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Hot Off The Presses: Federal School Climate and Discipline Guidance Package

On January 8, 2014, the U.S. Department of Education's Office for Civil Rights (OCR) and U.S. Department of Justice Civil Rights Division (DOJ) issued a joint "School Climate and Discipline Guidance Package" to assist schools with creating positive, safe environments and understanding civil rights obligations. OCR noted that schools continue to struggle with creating safe environments that are welcoming to students and that schools still have discriminatory disciplinary practices that disproportionately impact students of color and students with disabilities. The Guidance Package was therefore issued to ensure school district compliance with federal civil rights law, offer alternatives to student suspensions and expulsions, and provide useful information to school resource officers.

The Guidance Package includes four resources:

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1. OCR/DOJ's January 8, 2014 *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline*, which addresses administering discipline without discriminating against students on the basis of race, color, or national origin;
2. *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, which describes key principles and related action steps to improve school climate and student discipline;
3. *Directory of Federal School Climate and Discipline Resources*, which provides an index of federal technical assistance and other guidance related to school climate and discipline; and
4. *Compendium of School Discipline Laws and Regulations*, which provides and compares the states' legal requirements relative to school discipline.

The Guidance Package is available on the DOE's website at:
<http://www2.ed.gov/policy/gen/guid/school-discipline/index.html>.

Summary of OCR/DOJ's January 8, 2014 *Dear Colleague Letter on*

the Nondiscriminatory Administration of School Discipline

In the January 8, 2014 *Dear Colleague Letter* that is included in the Guidance Package, OCR/DOJ explain that this Guidance has been issued to assist schools on how to identify, avoid, and remedy discriminatory discipline and provide all students with equal educational opportunities, as required by Title IV and Title VI of the *Civil Rights Act of 1964*. Specifically, OCR/DOJ address the administration of student discipline in a manner that does not discriminate on the basis of race, color, or national origin, and provides flowcharts showing OCR/DOJ's analysis when investigating discrimination claims, as well as examples of discriminatory school policies and practices.

The *Dear Colleague Letter* explains that schools are expected to maintain, and provide to OCR/DOJ upon request, accurate and complete data on student discipline policies, practices, and administration. When OCR/DOJ cannot determine whether a school is in compliance, the school may be required to implement data-related remedies, such as developing and implementing uniform standards for the content of discipline files; developing and training all staff on uniform standards

for entry, maintenance, updating, and retrieval of data accurately documenting the school's discipline process and implementation, including racial impact; and/or keeping data on teacher referrals and discipline to assess whether particular teachers refer large numbers of students by race (and conducting follow-up with such teachers to determine underlying causes). The *Dear Colleague Letter* further provides examples of various remedies that may be imposed by OCR/DOJ if a school is found to be in violation of Title IV or VI, and its Appendix summarizes action steps for schools.

We recommend that school districts and special education joint agreements review the Guidance Package and consider whether a comprehensive review of school climate and student discipline policies and practices are necessary. The action steps, data-related remedies, and examples of OCR-imposed remedies should be read in conjunction to determine what may need to be addressed at the classroom, building and district/cooperative-wide levels.

If you have questions about these new Department of Education publications or would like to discuss your school district or joint agreement policies and practices on student

Published January 17, 2014



discipline in light of the new Guidance Package, please contact our attorneys in our Flossmoor Office at 708-799-6766.