



September 19, 2025

VIA EMAIL

Craig Trainor
U.S. Department of Education
Office for Civil Rights
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Washington, D.C. 20202
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RE: Response to OCR July 29 and September 16, 2025 Correspondence

Dear Mr. Trainor:

Please consider this our written response to the correspondence we received on July 29 and September 16, 2025. In the letters, the Office for Civil Rights (“OCR”) raised issue with Jefferson County Public Schools’ (“JCPS” or “the District”) Board Policy 09.131, Racial Equity Analysis Protocol (“REAP”), discipline procedures, and school funding formula. We respond to the requests in turn below.

Revision of Policies. In the proposed resolutions, OCR requests that the District revise Board Policy 09.131 and the REAP and rescind any guidance which violates Title VI. The district routinely reviews and revises any policies that need to be updated to comply with any changes to state and federal law. Since receiving the July 29 Correspondence, the District undertook another comprehensive review of its policies and has identified various policies that will be revised to clarify compliance with Title VI. The District will include variations of the following language in its nondiscrimination and Title VI related policies:

The District shall comply with all applicable provisions of the Civil Rights Act of 1964; the Equal Educational Opportunities Act of 1974; Title IX of the Education Amendments of 1972; the Individuals with Disabilities Education Act of 1990; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and the Age Discrimination Act of 1975.

The policies to be amended are:

- 01.1 Legal Status of the Board
- 03.113 Equal Employment Opportunities (Certified)
- 03.212 Equal Employment Opportunities (Classified)
- 04.32 Model Procurement Code Purchasing
- 09.13 Equal Educational Opportunities (Students)
- 09.131 District Racial Equity Policy

Additionally, the District is revising language that references affirmative action to clarify that the District “shall promote equal opportunities through a vigorous set of policies and practices designed to ensure that all qualified candidates have access to opportunities for employment, and that all employees receive support for professional growth advancement, and equitable treatment.”

The policies to be amended are:

- 03.113 Equal Employment Opportunities (Certified)
- 03.212 Equal Employment Opportunities (Classified)
- 03.1312 Promotion (Certified)
- 03.2312 Promotion (Classified)

After review by the Board Policy Committee and first reading, these policies will be submitted for final approval by the Jefferson County Board of Education (“JCBE”) on November 18, 2025.

Finally, Board Policy 09.131 - District Racial Equity Policy calls for the use of the REAP to review policies and procedures, as well as during the development of policy recommendations across a range of issues to “achieve and maintain educational equity.” The District will review the language of the REAP and the manner in which it is used to determine whether any changes to the REAP’s language or practice are needed to clarify compliance with Title VI.

Discipline. Within the text of the letters, OCR acknowledges the District is complying with the Resolution Agreement it entered with OCR regarding discipline. OCR now states that the District’s compliance with the September 2024 OCR Resolution Agreement has resulted in JCPS’ “disciplinary decisions [being] tainted by racial considerations.” The letters cite 09.131 as creating “an incentive structure to discipline black and non-black students at different rates to avoid statistical disparities in outcomes.” As indicated in the District’s June 30, 2025 response, the discipline process revision was an effort to remove subjective elements so that discipline is objective. The District continues to assure that all disciplinary actions are applied consistently to all students across the District. If OCR intends to dissolve the Resolution Agreement, please advise.

Funding Formula. The District is revising the funding formula to not consider the racial makeup of its schools as a factor in fund allocation. The revised funding formula will be submitted to JCBE for final approval on October 14, 2025. A copy of the draft revised formula will be provided to OCR under separate cover.

Thank you for your consideration of the information included herein. If OCR does not consider the steps JCPS is taking in response to OCR's correspondence to be sufficient, JCPS requests reconsideration of this decision, particularly in light of OCR's new contention in its September 16, 2025 letter that JCPS must take remedial steps to ensure that it is in compliance with Title IX and its implementing regulations by 5 p.m. on September 19, 2025.¹ OCR has not cited any grounds for suggesting that JCPS is not in compliance with Title IX.²

Furthermore, OCR's decision to terminate or not to continue the MSAP grant midstream because it is "no longer in the best interest of the Federal Government" is arbitrary and capricious, an abuse of discretion, not in accordance with law, contrary to constitutional right, power, privilege or immunity, in excess of statutory authority, and without observance of procedure required by law, all in violation of the Administrative Procedure Act and the due process provisions of the Fifth Amendment. OCR's current interpretation of Title VI departs from, and does not sufficiently explain, OCR's change in position from OCR's prior interpretation and implementation of Title VI. JCPS has complied with the terms and conditions of its MSAP grant and its previously agreed upon Resolution Agreement with OCR and has relied on OCR's previous guidance in establishing its policies and practices. Moreover, OCR's proposed remedial steps include provisions that violate the First Amendment protection for free speech. JCPS has provided OCR with supporting documentation in response to its previous correspondence.

Please advise if additional information is needed as we all continue to work towards the best outcomes for Jefferson County Public School students.

Sincerely,



Kevin C. Brown
General Counsel

CC: W. Mike Jayne
Dr. Brian Yearwood

¹JCPS reserves the right to contest OCR's interpretation and application of 34 C.F.R. § 75.253(g).

² Please also consider this JCPS' request for a hearing pursuant to 20 U.S.C. §1234d(b); 2 C.F.R. § 200.34-.341; and 34 C.F.R. §100.8 and all applicable regulations.