

May 14, 2012

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U.S. Department of Education
Office for Civil Rights
61 Forsyth Street, S.W., Suite 19T10
Atlanta, Georgia 30303-8927

Re: S.D., S.S., E.A., and M.C., on behalf of themselves and all others similarly situated v. Suwannee County (FL) Schools

To Whom It May Concern:

Please consider this letter a Complaint filed against Suwannee County Schools (“SCS” or “District”) on behalf of African American students who have been or will be subjected to discriminatory disciplinary removal and disproportionate arrests while attending schools within the District.¹ Complainants allege that SCS has discriminated against them on the basis of race by engaging in practices that have the effect of discrimination in violation of Title VI of the Civil Rights Act of 1964 (“Title VI” or “Act”) and its implementing regulations. 42 U.S.C. §2000d; 34 C.F.R. part 100. The Complainants file this Complaint on behalf of themselves and all other similarly situated students.

Statement of Jurisdiction

Suwannee County Schools is a recipient of federal funding and is therefore subject to the anti-discrimination prohibitions of Title VI. Complainants allege that the discriminatory acts complained of herein occurred within 180 days of the filing of this Complaint or are of an ongoing and continuing nature. The Office for Civil Rights has personal and subject matter jurisdiction over this matter and the Complaint is timely filed.

¹ The contact information for the District is as follows: Suwannee County School Board, 702 2nd Street, N.W., Live Oak, Florida 32064, T. 386-647-4600, F. 386-364-2635.

Statutory Framework

1. Section 601 of Title VI of the Civil Rights Act provides that no person 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.” 42 U.S.C. §2000d. This section of the Act is applied to the District through 34 C.F.R. § 100.1

2. Section 602 of the Act authorizes federal agencies, in this case the United States Department of Education, “to effectuate the provisions of [the Act]...by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the [Act].” 42 U.S.C. §2000d -1.

3. It is permissible for these regulations to proscribe actions that the statute itself does not specifically prohibit. *Alexander v. Choate*, 469 U.S. 287, 292-94 (1985); *Georgia State Conferences of Branches of NAACP v. Ga.*, 775 F.2d 1403, 1417 (11th Cir. 1985) (court correctly applied disparate impact tests in making its determination under section 601 of Title VI).

4. The Department of Education’s rules under Title VI bar not only intentional acts, but also unintentional disparate-impact discrimination. 34 C.F.R. §100.3(b)(2) (recipients of Federal financial assistance may not “utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin...”).

5. As set forth below, the District, through its use of vague and ambiguous disciplinary procedures, punishes African American students more harshly and more frequently than white students. Disciplinary policies are so vague they permit a disparate impact. Data shows that this disparate impact is significant. Administrative discretion to impose “disciplinary interventions” is used to remove African American children from their existing educational placements,

temporarily or permanently, have greater contact with law enforcement and subject these students to corporal punishment at grossly disproportionate rates. By implementing vague and ambiguous disciplinary procedures, SCS maintains an educational environment that is hostile to African American children and deprives those students of equal access to educational benefits and opportunities. These procedures are not only in direct violation of federal law but also the District's own vision and mission statements.² The actions and inactions of SCS, as described in this Complaint, disparately impact African American students in violation of the regulations promulgated pursuant to Title VI.

SCS's Organization Structure

6. SCS maintains seven (7) traditional schools and one alternative school named Suwannee-Hamilton Technical Center, which serves 9th – 12th graders who are not otherwise enrolled in school as well as adults. SCS has two feeder patterns: (1) the Branford feeder pattern which is primarily for white students living in the south end of Suwannee county and (2) the Suwannee feeder pattern which serves the white, African American and Hispanic community in Live Oak, Florida. The Branford (white students) feeder pattern includes two schools: Branford Elementary School (pre-kindergarten through the 5th grade) and Branford High School (6th grade through 12th grade). The Suwannee (white/students of color) feeder pattern includes five schools: Suwannee Primary School (pre-kindergarten through 1st grade), Suwannee Elementary School (2nd and 3rd grade), Suwannee Intermediate School (4th and 5th grade), Suwannee Middle School (6th – 8th grade) and Suwannee High School (9th through 12th grade).

² “Vision Statement: Suwannee County schools will meet the highest academic and social standards as set by the State of Florida and the federal government. Mission Statement: Suwannee County schools will educate all students in a safe and supportive learning environment that will develop life-long learners and productive citizens.” <http://suwannee.schooldesk.net/>. These statements are found on the school board's website as well as every individual District school's website.

SCS' Disproportionate Florida Graduation Rates

7. In the 2010-2011 school year, 74.4% of the white students attending Branford High School graduated, compared to Suwannee High School where only 57.1% of African American students graduated.³ Overall, the District graduated 71.6% of white students versus only 57.6% of black students, resulting in a 14% race-based gap in outcomes within the same cohort. *See* Exhibit 1. Between 2006-07 and 2010-11, there has been a 12% decrease in the percentage of African American students graduating from Suwannee High schools. *Id.*

SCS's Disciplinary Policies

8. The District maintains a written system of disciplinary policies and procedures that govern student conduct within its schools. The system is memorialized in several different documents. These include the following: (1) Suwannee County School Board Policy Manual ("Board Policy"),⁴ (2) The Student Conduct and Discipline Code ("Code"),⁵ and (3) The Code of Student Conduct for Elementary, Middle and High School.⁶ Each school maintains its own individual Student Handbook. The rules differ slightly from school to school. Each individual school also maintains its own website which contains the rules and policies for that individual school.⁷

³ The cohort group at Suwannee High School was 54. Of those 54 students only 31 graduated in the 2010-2011 school year. *See* Exhibit 9 (comparison of Suwannee County to the rest of the state regarding drop-out rates between 2003-2010).

⁴ Portions of the policy manual are attached hereto as Exhibit 2. The entire manual can be found at www.suwannee.schooldesk.net.

⁵ 2011-2012 Student Conduct and Discipline Code attached hereto as Exhibit 3.

⁶ A sample from Suwannee Middle School for 2011-2012 is attached hereto as Exhibit 4.

⁷ Students receive a copy of the school handbook at the start of the school year and while rules are maintained on line, upon information and belief, many students within the District do not have access to computers or the internet in their homes.

9. The Superintendent is ultimately responsible for the administration of the entire school system as provided by law, state board of education regulations, and rules and policies of the School Board. All members of the instructional and non-instructional staff are under the general supervision of and subject to the direction of the Superintendent. Board Policy 3.01.

10. The Superintendent or his/her designee is responsible for reviewing all recommendations for expulsion and providing recommendations regarding the same to the Board. Board Policy 5.12.

11. The principal is assigned direct and primary responsibility for his or her school and serves the administrative and supervisory head of that school. Board Policy 3.02.

12. The principal or the principal's designated representative holds the ultimate authority over disciplinary matters during the time students are transported to or from school, during the time students are attending school or school sponsored activities, and during the time students are on School Board premises for school attendance or authorized activities. Board Policy 5.10.

13. Upon information and belief, each principal delegates some of his or her power to a dean of students known informally as the "dean of discipline." The amount and type of authority delegated and the degree of accountability varies widely from school to school.

14. In addition, a School Resource Officer ("SRO") is assigned to each school. The SRO is a member of the Suwannee Sherriff's Department, and upon information and belief their salaries are paid in part by the District and in part by the Suwannee Sherriff's Department. While on school campus, the officers dress in uniform, are armed and drive marked police units. The amount of involvement that the SRO has in disciplinary matters varies widely from school to school and principal to principal.

15. The Student Conduct and Discipline Code ("Code") is the primary vehicle for

implementing school discipline policies in the school system. *See* Exhibit 3.

16. The Code sets out four (4) levels of infractions and a set of disciplinary interventions for each level. A complete list of infractions and disciplinary interventions is found in the Code at Section IV: Disciplinary Interventions, attached hereto in Exhibit 3 at 17 – 29.

17. The types of offenses within each level vary widely. For example cheating and dress code violations are Level I infractions, while possession of contraband or combustibles, missed detention, and disrespect are all classified as Level II offenses. Exhibit 3 at 20-22. Examples of Level III infractions include alcohol violations as well as bullying, while Level IV offenses include not only possession of firearms and sexual battery but also sit ins/ walk outs/ protests by students. Exhibit 3 at 22-26.

18. Each infraction level contains its own disciplinary interventions. Level I interventions include anything from parent contact to a verbal warning to corporal punishment. Exhibit 3 at 21. Level II interventions include conferencing with a student or parent to contact with law enforcement intervention and in school or out-of-school suspensions. Exhibit 3 at 22. Level I and II contain a catch-all phrase, “Other Appropriate Interventions (as determined by local administration).” Level III interventions include not only conferences with the student or a behavior contract but also alternative placement and expulsion. Exhibit 3 at 24. Level IV interventions include 10 day suspensions, alternative placement or expulsion. Exhibit 3 at 26.

19. There are no guidelines or standard set of practices that govern what intervention is utilized for each infraction. The person implementing the discipline has wide, unfettered discretion to determine the level of infraction and the type of intervention to impose. This unchecked discretion allows for harsher punishments for African American students. This is evidenced by the data which shows that although African American students constituted only

14% of the school population 2010-2011 school year, they accounted for 31% of students receiving out-of-school suspensions, 24% of students receiving in-school suspensions, and 24% of students subjected to corporal punishment. *See* Exhibit 6.

Representative Complainants' Statement of Facts

Complainant S.D.

20. Complainant S.D. is a 10 year old, African American student who currently attends Suwannee Elementary School and is in the 3rd grade⁸. S.D. resides with his mother in Live Oak, Florida.

21. On February 8, 2012, S.D. was subjected to a one day out-of-school suspension for defiance of authority” and “disrespect.”

22. The school district alleged that S.D. touched another student’s bottom during Physical Education class. S.D. was physically removed from the class by the School Resource Officer, Officer Willis.

23. Per school board policy,⁹ S.D. was not provided any homework or the ability to make up the work he missed while suspended.

24. Each day of suspension is considered an unexcused absence. Exhibit 3 at 9, Section III, Attendance Rules. More than 10 absences, whether excused or unexcused, in an 18 calendar week semester in elementary and middle school, or more than 5 absences, whether excused or unexcused, per class period in any 9 calendar week semester in high school is considered to be excessive. *Id.* Excessive absences can result in a finding of truancy which can

⁸ S.D. was retained once and repeated Kindergarten.

⁹ The Code provides that Elementary and Middle school students, “**will not be allowed to make up the work for credit.**” (emphasis in the original). High school students can make up work for credit on the first suspension only. This policy applies to in-school and out-of-school suspensions. *See* Exhibit 3 pg. 19.

result in an arrest for the parents, suspension of a driver's license or learner's permit for the student and a withdrawal of public assistance program funding for the family. *Id.* at 10.

25. Before S.D. was allowed to return to school, his mother was required to participate in a conference with the school to discuss "behavior issues."

26. The parent conference was held on February 9, 2012. At the conference, the school recommended an alternative placement in the "Opportunity School."¹⁰ S.D.'s mother objected to a placement in the Opportunity School.¹¹

27. During this school year, S.D. has been written up or referred to the office 25 times for discipline issues.¹² Most of the incidents involve allegations of "disrespect" and Level I or Level II offenses. It is reported that he is sent to the office at least once per week. S.D.'s mother

¹⁰ The administration can place students into the Opportunity School as an alternative disciplinary placement, when the student meets the criteria for such an involuntary transfer. Exhibit 3 at 18, Alternative Disciplinary Placement definition. However, students can be placed into the Opportunity School with consent of the parents even if they would not qualify for an involuntary disciplinary placement by the administration.

¹¹ S.D. went from As and Bs to Fs. Despite this drop in grades the District did not recommend any interventions or evaluations. The mother repeatedly asked that S.D. be evaluated by the school. These requests were ignored or denied. S.D. was promoted from year to year. The District is aware that S.D. is on medication for ADHD (attention deficit hyperactivity disorder), but never initiated eligibility determination for special education services or for a 504 plan to address his individual needs. No behavior evaluation was ever conducted and instead the school's response is to ignore a known disability, refuse to provide any services and instead remove S.D. from the regular education program with the intent to eventually place him into an alternative setting at the Opportunity School. S.D.'s mother objected to the alternative placement and asked, this time in writing, that S.D. be evaluated for special education eligibility and services. Upon information and belief, after this written request was made for an IEP, a meeting was held in February 2012 and all requests for evaluations and eligibility for ESE services were denied.

¹² S.D. was cleared of two incidents but this is not reflected in the records. S.D. was suspended for one day from the bus in January 2012 for allegedly not getting along with others on the bus and using profanity. However, the bus is equipped with a video camera that records everything that occurs on the bus. When the tapes were reviewed it showed S.D. dancing with his cousin on the bus. During a second incident, S.D. was accused of stealing another student's money. However, the student found the money. S.D. had not taken the other student's money.

recently found out that for most of the year S.D. has been removed from P.E. class as a punishment.

28. S.D. continues to be removed from class on an almost daily basis.

Complainant S.S.

29. Complainant S.S. is a seventeen year old, African American student who currently attends Suwannee High School and is in the 11th grade. S.S. resides with her family in Live Oak, Florida.

30. On Thursday, February 23, 2012, S.S. was walking to the cafeteria for lunch when she heard other students talking about two girls who were threatening to “mess with her” or beat her up. Cautiously, S.S. entered the cafeteria, had lunch and then went to the Gazebo courtyard outside the cafeteria and sat on the “brick”¹³ by herself waiting for the bell to ring to return to class. Suddenly, and without any warning, two girls began to yell at S.S. and approached her in a threatening manner stating that they were “going to get her.”

31. Mr. Malcolm Hines, Dean of Students, known to the students as the “dean of discipline” intervened. Mr. Hines gently touched S.S. on the shoulder in a calming manner and proceeded to step between S.S. and a girl who was aggressively approaching S.S. The School Resource Officer (“SRO”), Deputy Sherriff David Crutchfield¹⁴ arrived in the court yard and witnessed the scene. According to SRO Crutchfield’s use of force report, SRO Crutchfield admits to grabbing S.S. Mr. Hines was attempting to control the other student, who was resisting in order to continue her attack on S.S. Mr. Hines was unable to contain the student who again

¹³ The “Brick” is a brick wall located outside the cafeteria in the courtyard which the students call the Gazebo. The brick wall is wide enough to sit or stand on. The students gather in this area before, during, and after school.

¹⁴ SRO Crutchfield is an employee of Suwannee County Sherriff’s department but he is permanently assigned to Suwannee High School. He drives a marked unit and is in full uniform and armed when on duty at the school.

started moving towards S.S. According to SRO Crutchfield's report, S.S. took off her shoes to defend herself and SRO Crutchfield took out his Taser gun in an attempt to stop the other student from continuing to come after S.S. According to the use of force report, in the commotion he heard a pop and saw that his Taser gun had gone off and struck S.S. The report states that S.S. was on the ground crying and the Taser gun was cycling and had to be manually turned off. The other student was still coming after S.S. and had to be blocked in a hallway by two male administrators.

32. According to S.S., when SRO Crutchfield released her she began to move away from the advancing student and towards the wall of the cafeteria. With her back turned away from the Officer, she was without warning hit with two prongs of a Taser gun and immediately fell to the ground shaking with a burning, painful sensation running throughout her body. She was unable to move and was in the worst pain she had ever felt in her life.

33. S.S. was taken to the school nurse who cleaned her wounds and took pictures of the Taser burns and puncture wounds which were bleeding. While in the nurse's office, SRO Crutchfield apologized to S.S., stating that he did not mean to Tase her.

34. Although clearly the victim of the attack, the school determined that S.S. would face punishment over the incident. S.S. was told that her mother would be contacted to discuss punishment. S.S. stayed home from school for three (3) days believing she had been suspended. The school never contacted the mother. During those three days, S.S. was provided with no homework and no meaningful opportunity to make up the work she had missed upon her return. School records reflect three unexcused absences, but no record of a suspension.

35. S.S. has permanent scars where the Taser prongs entered her body and has never felt the

same since the incident. She is nervous, jumpy, paranoid and fearful.¹⁵

36. The school has done nothing to protect S.S. from the other student nor have they provided S.S. with any counseling opportunities. She is afraid of the other student at school and is afraid of SRO Crutchfield. S.S.'s grades and motivation to stay in school have suffered. S.S. does not feel safe in school and wants to enter an alternative program at the Opportunity School to finish out her high school education or receive a GED in lieu of a regular diploma.

37. Prior to this incident, S.S. had no history of disciplinary infractions or suspensions at Suwannee High School.

Complainants E.C.A. and M.C.

38. Complainant E.C.A. is an eighteen year old African American student who resides with his family in Live Oak, Florida.

39. M.C. is a 17 year old African American student and E.C.A.'s younger brother.

40. E.C.A. was in 11th grade and M.C. was in 10th grade at Suwannee High School¹⁶ before they were suspended for 10 days from school on March 1, 2012 for "defiance of authority." Both have remained out of school to date.

41. The boys state that they arrived late to school on March 1, 2012, and as they were walking through the cafeteria and Gazebo courtyard, a group of boys known as the "Black Team" threatened M.C. The Black Team had been attempting to recruit M.C., but M.C. had refused to join their organization. M.C. became upset by the threats and verbally responded. No physical contact was ever made or attempted.

¹⁵ After this incident the school offered no counseling and the family lacks the resources to have S.S. evaluated or treated for Post-Traumatic Stress Disorder (PTSD) which the mother suspects S.S. may be suffering from. The District does have counseling services for victims, families and even perpetrators of bullying. See Board Policy 5.101(IX). The District also has a comprehensive Wellness program that fails to contain a mental health component. Board Policy 2.20.

¹⁶ E.C.A. was retained twice and M.C. was retained once in elementary school.

42. The boys stated that they went to their first class when the bell rang. M.C. was stopped by Mr. Hines and sent to the office. E.C.A. was allowed to go to his first class, math class and took a quiz. When E.C.A. finished the quiz, he asked permission to check on his brother, M.C., in the office. His math teacher gave him permission to go to the office. Once at the office, E.C.A. was arrested.

43. The school alleges that M.C. and E.C.A. were defiant and disrespectful and “uncontrollable” and ultimately responsible for inciting a riot. Both students were arrested for inciting a riot.

44. The parents were not notified about the incident or the arrests and only found out through a posting on a social network site - Facebook.

45. The brothers were transported in marked police units to the Suwannee County jail. Because he was 18, E.C.A. was processed as an adult. He spent the night in jail and was seen by a judge in the morning who granted a release with a bond paid by the family. M.C. was processed as a juvenile and released to his mother that same afternoon. Had the family not arrived at the county jail to pick him up, M.C. would have been transported to the juvenile processing unit in Gainesville, over 65 miles away. Both students are being criminally prosecuted for inciting a riot and felony criminal mischief. Both have plead not guilty and the criminal charges are currently open and under investigation.

46. On March 6, 2012, the principal of Suwannee High School, Tom Roush, recommended that E.C.A. and M.C. be expelled. On March 20, 2012, Superintendent Jerry A. Scarborough made a recommendation to the school board that E.C.A. and M.C. be expelled for “inciting a

riot.” On April 11, 2012¹⁷, an “informal” expulsion hearing¹⁸ was held before the school board and the brothers were ultimately suspended for the remainder of this school year and next school year.

47. On October 19, 2011, E.C.A. was subjected to corporal punishment for skipping class.¹⁹ M.C. was also subjected to corporal punishment on November 7, 2011 for insubordination and defiance for not getting his work done in class.²⁰ On December 8, 2011, M.C. received two days of in school suspension for skipping class and on January 4, 2012, M.C. was written up for insubordination and defiance for accusing his teacher of racial inequality. The parents were not contacted but M.C. was involved in a conference with the administration wherein M.C. asked for additional help in his academic classes. Upon information and belief no additional help was ever provided.

48. Pursuant to school board policy, since suspended, the brothers have had no access to any education. *See Exhibit 3 pg. 19.* They were not provided with any work to do at home nor given any opportunities to keep up with their school work at home. *Id.*

¹⁷ All requests to postpone or delay the expulsion hearing, pending the outcome of the criminal investigation, were denied. All parental requests for records to prepare for this hearing were denied.

¹⁸ Although the family is told the expulsion hearing would be informal, the expulsion hearing was held before all the members of the school board and the superintendent. The school board had two attorneys present. The criminal defense attorneys were told they could not be present for this hearing. The school presented witnesses, written statements and photographic evidence, none of which was provided to the family prior to the hearing. The witnesses testified before the Board and were questioned by the school board attorneys. Interestingly, no statements from any students were provided to the board. The brothers were “called to the stand,” placed under oath and questioned by the district’s attorneys outside of the presence of their own counsel. The District did not provide any admonition alerting the students that their statements could be used against them in the criminal case.

¹⁹ E.C.A. was given 3 “swats” by Mr. Hines, the dean of students. It was witnessed by J. Jackson. The District authorizes corporal punishment pursuant to Board Policy 5.1001 and Code at pg 18, definition of Corporal Punishment. E.C.A. was paddled previously in 2010 for “defiance.” E.C.A. was subjected to 3 “licks” and two days of in school suspension for being “defiant” to his teacher.

²⁰ M.C. was given 3 “swats” by M. Hines and this was witnessed by J. Eakins.

49. Both brothers are star athletes participating in football and basketball. Since the suspension they have been unable to participate in any sports activities. The school provides the only athletic opportunities in the community. The brothers are frustrated, embarrassed and bored.

50. Since the brothers will be 19 and 20 when the punishments are complete, they do not intend to return to school. The District has provided the family with no information regarding what options the brothers have for completing high school and earning a diploma or in the very least a GED. All opportunities to participate in high school sports have forever been taken away from the brothers.

Lack of Standards

51. The District's disciplinary procedures do not circumscribe administrative discretion in a manner that prevents or reduces disparate treatment of African American students. For example, a dress code violation may result in a Level I verbal warning, work detail or detention, or a Level II corporal punishment. Exhibit 3 at 20-23. There is no standard, however, for which Level or punishment should apply to the same violation.

52. The principal or his/her designee has complete discretion to determine if any infraction is a repeated offense or if the infraction was "committed in a more serious, harmful or disruptive manner." Exhibit 3 at 20-22, 24. The principal or his/her designee also has the unfettered authority to elevate an offense to a higher infraction level. *Id.* So if a principal or his/her designee determines that a Level I incident of disrespect was "more serious," the school has the authority to impose a Level II, III or IV interventions at their own discretion. *Id.* at 20. There are no standards or guidelines regarding when an offense rises to the next Level. This determination

is completely within the individual discretion of the principal or designee imposing the disciplinary measure or consequence. *Id.*

53. The principal or designee implementing the disciplinary measure again has full discretion to determine what intervention should be utilized. Exhibit 3 at 21-22, 24, 26. There are no guidelines regarding what intervention is appropriate for a specific infraction. *Id.* Since there are no guidelines and discretion is entirely in the hands of the principal or designee implementing the disciplinary measure, how offenses are labeled and what interventions are utilized differs widely from school to school and principal to principal and designee to designee. *Id.*

54. The District has granted school administrators unfettered discretion to remove privileges, inflict corporal punishment, involve law enforcement and impose disciplinary removal for vague and minor offenses.²¹ Exhibit 3 at 21 – 26.

55. An elementary school student may be subject to law enforcement intervention, in-school suspensions, out-of-school suspensions, corporal punishment,²² or loss of privileges (including all extra-curricular and co-curricular activities) for a ringing cell phone, signing an unauthorized petition, being “disrespectful” or for “inappropriate conduct.” *Id.*

Effect of Florida’s Revised Zero Tolerance Law

56. In the spring of 2009, the Florida Legislature amended its zero-tolerance school

²¹ Referrals to Law Enforcement involvement appear throughout the Suwannee School Board Policy Manuel. (approximately 50 times). How often law enforcement or school resource officers become involved in school matters is completely discretionary with the school and school administrators, with little or no guidance regarding as to when law enforcement should be involved.

²² The corporal punishment policy can be found in the Suwannee School Board Policy Manuel at Rule 5.1001 and at pg. 18 of the Code.

discipline law in an attempt to encourage schools to handle petty disciplinary infractions and misdemeanor offenses in school rather than relying on the juvenile justice system and exclusionary discipline. Fla. Stat. section 1006.07 (2010). School districts were directed to rewrite their zero-tolerance policies to promote broader use of alternatives to expulsion and referrals to law enforcement. Fla. Stat. section 1006.13.

57. The law lists eight examples of petty or misdemeanor offenses that should not be subject to zero tolerance: disorderly conduct, disruption of a school function, simple assault, simple battery, affray (fighting), theft less than \$300, trespassing and vandalism of less than \$1000.00. Fla. Stat. section 1006.13(4)(c).

58. Despite having a Zero Tolerance policy written in compliance with Fla. Stat. 1006,²³ of the 66 students arrested during the 2010-2011 school year, 50 were for minor or misdemeanor offenses. Thirty-eight (38) of the arrests were for those offenses listed in the above paragraph. See Exhibit 5.

59. While these minor offenses may not trigger automatic referral to law enforcement or expulsion in SCS, the District's policies still allow for excessively harsh punishments for these offenses at the discretion of school administrators. Exhibit 3 at 21-22, 24, 26.

Classwide Allegations

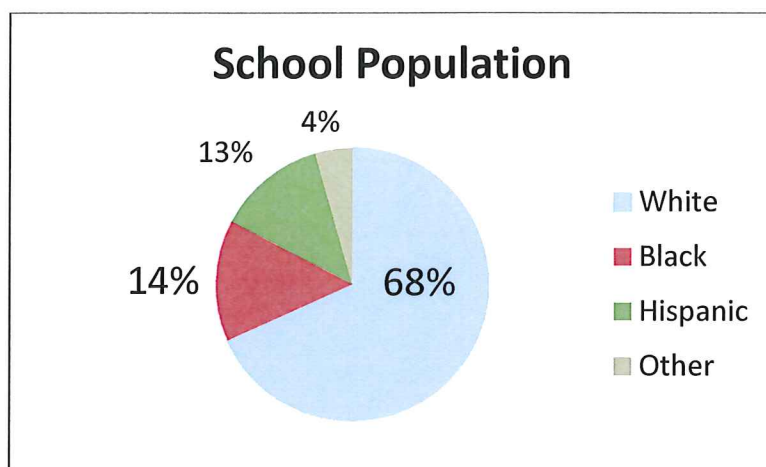
60. SCS has engaged in an ongoing and systematic pattern of violating Class Complainants' rights and subjecting them to discrimination in violation of Title VI.

61. Data demonstrates that African American students in SCS schools have been suspended

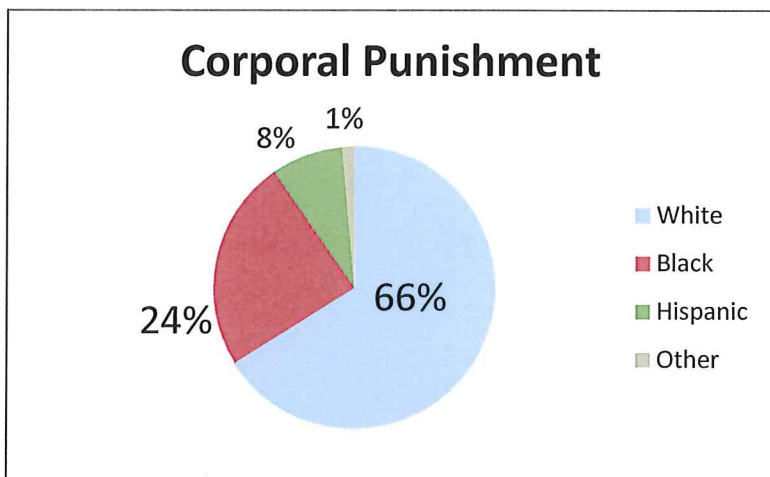
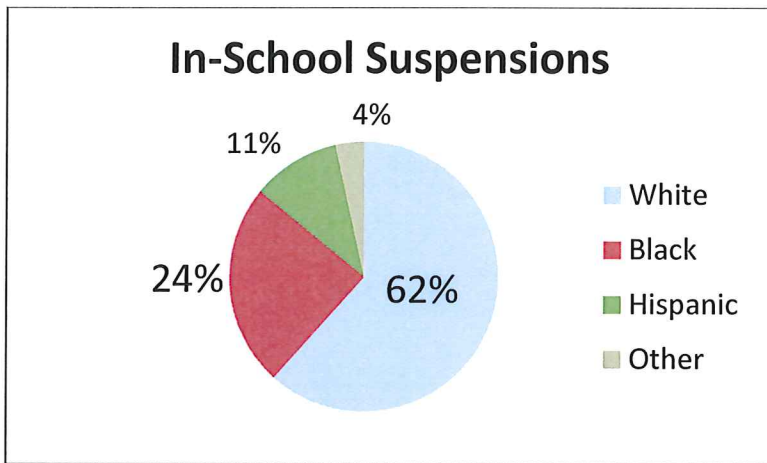
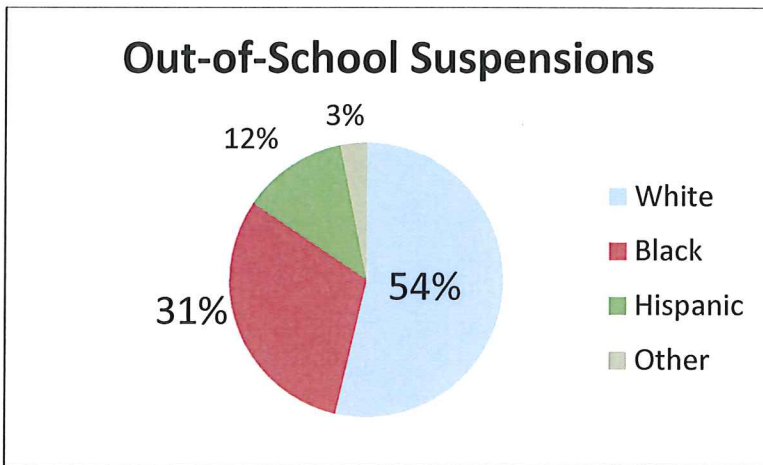
²³ Suwannee's zero tolerance policy can be found in the Suwannee School Board Policy Manuel Rule 5.13 attached hereto as Exhibit 2 and in the Code at page 11 attached hereto as Exhibit 3.

from school for significant periods of time, expelled, or unnecessarily referred to juvenile justice authorities at a significantly higher rate than the white students in Suwannee school. *See* Exhibits 5 and 6.

62. As of 2010-2011 school year, the most recent school year for which data is available, the total school population for Suwannee County School District was 6,172. White students numbered 4,213 or 68% of the total student demographic. African American students numbered 890 or 14% of the school population. *See* Exhibit 6.



63. Although African American students constituted only 14% of the school population that year, they accounted for 31% of students receiving out-of-school suspensions, 24% of students receiving in-school suspensions, and 24% of students subjected to corporal punishment. *See* Exhibit 6.



64. Level III and Level IV infractions can result in an involuntary alternative disciplinary placement by the administration into the “Opportunity School.” Exhibit 3 at 24, 26. The Opportunity School, located on the Suwannee High School campus, houses all students who are

reentering the school system from the Juvenile Justice System, as well as students who have discipline problems and have been removed from their home schools.

65. The Opportunity School houses all students in the Suwannee feeder pattern from Kindergarten to 12th grade.²⁴

66. The District reports Opportunity School enrollment as part of the total Suwannee High School enrollment. Membership in the high school for the 2011-2012 school year includes 38 students in grades pre-K through 8.

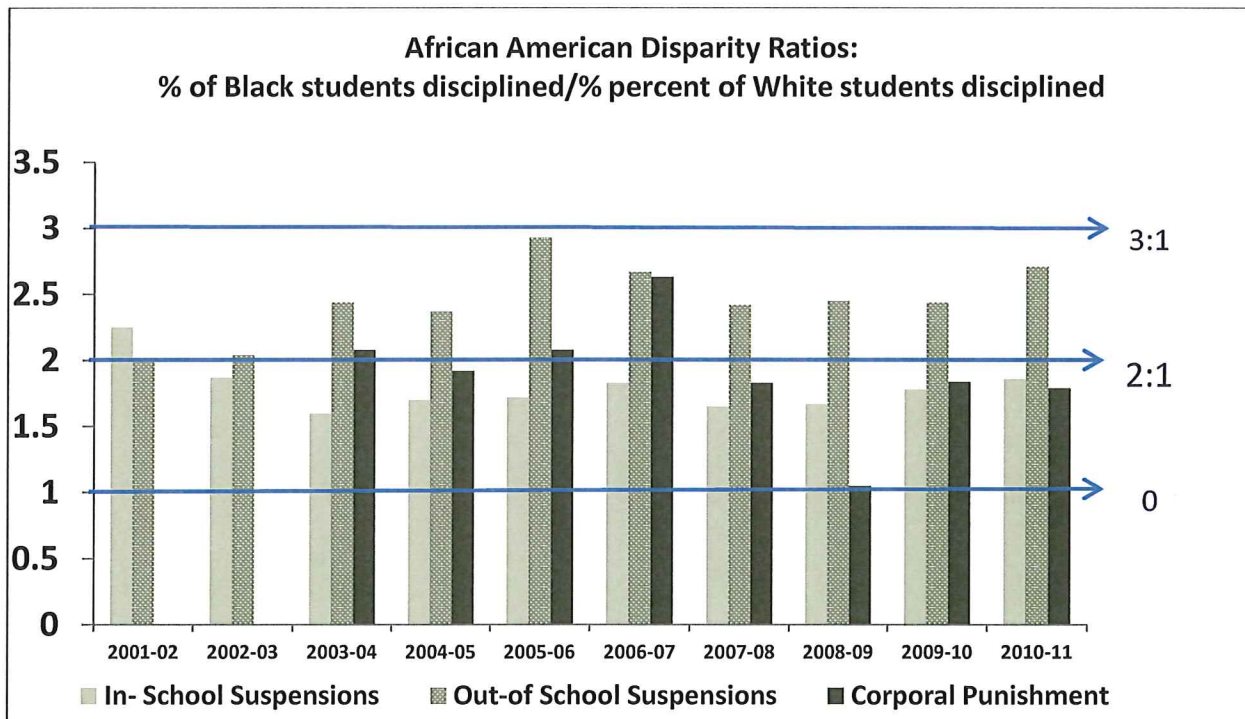
67. African-Americans make up 37% of the high school enrollment in these lower grades.

See Exhibit 7.

68. Upon information and belief, students are often given the choice to accept an out-of-school suspension or expulsion, wherein the students are not allowed to make up the missed work for credit, or attend a voluntary alternative disciplinary placement in the Opportunity School. Even when a student cannot be involuntarily placed in the Opportunity School by the administration, parents and students are forced to accept the Opportunity School placement as the only choice to avoid harsher punishments.

²⁴ The Opportunity School is only for those students in the Suwannee feeder pattern. Those students in the Branford (white student) feeder pattern are disciplined separately in a Branford neighborhood school.

69. This disparity has existed for many years. *See* Exhibit 8.



70. Over the past ten years (eight for corporal punishment), data confirms that African American students have received a disproportionate amount of suspensions and corporal punishment than their white peers. *See* Exhibit 8. While out of school suspensions have gone down over the past year, the ratio is still over 2 to 1 times more suspensions of African American students than their white peers. *Id.*

71. The Suwanee School Board is aware that its schools are in need of reform and has authorized the establishment of school advisory councils, *e.g.*, school improvement teams in each District school. Board Policy 2.04.

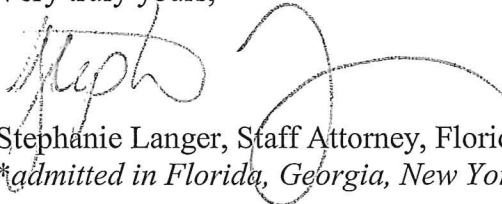
72. There is no evidence that racial disparities in the imposition of school discipline can be explained by differences in student behavior. To the contrary, there is considerable evidence that students of color are disciplined more harshly than their peers for identical behavior. *See* Skiba, R. et. al., *The Color of Discipline*, www.indiana.edu/~equity/docs/ColorofDiscipline2002.pdf.

Request for Relief

Based on the above, Complainants respectfully request that the Office for Civil Rights accept jurisdiction over their claims and initiate an investigation into the allegations contained herein on behalf of the Class. Complainants further request that OCR require SCS to create a corrective action plan that would ensure its future compliance with Title VI of the Civil Rights Act of 1964, such that its school discipline practices do not result in the disparate treatment of, or otherwise discriminate against, students on the basis of race. Complainants respectfully request that OCR agree to monitor any resolution reached and to provide the community with an opportunity for comment and ongoing involvement.

Thank you for your kind attention.

Very truly yours,



Stephanie Langer, Staff Attorney, Florida Office
**admitted in Florida, Georgia, New York, New Jersey*

Tania Galloni
Managing Attorney, Director, Florida Office
**admitted in Florida*

Enclosures

cc: Superintendent, Suwannee School Board
Complainants