

U.S. Department of Justice Issues Guidance on School Disciplinary Practices

On January 8, 2014 the U.S. Department of Justice and U.S. Department of Education issued a joint Dear Colleague Letter (“DCL”) warning about the discriminatory administration of student discipline. The DCL is meant to provide guidance to schools to “administer student discipline in a manner that does not discriminate on the basis of race.” While the DCL focuses on race discrimination, it reminds schools that federal law prohibits discriminatory discipline based on other factors, including disability, sex and religion. As such, this DCL has implications on discipline taken by schools against any protected class.

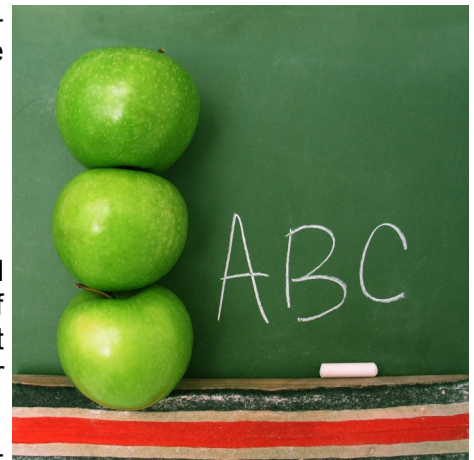
For more information about matters discussed in this issue, please contact any one of the KTJ School Law Attorneys.

What Steps Schools Should Consider

The DCL gives a strong indication that the Department of Education and Department of Justice are going to be ramping up their investigations of student discipline. Therefore, schools may want to revisit their current discipline rules and record keeping to avoid Department complaints or be prepared to properly address.

First, schools should make sure that the misconduct regulations are reasonably clear and properly define offense categories and create discipline penalties that rely on relatively objective criteria when possible. All school personnel should understand the discipline policy and how to administer discipline fairly and equitably, including providing any training which may be needed on how to apply subjective criteria when making disciplinary decisions.

Second, schools need to ensure they have accurate and comprehensive record keeping related to discipline. The DCL states that it will rely on statistical and quantitative data to help determine the impact of discipline policies and practices on particular groups of students. The DCL notifies school districts that it may request and consider the following evidence in an investigation:



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- Discipline data
- Information provided by schools through the CRDC
- Written and unwritten disciplinary policies and practices
- Copies of student discipline records and discipline referral forms
- School discipline data disaggregated by subgroup, offense and other relevant factors
- Referrals by administrators
- Interviews with the staff, parents and others

The DCL also recommends that school districts develop a policy requiring the regular evaluation of each school district's discipline policies and practices and other school-wide behavior management approaches to determine if they are affecting students of different racial and ethnic groups equally. A full list of the Department's recommendations and its examples of possible discriminatory practices can be found [here](#).



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