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U.S. Department of Education
Office for Civil Rights

U.S. Department of Justice
Civil Rights Division

March 5, 2014

Ms. Gail Heriot, Commissioner
Mr. Peter Kirsanow, Commissioner
United States Commission on Civil Rights
1331 Pennsylvania Avenue, NW
Suite 1100
Washington, DC 20425

Dear Ms. Heriot and Mr. Kirsanow:

Thank you for your February 18, 2014, letter to Secretary Duncan and Attorney General Holder regarding the School Discipline Guidance Package to enhance school climate and decrease school violence jointly issued by the U.S. Department of Education and the U.S. Department of Justice (DOJ) on January 8, 2014 (the Guidance). You indicated your concerns about the Guidance related to administrative procedure and the disparate impact standard. The Secretary and the Attorney General have asked us to respond on their behalf.

We do not share your concerns, as the Guidance is fully consistent with the law. Although we recognize your perspective on the challenges and complexities concerning this issue, we also know that schools can create both safe and inclusive school environments through the use of effective discipline. As Secretary Duncan has stated, “It is difficult work to create schools that are safe and free of violence, where teachers can concentrate on teaching and, to the greatest extent possible, all students are in class and focused on learning. But it is possible.” Schools that focus on smart prevention and effective, supportive strategies to manage student behavior – rather than harsh and exclusionary discipline – are safer schools. The Guidance supports schools in their efforts to create and maintain safe and orderly educational environments that allow our nation’s students to learn and thrive.

Overuse of suspension and expulsion comes at a tremendous cost. Students suspended or expelled from school may be unsupervised during daytime hours and cannot benefit from the quality instruction, positive peer interactions, and adult mentorship offered in class and in school. They may not develop the skills and strategies they need to improve their behavior. They are less likely to graduate on time, and more likely to be suspended again, repeat a grade, drop out of school, and become involved in the juvenile justice system. As Attorney General Holder has noted, “We’ve seen that severe discipline policies often increase the numbers of suspensions and expulsions without effectively making schools safer or creating better learning environments. And we’ve seen that the impacts of exclusionary policies are not felt equally in every segment of the population – with students of color and those with disabilities often receiving different and more severe punishments than their peers.”

In conjunction with the release of the guidance, we have provided schools with additional resources designed to support schools that are tackling these complex issues. You can find these resources on the school discipline guidance website, which you can access at: www.ed.gov/school-discipline. These resources provide tools and resources necessary to craft local solutions to enhance school safety and improve school discipline; as additional resources and information become available, you will find updates at this website.

Thank you again for sharing your viewpoint on this important topic.

Sincerely,



Catherine E. Lhamon
Assistant Secretary
Office for Civil Rights
U.S. Department of Education



Jocelyn Samuels
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice