



## U.S. Department of Justice

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### United States Attorney's Office Middle District of Florida

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### Civil Rights Division Educational Opportunities Section

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TCN  
DJ 169-17M-11

March 5, 2024

### ***Via Electronic Mail Only***

Superintendent Kurt S. Browning  
Pasco County Schools  
7227 Land O' Lakes Blvd.  
Land O' Lakes, FL 34638  
ksbsos@pasco.k12.fl.us.

### **Re: Pasco County Schools Investigation**

Dear Superintendent Browning:

We write regarding the U.S. Department of Justice's (the "Department") investigation into discrimination by the Pasco County School District (the "District") against students with disabilities in school discipline, threat assessment practices, and referrals to law enforcement. The Civil Rights Division's Educational Opportunities Section and the United States Attorney's Office for the Middle District of Florida conducted the investigation jointly under Title II of the Americans with Disabilities Act ("Title II") as amended, 42 U.S.C. § 12132, and the Department's implementing regulations, 28 C.F.R. pt. 35, which prohibit disability discrimination by public entities. The Department appreciates the District's cooperation throughout our investigation. Specifically, we appreciate that District staff worked diligently to respond to information requests, participated in meetings with us, and provided access to the District's schools, so we could speak directly with a wide array of District personnel about each school's use of discipline and threat assessments and its reliance on law enforcement to address student behavior.

The Department's investigation focused on the 2018-2019 through 2021-2022 school years and reviewed practices across the District's 85 schools and central office. In total, the

District produced over 20,000 documents, which included: District and school-level policies on discipline, support for students with disabilities affecting their behavior, threat assessments, and the use of law enforcement; training content and attendance records; and discipline and law enforcement referral data. The Department also reviewed: individual student records for hundreds of students with disabilities, including Individualized Education Plans, Functional Behavior Assessments, and Behavior Intervention Plans; more than 10,000 emails between the Pasco County Sheriff's Office ("Sheriff's Office") and District personnel; more than 850 additional documents from the Sheriff's Office; Florida state statutes, regulations, and guidance on threat assessments; and the Florida Mental Health Act, also known as the "Baker Act." The Department also interviewed numerous employees and stakeholders, including: District-level personnel, school administrators, counselors, teachers, School Safety Guards ("SSGs"), current and former School Resource Officers ("SROs"), and the parents and guardians of District students with disabilities affected by exclusionary discipline, threat assessments, or referrals to law enforcement.

The Department's investigation concluded the District engaged in disability discrimination under Title II. In particular, the Department found the District routinely relied on suspensions and referrals to law enforcement to respond to students' disability-related behaviors that could have been addressed through proper behavioral interventions and supports. Instead of implementing individualized behavior intervention plans to address underlying disability-related behaviors, the District relied on boilerplate documents that were not tailored to each student's specific disability-related needs. The District also failed to ensure that schools implemented Behavior Intervention Plans with fidelity, and it did not collect the data necessary to track student progress under their plans.

For example, an elementary school principal suspended a kindergartener with an emotional behavioral disability four times for a total of seven days over approximately a two-month period. The Department found no evidence that the District took any steps to help address the student's behavioral concerns. Similarly, a sixth grader with Autism Spectrum Disorder received three sequential incidents of exclusionary discipline in less than a month for disability-related behaviors. While that student had a behavior plan that enabled him to have breaks from work and the opportunity to use noise-cancelling headphones, school staff did not follow this plan and, instead, excluded the student from class by suspending him based on his disability. The Department's investigation identified numerous examples of the District responding to disability manifestations punitively instead of through evidence-based behavioral interventions.

Nor did the District conduct meaningful reviews of crisis events for students with disabilities, such as repeated suspensions or referrals to law enforcement for arrests or initiating the process for an involuntary admission into a mental health facility under Florida's Baker Act. Thus, the District had no process to determine why the crisis events occurred and how they could be prevented in the future to ensure that students with disabilities participated equally in school. And while District-level and school-based administrators had access to disciplinary trend data for students with disabilities, they did not regularly review it, which would have alerted them to significant District-wide problems with behavioral interventions and supports.

Additionally, school administrators issuing discipline did not have adequate guidance or

training on how to consider a student's disability and make reasonable modifications to the District's policies and procedures, as required by Title II, when disciplining students for disability-related behaviors. Consequently, students with disabilities received suspensions at significantly higher rates than students without disabilities across all grade levels, with particularly pronounced disparities for students with Emotional and Behavioral Disorders and for students at several of the District's elementary schools.

Similarly, the District's lack of any policies or training on when to call law enforcement and how to address disability-related behaviors led to unfettered discretion for school staff to call SSGs and SROs. Further, the District did not require that law enforcement interactions be documented, and therefore, the District had no reliable data or process through which it could quantify law enforcement engagements and monitor whether the use of law enforcement in response to behavior concerns involving students with disabilities was proper. The Department found that SSGs and SROs often responded to behavioral incidents involving students with disabilities, even when they did not involve an imminent health or safety threat and even when non-law enforcement staff had not tried de-escalation, as required by state law. Additionally, District staff subjected students with disabilities to threat assessments without accounting for their disabilities, resulting in some students being taken into custody for involuntary psychiatric treatment under the Baker Act for manifestations of their disabilities. Had the District better equipped its staff to properly implement supports and services for students with disabilities affecting their behavior, the District could have mitigated such crisis incidents from occurring or recurring.

Throughout the investigation, the District expressed its commitment to improving its practices and making positive changes for its students with disabilities. The Department recognizes and supports the District's desire to implement such changes. Enclosed is a fully executed settlement agreement to remedy the non-compliance with Title II that the Department identified. The Department appreciates the District's and its counsel's assistance throughout the investigation and commends the District for its openness to better serve its students with disabilities through this comprehensive settlement agreement. The Department looks forward to working with the District to ensure its discipline and threat assessment practices and use of law enforcement comply with Title II.<sup>1</sup> If the District has any questions about this letter or the attached agreement, please do not hesitate to contact Megan Abbot (Megan.Abbot@usdoj.gov) or Ajay Saini (Ajay.Saini@usdoj.gov) with the Civil Rights Division or Tiffany Cummins Nick (Tiffany.Nick@usdoj.gov) with the U.S. Attorney's Office.

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<sup>1</sup> As you know, the District is subject to an ongoing school desegregation order in *United States v. Pasco Cnty. Sch. Dist.*, C.A. No. 70-298-CIV-T (M.D. Fla.). In addition to monitoring compliance with the settlement agreement resolving the Department's Title II investigation, the Department plans to continue monitoring the District's compliance with its desegregation obligations in a range of areas, including student discipline.

Sincerely,

Shaheena A. Simons  
Chief



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Navin Pant, Deputy Chief  
Megan Abbot, Trial Attorney  
Ajay Saini, Trial Attorney  
Educational Opportunities Section

Roger B. Handberg  
United States Attorney



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Tiffany Cummins Nick  
Assistant U.S. Attorney  
Middle District of Florida

cc: James P. Greene, Esq., General Counsel to the Superintendent, [jgreene@pasco.k12.fl.us](mailto:jgreene@pasco.k12.fl.us)