

Accurate and complete recordkeeping is an important obligation of each school as a condition of receiving federal funds, and is essential in the context of an OCR Title VI discipline investigation.⁷ Records must be kept in such a manner that Department personnel could review and analyze those records in the context of an investigation. Failure to maintain such records is itself a violation of Title VI's implementing regulation.

Question 4:

How should racial discrimination in school discipline be remedied?

Answer:

OCR may enter into a voluntary agreement with the school designed to bring the school into compliance with the law. The relief provided for in such an agreement with the school must be squarely tied to the violation found by OCR (or, in the context of a voluntary agreement reached prior to conclusion of OCR's investigation, the concerns or potential violations that OCR noted during the course of its investigation), and necessary to bring the school into compliance with Title VI.

Addressing instances of discrimination by a teacher or school official should lead to redress for the individual victim, and any other measures necessary to bring the recipient into compliance. Remedies may include correcting the record of the student who was treated differently, restoring any benefits specifically withheld due to the discriminatory discipline, or providing academic services that were not received by the student due to a discriminatory discipline decision. For instance, if the victim was deprived of a school-based scholarship or tuition waiver due to discriminatory disciplinary action, that scholarship should be restored, and any tuition charged as a result of the termination of the tuition waiver should be returned to the student.

It is not appropriate for OCR or a school to impose racial quotas or proportionality requirements for suspensions or other discipline sanctions as a remedy for discrimination.⁸

Note: The Department has determined that this Q&A is a significant guidance document under the Final Bulletin for Agency Good Guidance Practices of the Office of Management and Budget, 72 Fed. Reg. 3432 (Jan. 25, 2007). This document does not add requirements to applicable law. If you have questions or are interested in commenting on this document, please contact the Department of Education at ocr@ed.gov or 800-421-3481 (TDD: 800-877-8339).

⁷ See 34 C.F.R. § 100.6(b), which provides: "Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. "

⁸ For example, a federal appeals court struck down a provision that forbade a "school district to refer a higher percentage of minority students than of white students for discipline unless the district purges all 'subjective' criteria from its disciplinary code" because that constituted a forbidden racial quota—even though that school district had previously been determined to have committed racial discrimination. *People Who Care*, 111 F.3d at 538.