community Meetings, <https://www.oprfhs.org/academics/questions-from-community-meetings> (last visited Jun. 8, 2022) (emphasis added)).



competency-based grading, eliminating zeros from the grade book, and encouraging and rewarding growth over time.”²³ In her presentation, Dr. Fiorenza declares that District 200 teachers and administrators “will continue the process necessary to make grading improvements that reflect our core beliefs.”²⁴ DFI believes that District 200 and OPRF teachers are continuing to implement the racially discriminatory “grading with equity” strategy in fulfillment of District 200’s broader racial equity goals.

District 200 also entered into various contracts and professional services agreements commencing in March 2019. Pursuant to those contracts, work to implement the racially discriminatory policies that DFI believes violate Title VI began by Fall 2019 and continues through the present. Those contracts provide training for teachers in the matters described in DFI’s complaints and include blatantly race-conscious materials designed to favor students of certain racial backgrounds because of their racial backgrounds. Moreover, District 200’s Freshman Curriculum Restructuring, presented to the Board in the Fall of 2017, for which a 5-year implementation began in the 2018-2019 school year, by its terms is continuing and similarly provides race-based instruction and grading to and for students based on the race of the students. Finally, in its November 2020 Freshman Curriculum & Instruction Update (“Grade Weighting & Science Curriculum Sequencing”), District 200 has begun implementing a “detracking” system to promote academic achievement and college placement by students based on the race of the students; this effort continues.

i. If the strategy has been implemented by the District, describe how the strategy, as implemented, discriminates against District students in violation of Title VI.

The Supreme Court has held that the distribution of “burdens or benefits on the basis of individual racial classifications” must be reviewed under strict scrutiny,²⁵ and the few interests the Court has found compelling are not applicable to District 200’s policies.²⁶

²³ DFI Complaint at 2 (quoting Oak Park and River Forest High School District 200, Strategic Plan Priority 2: Transformative Education, Professional Development & Grading, May 26, 2022 (hereinafter “Strategic Plan”), available at [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CELJGA4D1599/\\$file/Professional%20Development%20and%20Grading%20BOE%20Presentation_.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CELJGA4D1599/$file/Professional%20Development%20and%20Grading%20BOE%20Presentation_.pdf)).

²⁴ *Id.* (quoting Strategic Plan at 2).

²⁵ DFI Supplemental Complaint at 17 (quoting *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007)). The U.S. Supreme Court has held that Title VI’s prohibition of racial classifications is coextensive with that of the Fourteenth Amendment’s Equal Protection Clause. *Id.* at 16 n.95 (citing *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003)).

²⁶ *Id.* at 17–18.



OPRF is implementing its “grading with equity” strategy at the behest of the District 200 Board, whose discriminatory “racial equity policy” requires OPRF to “allocat[e] resources unequally [on the basis of race] to focus on barriers that may uniquely impact students of diverse backgrounds.”²⁷ The “grading with equity” strategy is also part of OPRF’s broader Strategic Plan for Racial Equity, which requires all District decision-makers to “keep at the forefront” how “all work” they do will affect different racial groupings—that is, to use the race of students in decision-making.²⁸ As seen within this broader framework, OPRF’s “grading with equity” strategy is simply one of many strategies aimed at benefiting “students of color” but not students of other race who are not of color. This is the essence of distributing a burden or benefit on the basis of individual racial classifications in violation of Title VI and the Equal Protection Clause of the Constitution.

DFI has furnished further evidence that OPRF’s “grading with equity” scheme is not only based on a broader strategy of racial discrimination within District 200 but also that OPRF is implementing the scheme in a racially discriminatory way in violation of Title VI and the Equal Protection Clause. OPRF’s then-Executive Director of Equity and Student Success Dr. Patrick Hardy made clear in his January 2022 presentation that Dr. Fiorenza’s “grading with equity” strategy is all about **“racializing our work, the racialization of assessment.”**²⁹ The strategy will include using OPRF’s “racial equity analysis tool,” a device that requires administrators to make decisions based on how it will benefit or burden “students of color” versus students of other race who are not of color³⁰ to review all grading practices. The resulting grading system will thus be based unavoidably on decision-making relying on how benefits or burdens will be distributed among “students of color” versus students of other races who are not students of color.

Title VI and the U.S. Constitution forbid such a basis of decision-making in grading practices (or any other matter) by a public school district or high school. Any students currently subject to this process has suffered racial discrimination.

2. In the complaint supplement, you provide information that you state is related to the District’s consideration of capital expenditure proposal through the lens of its Racial Equity Plan. Does your complaint allege the District discriminates in violation of Title VI in this area?

Yes. District 200 clearly adheres to and has engaged in a policy based on discrimination on the basis of race, color, and national origin in violation of Title VI and the Equal Protection Clause in

²⁷ *Supra* note 6.

²⁸ *Supra* note 10.

²⁹ *Supra* note 12.

³⁰ DFI Supplemental Complaint at 6.



its consideration of capital expenditure proposals (as described in DFI’s supplemental complaint).³¹

If yes, provide:

a. The specific act(s) of alleged discrimination.

OPRF is implementing its review of capital expenditures using its Racial Equity Plan at the behest of the District 200 Board, whose discriminatory “racial equity policy” requires OPRF to “allocat[e] resources unequally [on the basis of race] to focus on barriers that may uniquely impact students of diverse backgrounds.” This race-based review of capital expenditures is also part of OPRF’s broader Strategic Plan for Racial Equity, which requires all District decision-makers to use race in decision-making. As seen within this broader framework, OPRF’s review of its capital expenditure plan in terms of the burdens and benefits of its plan on different racial groupings is simply one of many strategies aimed at benefiting “students of color” and not benefiting students of other races who are not of color. This is the essence of distributing a burden or benefit on the basis of individual racial classifications, and it is unlawful under Title VI and the Equal Protection Clause. OPRF’s February 2021 presentation to the District 200 Board demonstrates this.³² OPRF is not even attempting to hide its unlawful use of racial classifications in its decision-making; it has proudly published its discriminatory decision-making practices online.

Based on evidence *published by District 200 and OPRF*, District 200 and OPRF are engaged in a scheme to distribute burdens and benefits on the basis of individual racial classifications in violation of Title VI and the Equal Protection Clause.

See also the discussion of ongoing race-based curricula and professional services agreements discussed in item 1, *supra*.

b. The date on which the alleged act of discrimination occurred.

District 200 and OPRF currently maintain a policy of requiring that capital expenditure decisions be considered through the lens of the District’s Racial Equity Plan. DFI thus believes that the act of discrimination began in late 2019, upon the District 200 Board’s adoption of a Racial Equity Policy underpinning this decision-making, and is ongoing.

c. The individual(s) who engaged in the alleged discriminatory act.

³¹ *Id.* at 9–11.

³² *Supra* notes 16, 17.



Through its adoption and ongoing implementation of a Racial Equity Plan, the District 200 Board has engaged in the alleged discriminatory act by requiring the distribution of burdens and benefits on the basis of individual racial classifications. OPRF has engaged in the alleged discriminatory act by requiring in their strategic plan on racial equity that capital expenditure proposals be considered through the lens of OPRF’s Racial Equity Plan, which requires a consideration of burdens and benefits on the basis of illegal individual racial classifications.

d. The specific facts that lead you to believe the conduct constituted discrimination in violation of Title VI.

In their presentation to the District 200 Board in February 2021, OPRF personnel openly admitted to considering the racial makeup of various sports teams in their decision-making regarding funding of capital expenditures that would benefit those teams.³³ In his presentation to the District 200 Board, the OPRF presenter of the capital expenditure proposals clearly stated “we also have to be mindful and really understand from an extracurricular standpoint, who are we . . . **what’s the racial makeup in terms of teams** . . . the tennis team, our field hockey team, also, the lacrosse team”³⁴ At the time of this presentation, OPRF thus indicated its intention to evaluate capital expenditure decisions using its Racial Equity Plan to distribute burdens and benefits on the basis of illegal individual racial classifications in violation of Title VI and the Equal Protection Clause. To our knowledge, District 200 and OPRF continue to be committed to their unconstitutional and unlawful policies, have not revoked this policy, and continue to implement it.

See also the discussion of ongoing race-based curricula and professional services agreements discussed in item 1, *supra*.

3. In the complaint supplement, you state the District has implemented a six-year professional development plan to eliminate racial bias in the classroom. Does your complaint allege the District’s professional development plan discriminates in violation of Title VI?

Yes. District 200 is clearly engaged in discrimination on the basis of race, color, and national origin in violation of Title VI and the Equal Protection Clause in its implementation of a racialized curricula and teaching practices program (misidentified by OPRF as a “professional development” plan) requiring teachers to develop curricula and teaching practices through a “racial lens,” as described in DFI’s supplemental complaint.³⁵

³³ *Supra* note 16.

³⁴ *Supra* note 17.

³⁵ DFI Supplemental Complaint at 12–13.



See also the discussion of ongoing race-based curricula and professional services agreements discussed in item 1, *supra*.

If yes, provide:

a. The specific act(s) of alleged discrimination.

OPRF is implementing its racialized curricula and teaching practices program under the rubric of its Racial Equity Plan at the behest of the District 200 Board, whose discriminatory “racial equity policy” requires OPRF to “allocat[e] resources unequally [on the basis of race] to focus on barriers that may uniquely impact students of diverse backgrounds.” The racialized curricula and teaching practices program is also part of OPRF’s broader Strategic Plan for Racial Equity, which requires all District decision-makers to “keep at the forefront” how “all work” they do will affect different racial groupings. As seen within this broader framework, OPRF’s review of its teaching practices and curricula in terms of the burdens and benefits of these aspects of its program on different racial groupings is simply one of many strategies aimed at benefiting “students of color” and not benefiting students who are not of color. This is the essence of distributing a burden or benefit on the basis of individual racial classifications, and it is unlawful under Title VI and the Equal Protection Clause. As it specifically relates to this program, OPRF is simply not permitted under Title VI or the Equal Protection Clause to require teachers to analyze their curricula and methods “through a racial lens” and ensure that they “develop healthy racial consciousness” in an effort to benefit “students of color” and not benefit students of another race who are not of color.³⁶ Neither the Constitution nor federal law allows the distribution of burdens and benefits on such race-based grounds. Based on evidence published by District 200 and OPRF, they are clearly engaged in a scheme to distribute burdens and benefits on the basis of individual racial classifications in violation of Title VI and the Equal Protection Clause.

b. The date on which the alleged act of discrimination occurred.

The act of discrimination on the basis of race, color, and national origin began as late as 2019, upon the District 200 Board’s adoption of a Racial Equity Policy underpinning the program, and is ongoing.

c. The individual(s) who engaged in the alleged discriminatory act.

³⁶ *Id.* at 13 (quoting Oak Park and River Forest High School, Ongoing Racial Equity Work, <https://www.oprfhs.org/racial-equity-program/ongoing-work> (hereinafter “Ongoing Racial Equity Work”) (last visited Jun. 8, 2022)).



The District 200 Board has engaged in the alleged discriminatory act by requiring the distribution of burdens and benefits on the basis of individual racial classifications through its adoption of a Racial Equity Plan in 2019 and its ongoing implementation. The OPRF administration has engaged in the alleged discriminatory act by prompting the development of the racialized curricula and teaching practices program with its strategic plan on racial equity, which requires a consideration of burdens and benefits on the basis of individual racial classifications.

d. The specific facts that lead you to believe the conduct constituted discrimination in violation of Title VI.

Under its Strategic Plan on Racial Equity, OPRF is requiring intensive training of teachers—some over the course of six years and others over the course of five³⁷—to analyze their curricula and methods “through a racial lens” and ensure that they “develop healthy racial consciousness” in an effort to benefit “students of color” and not benefit students of different races. As of the date of this response (September 15, 2022), District 200 and OPRF continue proudly to display this racialized curricula and teaching practices program on OPRF’s website on a page entitled “Ongoing Racial Equity Work.”³⁸ By its own admission, District 200 and OPRF are continuing their unconstitutional and unlawful policies and currently engaging in unlawful discrimination to the detriment of OPRF students and employees.

See also the discussion of ongoing race-based curricula and professional services agreements discussed in item 1, *supra*.

4. In the complaint supplement, you state the District provides “Race Equity Coaching” to its teachers. Does your complaint allege the coaching provided by the District discriminates in violation of Title VI?

Yes. District 200 is clearly engaged in discrimination on the basis of race, color, and national origin in violation of Title VI and the Equal Protection Clause in its implementation of a “Racial Equity Coaching” program, as described in DFI’s supplemental complaint.³⁹

See also the discussion of ongoing race-based curricula and professional services agreements discussed in item 1, *supra*.

If yes, provide:

³⁷ *Id.* at 12–13.

³⁸ See <https://www.oprfhs.org/racial-equity-program/ongoing-work>.

³⁹ DFI Supplemental Complaint at 13.



a. The specific act(s) of alleged discrimination.

As explained in DFI’s supplemental complaint, OPRF is implementing its “Racial Equity Coaching” program under the rubric of its Racial Equity Plan at the behest of the District 200 Board, whose discriminatory “racial equity policy” requires OPRF to “allocat[e] resources unequally [on the basis of race] to focus on barriers that may uniquely impact students of diverse backgrounds.” This program is also part of OPRF’s broader Strategic Plan for Racial Equity, which requires all District decision-makers to “keep at the forefront” how “all work” they do will affect different racial groupings. As seen within this broader framework, OPRF’s requirement that teachers be coached in a race-based manner on their “lesson planning, culturally responsive behaviors, and self-efficacy”⁴⁰ in an effort to alter the burdens and benefits of these aspects of its program on different racial groupings is simply one of many strategies aimed at benefiting “students of color” and not benefiting students of other races who are not students of color. This is the essence of distributing a burden or benefit on the basis of individual racial classifications, and it is unlawful under Title VI and the Equal Protection Clause.

As it is specifically related to this program, OPRF is simply not permitted under Title VI or the Equal Protection Clause to require teacher coaching on “lesson planning, culturally responsive behaviors, and self-efficacy” on the basis of race, color, or national origin.⁴¹ Neither the U.S. Constitution nor federal law allows the distribution of burdens and benefits on such race-based grounds. Based on evidence published by District 200 and OPRF, District 200 and OPRF are engaged in a scheme to distribute burdens and benefits on the basis of individual racial classifications in violation of Title VI and the Equal Protection Clause.

See also the discussion of ongoing race-based curricula and professional services agreements discussed in item 1, *supra*.

b. The date on which the alleged act of discrimination occurred.

The act of discrimination on the basis of race, color, and national origin began as late as 2019, upon the District 200 Board’s adoption of a Racial Equity Policy underpinning the program, and

⁴⁰ *Id.* at 13 (quoting Department of Equity and Student Success, Racial Equity Initiatives Overview, Jan. 27, 2022, at 5–6 (hereinafter “Racial Equity Initiatives Overview”), available at [https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CAYPQC63E64B/\\$file/20220127%20Reg%20OESS%20Initiatves%20Metrics%20and%20Research.pdf](https://go.boarddocs.com/il/oprfhs/Board.nsf/files/CAYPQC63E64B/$file/20220127%20Reg%20OESS%20Initiatves%20Metrics%20and%20Research.pdf)).

⁴¹ *Id.* at 13 (quoting Oak Park and River Forest High School, Ongoing Racial Equity Work, <https://www.oprfhs.org/racial-equity-program/ongoing-work> (hereinafter “Ongoing Racial Equity Work”) (last visited Jun. 8, 2022)).



is ongoing. District 200 and OPRF are currently implementing their “Racial Equity Coaching” program.

c. The individual(s) who engaged in the alleged discriminatory act.

The District 200 Board has engaged in the discriminatory act by requiring the distribution of burdens and benefits on the basis of individual racial classifications through its adoption of a Racial Equity Plan in 2019. The OPRF administration has engaged in the alleged discriminatory act by prompting the development of the “Racial Equity Coaching” program with its strategic plan on racial equity, which requires a consideration of burdens and benefits on the basis of individual racial classifications.

d. The specific facts that lead you to believe the conduct constituted discrimination in violation of Title VI.

In its presentation to the District 200 Board in January 2022, OPRF’s Department of Equity and Student Success described its plan to require racially focused teacher coaching on “lesson planning, culturally responsive behaviors, and self-efficacy” within the rubric of OPRF’s Racial Equity Plan, which seeks to distribute benefits and burdens on the basis of racial groupings. At the time of this presentation, OPRF thus indicated its intention to require teachers to consider various practices in an effort to distribute burdens and benefits on the basis of individual racial classifications in violation of Title VI and the Equal Protection Clause. DFI has no information indicating that District 200 or OPRF has changed its policies since that time or that either entity is making its decisions on a different basis. To the contrary, on the basis of the evidence we have furnished to OCR throughout our complaint, District 200 and OPRF continue their unconstitutional and unlawful policies. Therefore, we believe District 200 and OPRF will continue to engage in unlawful discrimination that is harmful to OPRF students and employees.

See also the discussion of ongoing race-based curricula and professional services agreements discussed in item 1, *supra*.

5. In the complaint supplement, you provide information you state is related to the District’s implementation of District Policy 200, which you state requires the District to provide alternatives to punitive discipline. Does your complaint allege the District discriminates in violation of Title VI in this area?

Yes. District 200 is clearly engaged in discrimination on the basis of race, color, and national origin in violation of Title VI and the Equal Protection Clause in its unlawful scheme, constituting an



impermissible quota system, to reduce the disparity in disciplinary referrals using racial classifications, as described in DFI’s supplemental complaint.⁴²

If yes, provide:

a. The specific act(s) of alleged discrimination.

OPRF has a policy of using the race of students when allocating resources relating to student disciplinary policies. It is doing so under the rubric of the Racial Equity Plan urged by the District 200 Board, whose discriminatory “racial equity policy” requires OPRF to “allocat[e] resources unequally [on the basis of race] to focus on barriers that may uniquely impact students of diverse backgrounds.” This program is also part of OPRF’s broader Strategic Plan for Racial Equity, which requires all District decision-makers to use race-based decision-making. OPRF’s racially inspired plan to reduce disciplinary referrals for “students of color” in an effort to alter the burdens and benefits of these aspects of its program on different racial groupings is simply one of many strategies aimed at benefiting “students of color” and not benefiting students of other races who are not of color. This is the essence of distributing a burden or benefit on the basis of individual racial classifications, and it is unlawful under Title VI and the Equal Protection Clause.

As it is specifically related to this program, OPRF is simply not permitted under Title VI or the Equal Protection Clause to direct its personnel to reduce disciplinary referrals for one group based on the race of that group without conferring the same benefit to all other races.⁴³ Neither the U.S. Constitution nor federal law allows the distribution of burdens and benefits on such race-based grounds. Based on evidence published by District 200 and OPRF, District 200 and OPRF are engaged in a scheme to distribute burdens and benefits on the basis of individual racial classifications in violation of Title VI and the Equal Protection Clause.

See also the discussion of ongoing race-based curricula and professional services agreements discussed in item 1, *supra*.

b. The date on which the alleged act of discrimination occurred.

The act of discrimination on the basis of race, color, and national origin began as late as 2019, upon the District 200 Board’s adoption of a Racial Equity Policy underpinning the scheme, and is ongoing.

⁴² *Id.* at 13–14.

⁴³ *Id.* at 13 (quoting Oak Park and River Forest High School, Ongoing Racial Equity Work, <https://www.oprfhs.org/racial-equity-program/ongoing-work> (hereinafter “Ongoing Racial Equity Work”) (last visited Jun. 8, 2022)).



c. The individual(s) who engaged in the alleged discriminatory act.

The District 200 Board has engaged in the discriminatory act by requiring the distribution of burdens and benefits on the basis of individual racial classifications through its adoption of a Racial Equity Plan in 2019. The OPRF administration has engaged in the alleged discriminatory act by prompting the development of the scheme unlawfully to reduce disparities in disciplinary referrals on the basis of racial classifications with its strategic plan on racial equity, which requires a consideration of burdens and benefits on the basis of individual racial classifications.

d. The specific facts that lead you to believe the conduct constituted discrimination in violation of Title VI.

As part of its strategic plan, OPRF has openly committed to using arbitrary and illegal racial quotas to reduce disparities in punitive discipline between “students of color” and other students. In its 2019-2020 “Transformative Education” goals, OPRF states that it fell short by 50% to reduce disparities in discipline referrals and “tardies” between “students of color” and other students by 10%, vowing to “[c]arry over” this goal to the new year.⁴⁴ The work to fulfill this goal, which is unlawful under Title VI and unconstitutional under the Equal Protection Clause, inherently relies on redistributing burdens and benefits among students on the basis of individual racial classifications. This use of racial classifications to benefit one favored racial grouping and not benefit another is not permitted under federal law.

DFI has no information to demonstrate that District 200 or OPRF has changed its policies since that time or that either entity is making its decisions on a different basis. To the contrary, on the basis of the evidence we have furnished to OCR throughout our complaint, we have every reason to believe that District 200 and OPRF continue to be committed to their unconstitutional and unlawful policy of reducing discipline disparities along arbitrary racial lines. Therefore, we believe District 200 and OPRF continue to engage in unlawful discrimination that is harmful to OPRF students and employees.

6. In the complaint supplement, you provide information you state is related to the District’s hiring practices. You state the District has established hiring goals to increase the number of minority teachers and employees in the District. You characterize the hiring goals as a “racial quotas.” Please provide:

a. Any information regarding any specific employee who has been denied employment by the District due to the hiring goals referenced in Item 6.

⁴⁴ *Id.* at 14 (quoting Strategic Plan 2020 – 2025 at 7).



OPRF is openly furthering its objective of hiring more minority teachers and other employees by imposing a specific, percentage-based racial quota that *on its face* discriminates in violation of Title VI and the Equal Protection Clause. Regardless of the availability of any additional facts about this discriminatory policy’s application to individual job candidates, OCR has a duty to enforce federal law by ending a policy that requires the OPRF to discriminate based on race in hiring.

b. Any additional information you have in support of your contention that the District utilizes race-based quotas in its hiring practices.

DFI submits that the materials District 200 and OPRF have made publicly available on its hiring policies and that are outlined in DFI’s supplemental complaint⁴⁵ demonstrate that District 200 and OPRF racially discriminate with hiring quotas in violation of Title VI and the Equal Protection Clause. These materials are more than sufficient to trigger an investigation by OCR.

c. Any additional information you have regarding actions done by the District in support of the above-referenced hiring goals that violate Title VI.

DFI respectfully refers OCR to the District 200 Board and OPRF administrators, who would have additional information about their implementation of their racially discriminatory quota-based hiring policy.

7. In the complaint supplement, you state that, for the 2022-23 school year, the District has announced the elimination of separate college-prep and honors level classes for freshman English, science, history, and world languages, with these courses being replaced with a single curriculum for all students. Does your complaint assert that the District’s action constitutes discrimination in violation of Title VI? If yes, provide the specific facts that lead you to believe the act constituted discrimination in violation of Title VI.

Yes. District 200 is clearly engaged in discrimination on the basis of race, color, and national origin in violation of Title VI and the Equal Protection Clause in its “detracking” scheme using racial classifications to reduce disparities in enrollment in high-level courses.⁴⁶ With this method, OPRF is using its Racial Equity Plan at the behest of the District 200 Board, whose discriminatory “racial equity policy” requires OPRF to “allocat[e] resources unequally [on the basis of race] to focus on barriers that may uniquely impact students of diverse backgrounds.” This program is also part of OPRF’s broader Strategic Plan for Racial Equity, which requires all District decision-makers to

⁴⁵ *Id.* at 14–15.

⁴⁶ *Id.* at 16.



“keep at the forefront” how “all work” they do will affect different racial groupings. As seen within this broader framework, OPRF’s arbitrary plan to reduce disparities in high-level-course enrollment in an effort to alter the burdens and benefits of these aspects of its program on different racial groupings is simply one of many strategies aimed at benefiting “students of color” and not benefiting students of other races who are not students of color. This is unlawful under Title VI and the Equal Protection Clause.

As it specifically relates to this program, OPRF is simply not permitted under Title VI or the Equal Protection Clause to draw lines between chosen racial groups and make alterations to its course offerings in an effort to benefit one race over another. Neither the Constitution nor federal law allows the distribution of burdens and benefits on such race-based grounds. Based on evidence published by District 200 and OPRF, District 200 and OPRF are engaged in a scheme to distribute burdens and benefits on the basis of individual racial classifications in violation of Title VI and the Equal Protection Clause.

OCR also requests the following information: “If any of the acts of alleged discrimination occurred more than 180 days prior to the date on which you filed your complaint (June 1, 2022), please state whether you are requesting a waiver of OCR’s timeliness requirement and, if so, the specific reason you did not file the complaint within 180 days of the alleged discrimination.”

On information and belief, all of the policies related to OPRF’s decision-making processes discussed above, and especially OPRF’s commitment to filtering all decisions through its Racial Equity Analysis/Assessment Tool, are ongoing and form the basis of past and pending decision-making by District 200 and OPRF. Therefore, the acts of alleged discrimination, which consist of the currently in-force District 200 and OPRF policies, are presently occurring and are thus within OCR’s timeliness requirement.

Given the level of detail already provided by DFI in its complaint and supplemental complaint, OCR’s request to DFI for “additional information” is at odds with OCR’s policy and practice.

OCR’s August 26, 2022, response to DFI’s complaint and supplemental complaint is, frankly, bewildering. In contravention of its prior practice, the August 26th letter raises the bar far above what is required for a complaint of discrimination by OCR’s Case Processing Manual. Indeed, OCR has opened investigations based on far less information substantiating violations of Title VI’s prohibitions; DFI has already provided more information than is usually provided by other complainants as part of its complaint and supplemental complaint. In those submissions, DFI has already explained to OCR the “who, what, where, when, and how” of District 200’s and OPRF’s unlawful discrimination; it has provided more in this letter. OCR has what it needs to investigate



District 200 and OPRF. It simply needs to do it. Failure to do so would be arbitrary and capricious behavior by the agency.

Simply put, when a school says in its policies and procedures that it must use race in its decision-making, it has engaged in a “specific act of . . . discrimination” in violation of federal law, and OCR must investigate. To dismiss a claim involving such baldly discriminatory policies, with a multitude of evidence showing that District 200 and OPRF personnel view these policies as requiring them to engage in prohibited racial discrimination, on the basis of a lack of information from the complainant of specific actions of these personnel, would constitute an administrative nullification of OCR’s statutory obligation to investigate race-based discrimination complaints. Given the facially race-based policies now being openly implemented by the District, DFI is highly concerned that OCR has not already initiated an investigation.

Accordingly, DFI urges OCR to investigate the allegations in this complaint, as supplemented, and ensure that District 200 complies with Title VI of the Civil Rights Act of 1964, as well as provide other appropriate relief.

Please feel free to contact me with any questions related to this request.

Sincerely,

Robert S. Eitel
President



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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November 22, 2022

Mr. Robert S. Eitel
President
Defense of Freedom Institute for Policy Studies

Via electronic mail to: robert.eitel@dfipolicy.org

Re: OCR Docket# 05-22-1469

Dear Mr. Eitel:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has carefully evaluated the above-referenced complaint you filed with OCR, which OCR received on June 1, 2022, against Oak Park-River Forest School District 200 (District).

Your complaint alleges that the District discriminates on the basis of race:

1. Through its implementation at Oak Park-River Forest High School (High School) of a strategy to "consistently integrate equitable assessment and grading practices" into all academic and elective courses.
2. In its consideration of the High School's capital expenditure proposals.
3. By offering a six-year professional development plan at the High School to eliminate racial bias in the classroom.
4. By providing "Race Equity Coaching" to High School teachers.
5. Through its implementation of a policy requiring the High School to provide alternatives to punitive discipline.
6. By implementing hiring goals to increase the number of minority teachers and employees in the District.
7. Through its elimination for the 2022-23 school year of certain college-prep and honors level classes and replacement of them with a single curriculum for all freshmen students at the High School.
8. By not permitting white students at the High School to participate in the school's Motivational Mentorship program.

OCR is responsible for enforcing 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 prohibits discrimination on the basis of race, color, and national origin by recipients of Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the District is subject to this law. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

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

In evaluating your complaint, OCR reviewed your OCR complaint; the supplemental information you provide to OCR on and June 30, 2022, and September 15, 2022; information provided by the District; and publicly available information. For the reasons set forth below, OCR has dismissed Allegations 1-8.

Allegation 1

You allege the District has implemented a strategy to "consistently integrate equitable assessment and grading practices into all academic and elective courses" after its determination that traditional grading practices "perpetuate inequities and intensify the opportunity gap." While the strategy at issue in Allegation I does not reference race, you assert the strategy is tied to the District's use of its "racial equity analysis tool,"¹ which you assert "will thus be based unavoidably on decision-making relying on how benefits or burdens will be distributed among 'students of color' versus students of other races who are not 'students of color.'"

The changes in assessment and grading practices that you identified as being implemented in furtherance of the District strategy (i.e., elimination of zero grades, implementing competency-based grading, and encouraging and rewarding academic growth) are race-neutral changes that apply to students of all races, and you provided no information from which OCR can infer discrimination behind the changes you identified. You also did not provide OCR any information from which OCR can infer any individual is negatively impacted by the changes you referenced.

Pursuant to Section 108(d) of OCR's *Case Processing Manual* (CPM), OCR will dismiss a complaint allegation that lacks sufficient detail for OCR to infer that discrimination may have occurred or is occurring. In this instance, OCR finds that the information provided in support of Allegation I lacks sufficient detail for OCR to infer that discrimination on the basis of race may have occurred or is occurring. Accordingly, OCR has dismissed Allegation I.

Allegation 2

You allege the District discriminates on the basis of race in its consideration of capital expenditure proposals at the High School. In support of Allegation 2, you state the District has stated that "the principles of equity shall guide funding decisions in [the District]" and that the District utilizes its racial equity analysis tool as part of its consideration of capital expenditure proposal. You also provided OCR information about a February 25, 2021, District Board meeting where you state the District discussed whether a proposed capital expenditure aligned with the District's strategic plan goal on racial equity; its effort to recruit minority, women, and disadvantaged businesses for its capital improvements; and the racial composition of High School sports teams as they related to a specific proposed capital expenditure project.² You did

¹ A description of this tool is available on the District's website at [District 200 Racial Equity Analysis Tool_WS.pdf \(campussuite-5storage.s3.amazonaws.com\)](https://campussuite-5storage.s3.amazonaws.com) (last visited November 22, 2022).

² With respect to the High School's sports teams, the information you provided indicated that, in considering **improvement to the facilities used by the tennis, field hockey, lacrosse, and soccer teams, it was noted at the meeting** that those teams historically had high levels of participation by white students. With respect to the consideration of **the capital expenditures for the teams, the District's recommended next step was to "strategize" on how to increase** participation on the teams by students of color and to review racially disaggregated data concerning the High School's athletics and student activities **"to determine how capital improvement can be equitably allocated."**

not provide OCR any information concerning any final decision made concerning any proposed capital expenditure and you did not identify any specific capital expenditure which was approved and/or denied on account of race.

In this instance, OCR has determined that the information provided in support of Allegation 2 lacks sufficient detail for OCR to infer that discrimination on the basis of race may have occurred or is occurring. Accordingly, OCR has dismissed Allegation 2.

Allegation 3

You allege the District discriminates on the basis of race by offering a six-year professional development plan at the High School to eliminate racial bias in the classroom. Allegation 3 asserts that, per the requirement of the District Racial Equity Plan, the District has created a professional development plan to "strengthen employees' knowledge and skills of strategies for eliminating bias and disparities in student achievement and district hiring practices" and "limit and/or mitigate the harm of such disparities; implicit bias in hiring practices; cultural responsiveness; the historical roots of institutional racism; and equitable, inclusive, and anti-oppressive methods."

Per the District webpage devoted to the professional development program, the goal of the program "is to understand the aspects of teaching that perpetuate race-based barriers to effective instruction and meaningful learning that exist throughout the educational system but are within their control to change."³ You characterize the professional development program at issue in Allegation 3 as a "radicalized curricula and teaching practices program" that requires teachers to develop curricula and teaching practices through a "racial lens" in an effort to benefit students of color.

The information you provided to OCR did not cite any specific content provided in the program, and you did not provide OCR any information indicating the program's content deviates from its stated goals. You did not provide any information from which OCR could infer the development program encourages, suggests or directs teachers to exclude a student from participation in, deny a student the benefits of, or subject a student to discrimination under any District program or activity on account of race. You also did not provide any information from which OCR can infer any individual(s) have been negatively impacted by the District action at issue in Allegation 3.⁴

In this instance, OCR has determined that the information provided in support of Allegation 3 lacks sufficient detail for OCR to infer that discrimination on the basis of race may have occurred or is occurring. Accordingly, OCR has dismissed Allegation 3.

³ www.oprl11S.org/racial-equity-progra111/rncial-equity-professional-development-program (last visited November 22, 2022).

⁴ Pursuant to longstanding OCR policy, OCR refrains from assessing the appropriateness of the pedagogical decisions of school districts and educators. OCR gives significant deference to the professional judgment of educational institutions with respect to academic or pedagogical decisions and does not substitute its judgment for **that of the educational institution with respect to those decisions.**

Allegation 4

You allege the District discriminates on the basis of race in its provision of "Race Equity Coaching" to High School teachers. In describing the Racial Equity Coaching offered by the District, its webpage states that the coaching involves one-on-one coaching with teachers "to help develop healthy racial consciousness, apply racial-equity concepts in their classroom relationships and teaching practices, and promote a culture of high expectations for all students."⁵ In your complaint and supplemental materials, you argue that the District's coaching program is a District strategy "aimed at benefiting 'students of color' and not benefiting students of other races who are not 'students of color.'" You assert the program, among other things, coaches teachers "in a race-based manner" in an attempt to alter the "burdens and benefits" in their lesson planning, culturally responsive behaviors, and self-efficacy.

Your OCR complaint and accompanying supplements do not identify any statements made by any race equity coach, any specific coaching materials, or any actions taken by teachers after receiving coaching from which OCR can infer the District's coaching program encourages, suggests or directs teachers to exclude a student from participation in, deny a student the benefits of, or subject a student to discrimination under any District program or activity on account of race. You also did not provide any information from which OCR can infer any individual(s) have been negatively impacted by the District action at issue in Allegation 4.

In this instance, OCR has determined that the information provided in support of Allegation 4 lacks sufficient detail for OCR to infer that discrimination on the basis of race may have occurred or is occurring. Accordingly, OCR has dismissed Allegation 4.

Allegation 5

You allege the District discriminates on the basis of race through its implementation of a policy which requires the High School to provide alternatives to punitive discipline. In support of your complaint allegation, you state that for the 2019-20 and 2020-21 school years, the District had a stated goal to reduce "the disparities between overall school demographics" in the number of students receiving one disciplinary referral and students receiving more than five "tardies" by 10%. You characterize the District's disciplinary goal for these two years as a "racial quota" but also provided information indicating the District did not meet its stated goal for the 2019-20 school year.⁶ Additionally, the information you provided OCR did not identify any student allegedly subjected to discriminatory discipline related to the requirement at issue in Allegation 5 and you did not identify any related changes in the imposition of discipline at the high school from which OCR can infer race discrimination. You also did not provide any information from which OCR can infer any individual(s) have been negatively impacted by the District action at issue in Allegation 5.

In this instance, OCR has determined that the information provided in support of Allegation 5 lacks sufficient detail for OCR to infer that discrimination on the basis of race may have occurred or is occurring. Accordingly, OCR has dismissed Allegation 5.

⁵ www.v.oprfhs.org/racial-equity-program/ongoing-work (last visited November 22, 2022).

⁶ You did not provide information regarding whether the District met its stated goal for the 2020-21 school year.

Allegation 6

You allege the District discriminates on the basis of race by implementing hiring goals to increase the number of minority teachers and employees in the District. You characterize the hiring goals as "racial quotas." In support of this contention, you reference the District's stated goal to increase representation of minority teachers to 35% of overall faculty and increase minority employees to 50% of all employees by 2024.⁷ While you contend the District hiring goal is a quota in reality, you have not provided any information indicating that District hiring targets are mandated outcomes, as opposed to aspirational goals.⁸ Additionally, when asked, you did not identify any white applicant denied employment by the District on account of the above-referenced hiring goals.

In this instance, OCR has determined that the information provided in support of Allegation 6 lacks sufficient detail for OCR to infer that discrimination on the basis of race may have occurred or is occurring. Accordingly, OCR has dismissed Allegation 6.

Allegation 7

You allege the District discriminates on the basis of race through its elimination for the 2022-23 school year of separate college-prep and honors level classes for freshman English, science, history, and world languages, with these courses being replaced with a single curriculum for all freshmen students at the High School. In advance of the 2022-23 school year, the District announced that "to increase the access to rigorous coursework for all students," the District's high school would eliminate college-prep and honors classes for freshman English, science, history, and world language classes and replace them with "a single, rigorous, high-level honors curriculum for all."⁹

You allege the District action at issue in Allegation 7 constitutes discrimination on the basis of race, describing it as "an arbitrary plan to reduce disparities in high-level course enrollment in an effort to alter the burdens and benefits of these aspects of its program on different racial groupings" to benefit students of color and not benefit white students. You do not dispute that freshmen students of all races have equal access to the newly-announced curriculum offered by the District and do not allege the District conditioned or restricted participation in these classes based on race.

In this instance, OCR has determined that the information provided in support of Allegation 7 lacks sufficient detail for OCR to infer that discrimination on the basis of race may have occurred or is occurring. Accordingly, OCR has dismissed Allegation 7.

⁷ <https://www.oprf11s.org/board-of-education11/strategic-plan> (last visited November 17, 2022)

⁸ Neither the District's webpage nor the information you provided OCR indicate the District is required to meet this goal or that any sanctions or other negative consequences are imposed in response to the District's failure to meet its hiring goal.

⁹ www.oprf11s.org/academics/access-for-all (last visited November 17, 2022)

Allegation 8

You allege the District discriminates on the basis of race by prohibiting white students from participating in the High School's Motivational Mentorship program (Mentorship Program).

Pursuant to Section 110(d), OCR may dismiss a complaint allegation when it obtains credible information indicating that the allegation has been resolved. In response to Allegation 8, the District told OCR the Mentorship Program is open to all students without regard to race and cited its program's description in the 2022-23 student handbook, which does not contain any language indicating a student's race considered in determining eligibility for in the program.¹⁰

Additionally, on November 22, 2022, the District emailed a notice to District staff and students which stated, "The Motivational Mentorship Program is open to ALL students regardless of race, ethnicity, religion, gender, gender identity, sexual orientation, etc.," and that, "[a]lthough there is a referral process where staff members and parents can refer students for mentoring, disclosing a student's race is not an option or requirement and therefore has no influence on mentoring **services.**"

After considering all relevant information, OCR has determined Allegation 8 has been resolved and has dismissed the allegation.

You have a right to appeal OCR's dismissal determination for Allegations 1-7 within 60 calendar days of the date indicated on this letter. An appeal can be filed electronically, by mail, or fax. You must either submit a completed form online at <https://ocrcas.ed.gov/content/ocr-electronic-appeals-form>, or mail a written statement of no more than ten (10) pages (double-spaced, if typed): if submitted by mail, please send to the Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202. If submitted via e-mail, send to OCR@ed.gov; if submitted via fax, please send to 202-453-6012. The filing date on an appeal is the date the appeal is postmarked, submitted electronically or submitted via fax. In the appeal, you must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would result in the case being opened for investigation; failure to do so may result in dismissal of the appeal.

OCR would also like to make you aware that individuals who file complaints with OCR may have a right to file a private suit in Federal court whether or not OCR finds a violation.

It is important for you to understand that the laws OCR enforces also prohibit the District from harassing, coercing, intimidating, or discriminating against you because you filed a complaint or participated in the complaint resolution process. If this happens, you may file a complaint with OCR.

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, we will seek to protect, to the extent provided by law, personally identifiable information, which, if

¹⁰<https://www.oprlls.org/student-handbook> (last visited November 22, 2022).

released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions about this letter, please contact Jason Frazer, Senior Attorney, 312-730-1653 at jason.frazer@ed.gov.

Sincerely,

[Handwritten signature]

Marcela Sanchez Aguilar
Supervisory Attorney