



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Civil Rights Division

800 Fifth Avenue • Suite 2000 • MS TB 14 • Seattle WA 98104

(206) 442-4492

June 25, 2019

Dr. Steven Webb, Superintendent
Vancouver Public Schools
P.O. Box 8937
Vancouver, WA 98668-8937
Steven.Webb@vansd.org

Re: School Discipline at Vancouver Public Schools

Dear Dr. Webb:

This letter is to memorialize the resolution of our investigation of Vancouver Public Schools (“VPS”). As you know, the Civil Rights Division of the Washington State Attorney General’s Office (“AGO”) initiated the investigation pursuant to its enforcement authority under the state constitution, the Washington Law Against Discrimination, and the Equal Educational Opportunity Law, which prohibit VPS from discriminating on the basis of race, color, national origin, and/or disability.

AGO Investigation and Conclusions

The AGO’s investigation examined whether VPS maintains discipline policies that discriminate against students who are Black, Native American, Native Hawaiian/Pacific Islander, and/or students with disabilities. Based on the AGO’s review of VPS student discipline records, policies, and procedures, the AGO concluded that VPS’ discipline practices violate state law requirements that student discipline be imposed in a manner that does not have a disproportionate effect on the bases of race, national origin, or disability. Wash. Const. Art. IX, § 1 (“It is the paramount duty of the state to make ample provision for the education of all children . . . without distinction or preference on account of race, color, caste, or sex.”); RCW 49.60.215 (prohibiting discrimination in “any place of public resort, accommodation, assemblage, or amusement”); RCW 49.60.040(2) (defining places of public accommodation to include public “educational institution[s]” and “schools of special instruction”); RCW 28A.642.010 (prohibiting discrimination in Washington public schools on the basis of race).

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The AGO further concluded, after interviews with VPS district staff, that VPS' practices have led to high student discipline rates at every stage of the process. The AGO concluded that for the disproportionately high rates of discipline impacting Black, Native American, Native Hawaiian/Pacific Islander and/or students with disabilities, VPS has not met its obligation to take prompt action to ensure this disproportionality is not the result of discrimination. See WAC 392-190-048.

VPS affirmed that it values safe and supportive learning environments, does not now nor has it in the past promoted policies or practices that allow or encourage discriminatory discipline, and that it has taken action to ensure equitable discipline. However, VPS acknowledges that the discipline data does not reflect VPS' desired outcomes. The AGO acknowledges that VPS is committed to fairer and more effective strategies to achieve better outcomes. Therefore, during the AGO's investigation, the parties' expressed interest in voluntarily resolving the above issues by a joint Agreement.

Resolution Agreement

Accordingly, the AGO and VPS hereby agree to enter into this Resolution Agreement to address the AGO's concerns regarding VPS' use of discipline and its impact on students who are Black, Native American, Native Hawaiian/Pacific Islander, and/or students with disabilities. In signing this Resolution Agreement, VPS reiterates its commitment and legal obligation to implement student discipline policies that are fair and non-discriminatory. VPS will take steps to ensure that students of all races and students with disabilities are treated in a non-discriminatory manner in the area of discipline, including but not limited to continuing to utilize preventative strategies, such as Positive Behavior Interventions and Supports that both teach and reinforce appropriate student behavior and ensure that students are not unduly excluded from VPS' education program. VPS will allow any Positive Behavior Interventions and Supports teams that exist at each school to discuss and make recommendations on the equitable implementation of discipline policies, practices, and procedures and identify steps VPS could take to improve student behavior, improve student engagement, and promote a safe educational environment.

Further, this Resolution Agreement requires VPS to retain, at its own expense, a third-party advisor or evaluator ("Advisor"), to review VPS' data and disciplinary records to ensure that VPS' discipline policies and practices are being effectively implemented in a nondiscriminatory manner. Specifically, the Advisor will review survey data, discipline referrals, and the full range of VPS discipline responses, including but not limited to penalties imposed, to determine:

1. Whether Black, Native American, and Native Hawaiian/Pacific Islander students, and/or students with disabilities, are being referred to administrators more frequently than similarly situated White students or non-disabled students who engage in similar conduct;

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2. Whether teacher or administrator biases are likely contributing to disproportionately high numbers of referrals of Black, Native American, and Native Hawaiian/Pacific Islander students or students with disabilities for discipline;
3. Whether disciplinary removals of students with disabilities are likely due to disability-caused behavior;
4. Whether the code of conduct is consistent with the principles for improving school climate and the learning environment;
5. Whether there are discipline or related policies and practices in the district that even if neutrally applied are having a disparate impact;
6. Whether there are less punitive policies or practices that should be considered to replace current policies and practices;
7. Possible root cause(s) if a disparity exists in the discipline of Black, Native American, and Native Hawaiian/Pacific Islander students and/or students with disabilities; and
8. What corrective actions are necessary to address any disproportionality.

In addition, the Advisor will review reports to law enforcement to determine whether the conduct of Black, Native American and Native Hawaiian/Pacific Islander students and/or students with disabilities is being reported to law enforcement more frequently than the conduct of similarly situated White or non-disabled students. The Advisor will also review the data concerning school-based arrests and involuntary transfers, as defined in the U.S. Department of Education's Civil Rights Data Collection. To ensure the Advisor's review is complete, VPS itself will collect information, including referrals for student discipline and the imposition of all disciplinary sanctions, as well as non-punitive responses, at all VPS schools, including the race or disability status of students subjected to discipline.

After this qualitative and quantitative review of VPS' discipline policies and practices, the Advisor will present a report to both VPS and the AGO with proposed strategies for meeting VPS' goal of ensuring that discipline is appropriate and applied in a nondiscriminatory manner to all students regardless of race or disabilities. The Advisor may propose VPS revise its Student Behavior Handbook, counsel teachers and administrators identified to have high rates of discipline, limit the role of Student Resource Officers and District Resource Officers, provide annual training programs on discipline to personnel and students, establish uniform standards for the content of student discipline files, review every recorded instance in which a student's conduct was reported to law enforcement, and any other appropriate strategy to address disproportionality in VPS' disciplinary practices. The Advisor's report and proposed strategies must set out implementation goals, together with timelines for their completion, for VPS to consider as targets to work toward in good faith.

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The Advisor will be retained and subject to AGO approval by July 31, 2019. The advisor will consult with the district using his professional expertise to accomplish the tasks described in the resolution agreement. VPS and the AGO agree that the personal services required of the Advisor are of a unique and specialized nature and there is clearly and justifiably only one regionally known resource to provide the services. Both parties concur that Daniel Losen of the University of California at Los Angeles, Center for Civil Rights Remedies (Center) possesses the required expertise.

VPS will provide the Advisor with access to all relevant data and information from the 2017-18 and 2018-19 school years by September 1, 2019. VPS' data and information must include, but is not limited to, all disciplinary actions disaggregated by race and disability, specifying the length of the suspension and reason for suspension, all incidents of removal of all Individual with Disabilities Education Act-eligible students from the classroom and their duration, and all involuntary transfers of students to alternative schools located either in or out of the district.

The Advisor's report and proposed strategies will be submitted to both VPS and the AGO by December 1, 2019. Once the Advisor submits his/her report and proposed strategies, the Advisor will monitor VPS' progress toward implementing the proposed strategies for at least two (2) full school years. The Advisor will provide written reports every six (6) months to both the AGO and VPS regarding the status of VPS' implementation goals. VPS will cooperate with both the AGO and the Advisor in discussing conclusions and recommendations reached by the Advisor and implementation of the Advisor's recommendations. For any of the Advisor's proposed strategies that VPS declines to implement, VPS shall inform the Advisor and AGO of that decision in writing, along with a statement of reasons for declining the recommendation.

VPS understands that by signing this Resolution Agreement, it agrees to provide data and other information in a timely manner. Further, VPS understands that, during the monitoring of this Resolution Agreement, the AGO may, upon reasonable notice, visit VPS, interview staff and students, and request such additional reports or data as are necessary for the AGO to determine whether VPS has fulfilled the terms of this Resolution Agreement.

VPS understands and acknowledges that the AGO may initiate judicial proceedings to enforce the specific terms and obligations of this Resolution Agreement. Before initiating enforcement, AGO shall give VPS written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Resolution Agreement is not intended for use by any third party in any other proceeding and is not intended, and should not be construed, as an admission of liability by VPS.

The parties' signatures below signify agreement to the foregoing commitments as set forth in the Resolution Agreement portion of this letter.

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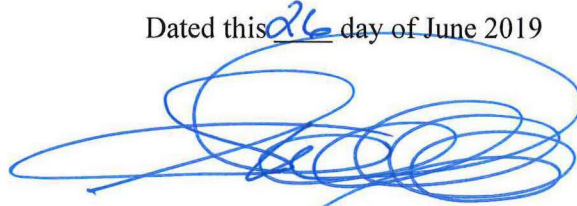
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Dated this 25th day of June 2019



MITCHELL RIESE
MARSHA CHIEN
Assistant Attorneys General
Civil Rights Division
Washington State Attorney General

Dated this 26 day of June 2019



Dr. Steven Webb
Superintendent
Vancouver Public Schools

Cc: Marilee Scarbrough, Legal Counsel
Marilee.Scarbrough@vansd.org