

**United States Department of Education**

**Office for Civil Rights  
Administrative Complaint**

May 20, 2025

United States Office of Civil Rights  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
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**VIA EMAIL**

To Whom It May Concern:

Defending Education brings this federal civil rights complaint against Fairfax County Public Schools (FCPS) pursuant to the U.S. Department of Education's Office for Civil Rights' discrimination complaint resolution procedures. FCPS has been discriminating based on race in programs or activities that receive federal financial assistance in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*, and the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

Defending Education is a nationwide, nonpartisan membership organization comprised of parents, students, and other concerned citizens. It brings this complaint as an interested third-party organization that opposes racial discrimination and political indoctrination in America's schools.

**I. FCPS implements a “racial equity” policy.**

Located in Fairfax County of Northern Virginia, FCPS is the ninth-largest school division in the United States with 199 schools and centers serving more than 183,000 students in prekindergarten through grade 12. *See* FCPS, *About Us*, [bit.ly/4deCauD](https://bit.ly/4deCauD). The FCPS bus fleet is one of the largest in the country, transporting nearly 130,000 students to school on more than 1,600 buses each day. *Id.* It has a \$3.7 billion budget funded primarily by Fairfax County, Virginia, with an average cost per student of \$19,795. *Id.*

Since 2017 and continuing today, FCPS has implemented and enforced an all-encompassing, county-wide policy of “racial equity” called “One Fairfax.” FCPS, *One Fairfax Policy*, [bit.ly/3EQqH7U](https://bit.ly/3EQqH7U). By “racial equity,” FCPS means “the development of

policies, practices and strategic investments” designed to eliminate “racial disparit[ies]” and guarantee equal “outcomes.” FCPS, *Equity and Cultural Responsiveness*, [bit.ly/433Ffj8](https://bit.ly/433Ffj8). The One Fairfax policy “commits [FCPS] to consider equity in decision-making and in the development and delivery of future policies, programs, and services.” FCPS, *One Fairfax Policy*, [bit.ly/3EQqH7U](https://bit.ly/3EQqH7U). FCPS trains its employees in “the use of equity tools” and requires “[a]ll organizations and departments” to advance racial equity by “conduct[ing] analysis, devis[ing] plans, set[ting] goals, and tak[ing] actions through specific practices, policies, and initiatives.” *See One Fairfax Policy* (Nov. 20, 2017), [bit.ly/4d2vDmC](https://bit.ly/4d2vDmC).

## **II. FCPS uses its policies to discriminate based on race.**

FCPS appears to have carried out this continuing policy in many discriminatory ways. For example, in 2020 the Fairfax County School Board “became consumed with transforming the racial composition of” Thomas Jefferson high school, one the nation’s best public schools. Pet. for Cert. at 2, *Coal. for TJ v. Fairfax Cty. Sch. Bd.*, 23-170 (S. Ct.), [bit.ly/4iN1bOR](https://bit.ly/4iN1bOR). Dismayed that Thomas Jefferson, which was comprised mostly of Asian students, “did ‘not reflect the racial composition in FCPS,’” the Board changed the school’s highly competitive, merit-based admissions system into a “holistic review” to change the school’s racial composition. *Coal. for TJ v. Fairfax Cty. Sch. Bd.*, 68 F.4th 864, 872-76 (4th Cir. 2023). That change was successful: Asian representation among the Thomas Jefferson student body has steadily decreased since the Board implemented its racially sensitive admissions policy. *Id.*; *see Student Statistics*, Thomas Jefferson High School (archived May 6, 2025), [perma.cc/CS7C-B33K](https://perma.cc/CS7C-B33K). This disturbing incident led the Attorney General of Virginia to investigate FCPS. *See Letter from Att’y Gen. Miyares to FCPS* (Jan. 4, 2023), [bit.ly/3Z2TGfs](https://bit.ly/3Z2TGfs).

FCPS’s ongoing One Fairfax policy appears to have birthed other discriminatory policies. For example, according to public reports, in October 2022 FCPS “signed a nine-month, \$455,000 contract with an ‘equity’ consultant, whose strategy plan for the Virginia school district promised ‘equal outcomes for every student, without exception.’” The Editors, *The Virginia Schools Scandal*, National Review (Jan. 19, 2023), [bit.ly/3Yw98ke](https://bit.ly/3Yw98ke); *see Defending Education, Fairfax County Public Schools Prioritizes Equal Outcomes over Academic Achievement* (Dec. 7, 2022), [bit.ly/42XrT1e](https://bit.ly/42XrT1e). Soon after, FCPS adopted its “Educational Equity Policy,” which “applies to all FCPS policies, programs, and practices” and requires “[d]ifferentiated distribution of resources and access to facilities” for students who are “underserved.” FCPS, *Educational Equity Policy*, [bit.ly/3GFYi4O](https://bit.ly/3GFYi4O). FCPS appears to define an “underserved” student as one who has a certain “‘race, sex, color, ethnicity, or national origin.’” *Id.* Indeed, “underserved” is commonly used as a DEI code word for differential treatment based on race or ethnicity. *See, e.g., JAMA Network, Inclusive Language for Reporting Demographic and Clinical Characteristics*, [bit.ly/3YZXtKn](https://bit.ly/3YZXtKn) (instructing authors to use the term “underserved” to

“avoid” “stigmatizing” terms like “minority”); *Duwall v. Novant Health, Inc.*, 95 F.4th 778, 788-91 (4th Cir. 2024) (terminology like “diversity and inclusion” and “reflect[ing] the communit[y]” can be evidence of racial discrimination).

FCPS likewise revamped its disciplinary policies and student code of conduct through a racially “equitable lens.” See Fairfax County Public Schools, *Students Rights & Responsibilities Grades K-12 2024-25*, 59, [perma.cc/P6DR-2X6E](https://perma.cc/P6DR-2X6E). The policy emphasizes that FCPS will pursue an “equitable implementation of discipline policy, regulations, and practices across all schools, educational programs, and *varying demographic categories*.” *Id.* at 70 (emphasis added). In fact, FCPS listed eliminating “discipline disproportionality” between students of various races as one of its “year one priorities” in its 2023-2030 Strategic Plan. Fairfax County Public Schools, *Excellence Equity & Opportunity 2023-30 Strategic Plan Baseline Goal 4 Report*, A-1, [bit.ly/43e8464](https://bit.ly/43e8464). FCPS adopted these changes after an “equity audit” commissioned by the school concluded that some racial and ethnic groups were “over-represented in discipline compared to their enrollment and other subgroups.” Dr. Edward Fergus, et al., *Equity Audit: Fairfax County Public Schools Discipline Practices and Outcomes*, 27 (June 2019), [bit.ly/439ZQvx](https://bit.ly/439ZQvx). But as the Seventh Circuit held in similar circumstances, attempts to racially balance disciplinary outcomes are invariably unlawful because they require “systematically overpunishing the innocent or systematically underpunishing the guilty” on the basis of race. *People Who Care v. Rockford Bd. of Educ., Sch. Dist. No. 205*, 111 F.3d 528, 538 (7th Cir. 1997); see also Exec. Order No. 14280, *Reinstating Common Sense School Discipline Policies*, 90 Fed. Reg. 17533 (Apr. 23, 2025) (directing the Secretary to “take appropriate action” under Title VI to eliminate policies based on “discriminatory equity ideology”).

While FCPS’s discriminatory policies have been in effect, public reports have documented repeated incidents of racially discriminatory behavior:

- FCPS has instructed teachers in “equitable grading,” which appears designed to skew grading based on racial considerations. See Defending Education, *Fairfax County Public Schools Provides Teachers with Training on “Grading for Equity”; Explains That Parents Asking for Data Is “A Lack of Willingness to Accept the Narrative in the Numbers”* (May 31, 2023), [bit.ly/3EEeV0o](https://bit.ly/3EEeV0o).
- FCPS has injected racially divisive and demeaning content into the curriculum: encouraging students to feel “guilty” about their race, showing videos that depict white students as “mosquitos ... taking bites out of people of color,” and teaching an “Oppression Matrix” that elevates some races over others in a hierarchy of racial struggle. See Stephanie Lundquist-Arora, *Fairfax Public Schools Violate Executive Orders by Hiding ‘White Guilt’*

*Lesson Plans from Parents* (Mar. 23, 2023), [bit.ly/3Z7LGtF](https://bit.ly/3Z7LGtF); Stephanie Lundquist-Arora, *Public Schools Are Avoiding CRT Ban with Trojan Horse Of ‘Social Emotional Learning’*, *The Federalist* (Feb. 6, 2023), [bit.ly/4325QGv](https://bit.ly/4325QGv); Defending Education, *Black Lives Matter and Critical Race Theory Taught at America’s No. 1 High School* (Apr. 20, 2021), [bit.ly/43hCANl](https://bit.ly/43hCANl).

- Despite an executive order issued by Governor Youngkin forbidding public schools in Virginia from teaching “inherently divisive concepts” about race, FCPS has persisted in these degrading classroom exercises. Students in an English class at one FCPS high school, for instance, were required to play “privilege bingo,” which listed being “white” as a sign that a student was “privileged.” Jordan Boyd, *In Defiance Of Youngkin, Fairfax Public School Demands High Schoolers Participate In ‘Privilege Bingo’*, (Jan. 19, 2022), [bit.ly/4lZadep](https://bit.ly/4lZadep). FCPS initially defended this blatant discrimination—in an email responding to concerned parents, the school division’s assistant superintendent described the exercise as part of “an approved FCPS English Curriculum lesson” that forced students to “think critically” about “any perceived privilege they think they may have.” Luke Rosiak, *Fairfax Schools Tell Children of Military Members That They Have ‘Privilege’*, [perma.cc/SN7Z-TV34](https://perma.cc/SN7Z-TV34). Only after the incident became the subject of media reports did FCPS apologize and claim to have “revised” the lesson. Boyd, *supra*.
- FCPS faculty have treated parents of students in racially divisive ways. *See* Defending Education, *Principal at Thomas Jefferson High School Wants Parents to Check Their ‘Privilege’* (Apr. 24, 2021), [bit.ly/3EI52yK](https://bit.ly/3EI52yK).
- FCPS appears to have enlisted students to participate in its divisive policies through its Student Equity Ambassador Leaders (SEALs) program. According to FCPS, SEALs “provides a platform for student voices and a better understanding of diversity, equity, and inclusion.” Fairfax County Public Schools, *Equity and Cultural Responsiveness*, [perma.cc/84E4-3662](https://perma.cc/84E4-3662). The students in the program assist FCPS administrators in “foster[ing] a school culture that sees and supports racial, linguistic, and cultural identities” by “shar[ing] the stories of marginalized students” with FCPS staff. *Id.*
- The FCPS administration also appears to have implemented racial affirmative action in its hiring process. *See* One Fairfax Policy (Nov. 20, 2017), [bit.ly/4d2vDmC](https://bit.ly/4d2vDmC) (committing to “promote equity” through “intentional, focused recruitment efforts that bolster a diverse applicant pool,” as well as “hiring and evaluation practices, and processes for employee feedback, to achieve and preserve a culture of equity”).

- FCPS maintains and actively promotes racial “affinity groups” that appear to be reserved for educators of some races and ethnicities while excluding teachers from other racial or ethnic backgrounds. *See, e.g.,* Fairfax County Public Schools, *GBSI – Associations*, [perma.cc/6QBR-4UFT](https://perma.cc/6QBR-4UFT) (“FCPS is proud to offer affinity groups for Asian, Black, Latinx, Middle Eastern, and LGBTQIA+ Educators.”). The school division bills the affinity groups as “safe space[s]” where “FCPS educators with similar identities and backgrounds” can associate with one another. *Id.*

FCPS’s Superintendent has described the school division’s racially-focused “equity commitments” as “both central and intentional in [its] work.” Michelle C. Reid, *Superintendent’s Weekly Reflections*, (July 1, 2023), [perma.cc/Z99P-RYEK](https://perma.cc/Z99P-RYEK). It is perhaps unsurprising, then, that FCPS’s continuing commitment to “racial equity” remains as strong as ever. This year, FCPS allocated millions of dollars to pay DEI staff to implement its racial equity policies. *See* Defending Education, *Fairfax County Public Schools Spends More Than \$5.76 Million on DEI Budget* (Jan. 27, 2025), [bit.ly/3ROCO8r](https://bit.ly/3ROCO8r). And earlier this year, FCPS’s Superintendent made clear that FCPS would not back down from its DEI programs. *See* Defending Education, *Fairfax County Public Schools Superintendent Sends Email to Staff Doubling Down on DEI* (Feb. 23, 2025), [bit.ly/44YVdH7](https://bit.ly/44YVdH7). More recently, on April 24, 2025, FCPS Superintendent Michelle Reid publicly defied this Department’s letter asking the school division to certify its compliance with Title VI. *See* Angela Woolsey, *Report: FCPS Affirms Commitment to Diversity in Response to Federal Funding Threat*, FFX Now, (April 30, 2025), [perma.cc/EYM3-6AXB](https://perma.cc/EYM3-6AXB). The radical nature of FCPS’s policies is underscored by the fact that it was just “one of two Virginia school divisions that reportedly declined to sign [the] form committing it to complying with federal anti-discrimination laws and [the] U.S. Supreme Court’s ruling” in *SFFA v. Harvard*. *Id.*; *see* 600 U.S. 181 (2023).

### **III. FCPS’s continuing racial equity policies likely violate Title VI and the Equal Protection Clause.**

The Department has a duty to investigate complaints of “possible” discrimination “on the ground of race, color, or national origin” in violation of Title VI and the Equal Protection Clause. 34 C.F.R. §§100.3, 100.7; *see* 42 U.S.C. §2000d; U.S. Const. Am. XIV. Prohibited discrimination includes “separate treatment in any matter,” restricting “in any way ... the enjoyment of any advantage or privilege enjoyed by others,” and using “criteria or methods of administration which have the effect of subjecting individuals to discrimination.” 34 C.F.R. §100.3(b). It also includes the creation of or failure to address a racially hostile environment. *See, e.g., Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1033-34 (9th Cir. 1998). And, of course, it includes racial preferences in employment. 34 C.F.R. §100.3(c). In short, any action or policy that is not “color-blind” violates the law. *Harvard*, 600 U.S. at 198 n.2, 230. And a discriminatory policy is a




continuing violation that remains while the policy is in effect. *See, e.g., Sewell v. Monroe City Sch. Bd.*, 974 F.3d 577, 583-84 (5th Cir. 2020); *Doe v. Mercy Cath. Med. Ctr.*, 850 F.3d 545, 566 (3d Cir. 2017); *Sharpe v. Cureton*, 319 F.3d 259, 268 (6th Cir. 2003).

Based on FCPS’s statements and public reports about its actions discussed above, it appears that FCPS has adopted, implemented, and enforced racially discriminatory policies since as early as 2017, and is maintaining those policies through the present day. Among other things, FCPS—pursuant to its “One Fairfax” and “Educational Equity” policies—appears to be treating students differently based on race in a variety of ways, including in admissions, classroom instruction, grading, and the creation of (or failure to eliminate) racially charged environments in classrooms or on campus that unfairly target and burden students of non-favored racial groups. Additionally, FCPS—again, pursuant to these ongoing policies—appears to have a policy of racial preferences in its recruitment and hiring. FCPS’s all-encompassing “racial equity” policies have made it “color-conscious” in every aspect of education and school administration. That is incompatible with the “color-blind” mandate of Title VI and the Equal Protection Clause. *See Harvard*, 600 U.S. at 198 n.2, 230.

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For these reasons, Defending Education respectfully asks OCR to open a civil-rights investigation into FCPS for potential violations of Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause.

Sincerely,



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Nicole Neily  
President  
Defending Education