

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