



**PENNSYLVANIA HUMAN RELATIONS COMMISSION
EDUCATION DISCRIMINATION QUESTIONNAIRE**

1. YOUR CONTACT INFORMATION (Student and parent or guardian*)

Student Name & Birthdate Tina J. Lawson on behalf of Concerned African American Parents

Address 361 Camp Hill Road Date of Birth _____

Fort Washington Street PA Apt. 19034

City State Zip Code

Phone Number: (H) _____ (Cell) 215-327-7822

(W) _____ May we call you at work? ☐ Yes ☐ No

E-mail address: teejlaw@aol.com

Parent or Guardian Name _____
(*if filing on behalf of minor student)

Address _____
Street Apt.

City State Zip Code

Phone Number: (H) _____ (Cell) _____

(W) _____ May we call you at work? ☐ Yes ☐ No

E-mail address: _____

Name, address and phone number of a person, who does **NOT** live with you and will know how to contact you:

Name Benjamin D. Geffen, Esq. Phone Number 267-546-1308

Address Public Interest Law Center, 1709 Benjamin Franklin Parkway, 2nd Floor

Philadelphia Street PA Apt. 19103

City State Zip Code

E-mail address: bgeffen@pilcop.org

**2. AGAINST WHAT SCHOOL OR INSTITUTION ARE FILING YOUR COMPLAINT?
(preschool, k-12 school, college, university, trade or technical school, etc.)**

School/institution Name Upper Dublin School District

Address in PA 1580 Fort Washington Avenue Maple Glen PA 19002

Street City State Zip Code

Phone Number 215-643-8800

E-mail address _____

Type of school (preschool, K-12, college, university, trade or technical school, etc.)
school district _____

Name & title of top school official(s) (principal, superintendent, college president, etc.)
Deborah S. Wheeler, Superintendent of Schools

Pennsylvania county where you were harmed: Montgomery

3. DESCRIBE HOW YOU WERE HARMED, AND WHEN, SO WE CAN DETERMINE IF WE CAN ASSIST YOU.* Check all that apply.

Write the date(s) you were harmed beside the discriminatory event or action:

- ☐ Admission denied _____ ☐ Re-admission denied _____
- ☐ Expulsion _____ ☒ Suspension policies & practices through present day
- ☐ Privilege denied _____ ☐ Other discipline _____
- ☒ Inappropriate placement (in gifted or special education) policies & practices through present day
- ☐ Inappropriate grades _____ ☐ Other different treatment _____
- ☐ Harassment _____
(Please complete #9 if you were harassed.)
- ☐ Denied access related to a disability _____
- ☐ Denied reasonable accommodation for a disability _____
- ☐ Denied reasonable accommodation for religion _____
- ☒ **OTHER**, please be specific: racially discriminatory tracking policies & practices through present day

***PLEASE ATTACH COPIES OF ANY DOCUMENTS SUCH AS A REPORT CARD, NOTICE, LETTER, ETC. TO BACK UP WHAT YOU ARE SAYING.**

4. DO YOU FEEL YOU WERE TREATED DIFFERENTLY (DISCRIMINATED AGAINST) BECAUSE OF ANY OF THE CHARACTERISTICS BELOW?

The commission can investigate your complaint only if you believe you were treated differently and harmed because of your race, color, religion, ancestry, sex, national origin, disability or the use, handling or training of a guide or support animal for blindness, deafness or physical disability. For example, if you feel you were treated worse than someone else because of your race, please indicate race as the reason. If you believe you were treated differently because of your race and sex, please check off both race and sex. **Only check those reasons which explain why you were harmed.** Also, please identify your race, color, religion, national origin or ancestry, etc. **if** you were discriminated against based on those factors.

☐ Male ☐ Female ☐ Pregnant

☒ Race African American ☐ Color _____

☐ Religion _____ ☐ Ancestry _____

☐ National Origin (country in which you were born) _____

☐ Association with a person of a different race than your own:
Your race _____ the other person's race _____

☐ Use of a guide or support animal for disability (please complete #6)

☐ Handling or training of a support animal for disability (please complete #6)

☐ Other (please specify) _____

☐ I have a disability. (please complete #6) ☐ The teacher, etc. treats me as if I am disabled.

☐ I had a disability in the past. (please complete #6)

☐ I have a relationship or association with someone who has a disability. (please complete #6)

☐ **RETALIATION**

If you believe you were **harmed** because you complained about what you believed to be unlawful discrimination, because you **filed** a complaint about unlawful discrimination, or because you assisted someone else in complaining about discrimination, please complete the following information.

Date you filed a complaint with the PA Human Relations Commission: _____

If you filed a complaint with another agency, list the agency's name and date of filing:

Date(s) you complained about discrimination to a teacher, administrator or other school official and that person's name and title:

Date(s) you assisted someone in complaining about discrimination

5. STATE THE REASONS THE TEACHER, ADMINISTRATOR, ETC. GAVE FOR THE ACTIONS THAT HARMED YOU. Please see the attachment.

Who told you about the reasoning for the action? Include his or her position.

When were you told about the action taken against you?

Date(s)

If you were given no reason, please check here. ☐

Regarding how you were harmed, please identify a person or persons who were treated better

than you. *For example, you were suspended for the same offense committed by students of a different race or gender and they were punished less harshly.*

Name of other person(s) - First and Last _____

How is this person different from you? For example, what is his or her race, age, religion, etc.?

Please explain **exactly** how this person was treated better or differently than you. Include dates.

If you cannot identify someone who was treated better or differently than you, you need to describe an incident, statement, *etc.* which can be investigated, and which directly relates to why you were treated differently than someone else.

6. IF YOU CHECKED ONE OF THE FOUR DISABILITY CATEGORIES NOTED IN #4 ABOVE, ANSWER THE FOLLOWING QUESTIONS. (IF NOT, SKIP TO #8)

What is your disability? _____

How long have you had this disability and when did it start? _____

Do you still have this disability? ☐ yes ☐ no

If yes, how much longer do you expect to have the disability? _____

What major life activities do **you have great difficulty performing** because of your disability (Check all that apply.)

☐ Seeing ☐ Hearing ☐ Bending ☐ Walking ☐ Lifting ☐ Stooping ☐ Turning

☐ Climbing ☐ Running ☐ Talking ☐ Standing for long periods

☐ Sitting for long periods ☐ Caring for yourself ☐ Thinking ☐ Concentrating

☐ Relating to Others

Other Major Life Activities (**Be specific**) _____

If you have had a disability in the past, when did it start, and what date did it end?

If a teacher, school employee, etc. treats you as if you are disabled: What disability do they think or believe you have? _____

Who are the people that are treating you as disabled (names and positions)?

Why do you think that these people think or believe you have a disability?

How did the teacher, school employee, etc. learn about your disability?

On what date did they learn about your disability? _____

Which specific person learned about your disability? (include his or her position or title)

If you are related to someone who has a disability, what is your relationship to this person?

What is this person's disability? _____

How and on what date did the school staff or faculty learn about this person's disability?

Did you ask for an accommodation or assistance? ☐ yes ☐ no

IF YES,

(1) To whom did you make your request? _____

(2) On what date was the request made? _____

(3) Please describe the accommodation or assistance you requested, and why.

Did the school provide the requested accommodation or assistance?

☐ yes ☐ no

If so, on what date? _____

If not, were you provided with some other accommodation or assistance instead? ☐ yes ☐ no

If yes, please explain. _____

Did the school deny your request for an accommodation or assistance?

☐ yes ☐ no

If so, who denied your request? _____

What date was the request denied? _____

What reason was given to you for the denial? _____

7. IF YOU WERE DENIED ACCESS BECAUSE OF A DISABILITY, PLEASE DESCRIBE THE INACCESSIBLE FACILITY OR SERVICE, IN ADDITION TO COMPLETING QUESTION 6.

What service, facility or area was not accessible, and how? *(Be as specific as possible, for example: entrance was not accessible because of stairs, doorway/aisles too narrow for wheelchair, assistive device, alternate format for visual disability or sign language interpreter refused, no accessible parking, etc.)*

8. IF YOU WERE DENIED ACCESS OR PARTICIPATION FOR A REASON OTHER THAN DISABILITY, PLEASE DESCRIBE THE INACCESSIBLE FACILITY, PROGRAM OR SERVICE AND HOW IT WAS NOT ACCESSIBLE.

What service, facility or program was not accessible, and how? *(Be as specific as possible, for example: participation in xx program denied because of your sex.)*

Please see the attachment.

9. IF YOU CHECKED THAT YOU WERE HARASSED UNDER #3, ANSWER THE FOLLOWING QUESTIONS AS COMPLETELY AS POSSIBLE.

Name the person(s) who harassed you: _____

His or her position or title (teacher, school employee, fellow student, etc.) _____

When were you harassed: Starting date _____ Ending date _____

Is the harassment still continuing? ☐ yes ☐ no

How often did the harassment occur? As well as possible, please indicate **date, month and year** of each incident and how often the harassing actions occurred.

☐ One time only _____ ☐ Once a day _____

☐ Several times daily _____

☐ multiple times/week _____

☐ multiple times/month _____

Please provide two or three examples of the harassment you experienced.

Did you consider any of the above acts of harassment to be especially severe and/or offensive?

☐ Yes ☐ No If so, please explain why.

Did the harassment have a negative or harmful effect on you or your health? If so, please explain:

Did you complain to anyone about the harassment? ☐ Yes ☐ No

To whom did you complain?

Name

Position or title

What date did you complain?

Did the harassment stop after you complained about it? ☐ Yes ☐ No

If it ended, on what date did it stop?

After you complained, were any other actions taken against you? (for example – lower grades, increased discipline, etc.) ☐ Yes ☐ No

What were the actions?

On what dates did they occur?

Who took the action against you?

Name

Position or title

Did this person know that you complained about the harassment? ☐ Yes ☐ No

10. IF YOU WERE DENIED AN ACCOMMODATION FOR RELIGION, PLEASE DESCRIBE THE ACCOMMODATION REQUESTED, THE DATE DENIED, AND THE REASON GIVEN FOR DENIAL.

11. IF YOU HAVE FILED THIS COMPLAINT WITH ANY OTHER LOCAL, STATE OR FEDERAL AGENCY, PLEASE ANSWER THE FOLLOWING:

Name of the agency with which you filed U.S. Department of Education Office for Civil Rights

Nov. 23, 2015

Date of filing

Inquiry or Complaint number

12. HAVE YOU BEEN INVOLVED IN ANY COURT ACTION REGARDING THIS MATTER? (COURT ACTION INITIATED BY YOU OR ANYONE ELSE). IF SO, PLEASE SPECIFY THE COURT AND THE DATE FILED, TO THE BEST OF YOUR MEMORY.

☐ Yes ☒ No _____
Court City County State Date filed

13. IF YOU HAVE FILED THIS COMPLAINT WITH ANY OTHER LOCAL, STATE OR FEDERAL AGENCY, PLEASE ANSWER THE FOLLOWING:

Name of the agency with which you filed U.S. Department of Education Office for Civil Rights
Nov. 23, 2015
Date of filing Inquiry or Complaint number

14. IF YOU WILL HAVE AN ATTORNEY REPRESENTING YOU ON THIS MATTER, PLEASE HAVE YOUR ATTORNEY SEND US A LETTER THAT CONFIRMS THIS. (YOU DO NOT NEED AN ATTORNEY TO FILE A COMPLAINT.)

YOU MUST SIGN AND DATE THIS FORM BEFORE RETURNING IT.

☒ I hereby verify that the statements contained in this form are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 PA.C.S. Section 4904, relating to unsworn falsification to authorities.

Signature Jane J. Lawton

Date Nov. 23, 2015

IF YOU HAVE OTHER INFORMATION YOU BELIEVE WE NEED TO KNOW TO HELP US UNDERSTAND YOUR COMPLAINT, PLEASE PROVIDE IT BELOW. FEEL FREE TO ATTACH ADDITIONAL PAGES TO DESCRIBE WHAT HAPPENED TO YOU.

Please see the attachment.

Attachment to PHRC Complaint of Concerned African American Parents

I. Introduction & Summary

This Complaint alleges that the policies and practices of the Upper Dublin School District (UDSD) have had a racially disparate impact on the educational placement and disciplinary treatment of students. Specifically, these policies and practices have resulted in (1) the disproportionately high imposition on black students of out-of-school suspensions; (2) black students' disproportionately high placement into lowest-track courses, and disproportionately low placement into upper-track courses; and (3) the disproportionately low identification of black students for gifted education. All of these impacts disproportionately disadvantage black students' public education, as well as their post-secondary educational and career prospects.

The Complaint is filed on behalf of Concerned African American Parents (CAAP), an organization of parents of black children in the UDSD. It alleges violations of Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, as well as the Pennsylvania Human Relations Act, and it asks the Pennsylvania Human Relations Commission to conduct an investigation into UDSD's discriminatory policies and practices and to require UDSD to remedy the problems. The discriminatory policies and practices alleged herein took place throughout the entirety of the 2014-2015 school year and continue in the current school year.

II. Upper Dublin School District

UDSD is a high-performing school district in Montgomery County, Pennsylvania. Upper Dublin High School (UDHS) is the sole high school within UDSD, serving students in ninth through twelfth grades. Sandy Run Middle School (SRMS) is the sole middle school, serving students in sixth through eighth grades. There are four K-5 elementary schools: Fitzwater,

Jarrettown, Fort Washington, and Maple Glen. The enrollments at each of these six schools in 2014-2015, broken down by race or ethnicity, are shown below, based on information provided by the Pennsylvania Department of Education (PDE) pursuant to a public records request.¹

School Name	Asian	Black	White	Total
Upper Dublin High School	162 (11.3%)	122 (8.5%)	<i>1089 (76.1%)</i>	1431
Sandy Run Middle School	129 (13.7%)	64 (6.8%)	<i>702 (74.3%)</i>	945
Fitzwater ES	*	*	291 (67.5%)	431
Jarrettown ES	*	*	352 (76.4%)	461
Fort Washington ES	*	*	401 (80.8%)	496
Maple Glenn ES	*	*	361 (81.7%)	442

III. Complainant

CAAP is a coalition of parents joined together to promote the development of and sustenance of excellence among African-American students in UDSD. The organization's mission is to build a bridge between UDSD and the African-American community in order to help children achieve academic excellence. CAAP works to eliminate the achievement gap in UDSD by increasing parental and community involvement in the schools, and by advocating on behalf of students. The organization holds meetings for parents at least once per quarter, and it offers services for students that include tutoring programs and college information sessions. CAAP monitors UDSD's activities to ensure they comply with legal requirements. As a recognized parent group, CAAP meets with UDSD officials several times per year. CAAP's constituents include parents of students from all six schools in UDSD.

¹ Because the enrollment figures for certain groups at certain schools were small, PDE masked exact figures when a school enrolled ten or fewer students of a certain race or ethnicity per grade; PDE also slightly adjusted certain other figures to prevent calculation of a masked number. In this table, masked figures are indicated with an asterisk, and adjusted figures are indicated with italics. PDE masked enrollment figures for Hispanic and for multi-racial students at all six schools, and as a result this table does not include enrollment figures for those groups.

Since 2008, CAAP has been working to eliminate the racial achievement gap in UDSD, including by advocating for the elimination of low-track placements and a reduction in harsh disciplinary procedures. As part of CAAP's efforts to eliminate low-track placements, representative of CAAP met in late 2014 and/or early 2015 with UDSD officials including Deborah Wheeler and Eva Morrison, and with UDHS's principal, Bob Schultz. These individuals advised the CAAP representatives that UDSD would be restructuring tracking at UDHS, beginning with the incoming ninth-grade class at the start of the 2015-2016 school year (September 1, 2015). After restructuring, UDSD would reduce the number of tracks from three to two at UDHS for all major subjects except Math. However, the 2015-2016 school year is now well underway, and UDHS's three-track program remains unchanged. In November 2015, UDSD officials made a public presentation that included the admission that "tracking has minimal effects on learning outcomes & profound negative equity effects." But UDSD still has not committed to restructuring or eliminating its tracking programs, and has instead only described indefinite plans to restructure tracking at the ninth- and tenth-grade levels, probably beginning in the 2016-2017 school year. In spite of CAAP's advocacy, the racial achievement gap remains wide in UDSD.²

The policies and practices of UDSD described in this complaint have harmed members of CAAP, and have done so within the last 180 days. Many of the allegations herein concern policies and practices that were in place throughout the 2014-2015 school year, which ended less than 180 days ago, and which continue through the 2015-2016 school year to the present

² According to a website run by PDE, in 2014-2015 UDHS scored 0.00 on all "Indicators of Closing the Achievement Gap - Historically Underperforming Students." <http://paschoolperformance.org/Profile/6476/>.

day. In addition, the policies and practices of UDSD described in this complaint have harmed CAAP itself within the last 180 days, including by forcing it to divert its resources from other activities in order to address the issues complained of herein.

IV. Other Challenges to UDSD's Discriminatory Practices

Simultaneously with this Complaint, CAAP is filing a substantially identical complaint with the United States Department of Education Office for Civil Rights that asserts claims under Title VI and its implementing regulations. CAAP is unaware of any other pending complaints or lawsuits that pertain to the matters alleged in this Complaint.

Notably, this is not the first time that a formal complaint was filed about UDSD's racially disparate imposition of out-of-school suspensions. In 2010, William Colón—a CAAP member and the father of three African-American UDSD students—filed a complaint against UDSD with the Commission, alleging that UDSD had discriminated against his son on the basis of his race by imposing disproportionately harsh disciplinary treatment on him. In 2013, UDSD entered into a settlement agreement terminating that Commission case. Exhibit A is a case-closing letter from the Commission that includes both the original complaint and the settlement agreement. The settlement agreement requires UDSD to provide biannual verifications for three years to the Commission, in order to confirm UDSD's compliance with the settlement agreement. Exhibit A at Appendix B, ¶¶ 5, 7, 9. Through legal counsel, UDSD has declined to provide copies of these biannual verifications to Mr. Colón, so CAAP is unable to determine whether UDSD is in compliance with the settlement agreement. CAAP believes that the disciplinary matters complained of in this complaint may pertain to whether UDSD is in compliance with that settlement agreement.

V. Legal Standard: Federal and State Law Prohibit Public School Practices That Have the Effect of Discriminating on the Basis of Race

Federal and state law prohibit school district practices that have the effect of discriminating on the basis of race. 34 C.F.R. § 100.3(b)(2); 43 P.S. § 953; 16 Pa. Code § 47.11. A school district's discrimination may be illegal even if not intentional. *E.g., Peters v. Jenney*, 327 F.3d 307, 314-15 (4th Cir. 2003). A practice that has a disparate impact on the basis of race is prima facie illegal, and UDSD should be found in violation unless it is shown that UDSD's policies and practices are "justified by an 'educational necessity'" and that there is no "equally effective alternative practice that results in less racial disproportionality while still serving the articulated educational necessity." *Cureton v. NCAA*, 37 F. Supp. 2d 687, 697 (E.D. Pa.), *rev'd on other grounds*, 198 F.3d 107 (3d Cir. 1999). The Pennsylvania Human Relations Act permits the filing of a complaint by a group representing victims of discrimination. 16 Pa. Code § 42.36.

VI. UDSD's Disciplinary Policies and Practices Result in Disproportionately High Out-Of-School Suspension Rates for Black Students

UDSD issues out-of-school suspensions to black students with starkly disproportionate frequency. According to information provided by UDSD pursuant to a public records request, students were issued out-of-school suspensions in the 2014-2015 school year in these numbers:

School Name (% of students who are black)	Asian	Black	Hispanic	Multi-Racial	White	TOTAL
UDHS (8.5%)	2	50 (44.6%)	8	7	45	112
SRMS (6.8%)	3	8 (40.0%)	-	-	9	20
Fitzwater ES	-	7 (87.5%)	1	-	-	8
Jarrettown ES	-	1 (6.3%)	-	1	4	6
Fort Washington ES	-	-	-	1	1	2
Maple Glenn ES	-	-	-	-	-	-
TOTAL	5	66 (44.6%)	9	9	59	148

UDSD's racially disparate imposition of the harsh sanction of out-of-school suspension violates Title VI and the PHRA. The disparities are unmistakable: at UDHS, where just 8.5% of students in 2014-2015 were black, but 44.6% of out-of-school suspensions were issued to black students; at SRMS, 6.8% of students were black, but they received 40.0% of the out-of-school suspensions. In the district as a whole, 44.6% of all out-of-school suspensions were issued to black students, who make up about 7.3% of the entire student body. Similarly in the preceding three school years, black students received a disproportionately high share of the total number of out-of-school suspensions in UDSD, from 48% in 2013-2014 to 63% in 2012-2013.

At UDHS, out-of-school suspension is the most serious disciplinary sanction short of expulsion. See Upper Dublin High School, *Cardinal Guide 2014-2015*, 20-21, available at http://www.udsd.org/uploaded/Agenda_14-15.pdf. The principal can suspend a student for up to three days without a hearing; with an informal hearing, a suspension can last up to ten days; with a formal hearing, a suspension can last longer than ten days. *Id.* at 25-26. A student can be suspended for infractions ranging from cutting class, *id.* at 11, to fighting, *id.* at 23. Subjective school rules allow great discretion as to whether to impose out-of-school suspension as a punishment: the school handbook lists suspension as available for a variety of offenses, including a catchall: "failure to follow rules and regulations established by the school." *Id.* at 23-25.

Likewise at SRMS, out-of-school suspension is the most serious form of discipline other than expulsion. See Sandy Run Middle School, *2014-2015 Parent and Student Handbook*, 8, available at http://www.udsd.org/uploaded/Schools/SRMS/Documents/2014-15_Parent_Student_Handbook2.pdf. Either the principal or assistant principal can suspend a

student for up to three days without a hearing, or for up to ten days with an informal hearing. *Id.* Suspensions are recommended punishments for serious offenses such as fighting, *id.* at 6, and are available punishments for repeated minor infractions, including “[m]inor behavioral disturbances in any area of school” and “[p]rojecting a rubber band,” *id.* at 5-6.

UDSD’s disproportionate use of harsh disciplinary methods against black students manifests itself both in out-of-school suspensions and in other sanctions, and it exemplifies a longstanding climate of racial and ethnic mistrust in UDSD. One example of such harsh discipline is the spontaneous use of corporal punishment, late in the 2014-2015 school year, by a white teacher against Z.A., an African-American boy in the eighth grade at SRMS. That incident occurred during a classroom’s use of computers, when Z.A. traded seats (and computers) with a classmate. Upon seeing this trade—which was not against any rules—the teacher shouted at Z.A. and then struck him hard on the back of his head. Moments later, the teacher presented her chin to Z.A. and invited him to hit her back to “make it even.” This mistreatment of Z.A. is consistent with excessively punitive approaches toward black students and mistaken assumptions about black students’ propensities to violence and other misconduct. *Cf., e.g.,* Nicole Mortorano, Note, *Protecting Children’s Rights Inside of the Schoolhouse Gates: Ending Corporal Punishment in Schools*, 102 GEO. L.J. 481, 504 (2014) (noting the disproportionate use of corporal punishment against minority students, especially boys).

A second incident further illustrates the racial climate at UDSD. In November 2015, during an exercise with computers in a math classroom at UDHS, one or more students posted messages against black students using racial epithets and threats. There were also antisemitic

and misogynistic messages. UDHS disciplined a student who had shared a link allowing others to post the messages but did not discipline anyone for the actual posting of the messages. In addition, UDHS hushed up the incident, failing to discuss the incident or its repercussions with the student body. CAAP believes that UDSD failed to conduct a full and fair investigation of the incident, and it requests the Commission to examine the incident thoroughly as part of its investigation.

As a third example, it is the understanding of CAAP representatives that UDHS summons the local police to the school disproportionately often for disciplinary issues concerning black students. CAAP lacks data to analyze this potentially discriminatory policy or practice, and requests that the Commission, as part of its investigation, review records concerning police visits to UDHS and the races of the students involved.

A fourth example is the out-of-school suspension on November 10, 2015 of A.L, an African-American eleventh-grader at UDHS. A.L. was in detention because he had been late to Spanish class. The teacher supervising detention saw him laughing and told him to “get out”; he requested an explanation for why he was being kicked out of the room, and the teacher would not provide one. Eventually, A.L. stormed from the room in frustration and used a couple of four-letter words. He received a two-day out-of-school suspension for “disrespectfulness.”

A final example: earlier this semester, a group of UDHS seniors, as a prank, tore down school spirit paraphernalia of juniors after the juniors won an inter-class contest. The group of seniors included black and white students. Only one student received out-of-school suspension as punishment for the prank: M.J., who is African American, was given a three-day out-of-school suspension. UDHS personnel knew the names of the involved white students, but they

went unpunished. M.J. and her family are concerned that the punishment will affect her eligibility for college admission and scholarships.

UDSD's racially disparate disciplinary practices have serious consequences. Out-of-school suspensions place students at risk of dropping out of school or otherwise falling behind their peers. *E.g.*, Robert Balfanz, Vaughan Byrnes & Joanna Fox, *Sent Home and Put Off-Track*, 5 J. APPLIED RES. ON CHILD., No. 2, 2014, at art. 13, 1 ("The exclusion of students from school for disciplinary reasons are directly related to lower attendance rates, increased course failures, and can set a student on a path of disengagement from school that will keep them from receiving a high school diploma and further affect their chances of enrolling in post-secondary schooling and realizing many life-long career opportunities.") (collecting sources); Russell J. Skiba, Suzanne E. Eckes & Kevin Brown, *African American Disproportionality in School Discipline*, 54 N.Y.L. SCH. L. REV 1071, 1087-88 (2009/10) ("Given the strong and robust finding that the amount of time engaged in academic settings is among the strongest predictors of achievement, disproportionate exclusion of students of color increases their risk of lower academic success. . . . The data indicate that minority students are being disproportionately exposed to interventions that increase disciplinary recidivism, negatively predict school achievement, and in the long-term, are associated with higher rates of school dropout and increased contact with the juvenile justice system." (footnotes omitted)).

Out-of-school suspensions also tend to insert students into the school-to-prison pipeline. As Professor David Ramey of Penn State recently wrote:

[T]he consequences of school punishment mirror many sanctions in the criminal justice system. For example, children who break the rules are isolated from their classmates and miss out on important social and educational resources. For children who display severe behavior problems, repeated involvement with

criminalized forms of school discipline at early ages creates the perception among teachers and peers that these children are repeat offenders destined for involvement in the criminal justice system.

David M. Ramey, *The Social Structure of Criminalized and Medicalized School Discipline*, 88 Soc. OF EDUC. 181, 183 (2015) (citations omitted). School districts tend to impose out-of-school suspensions on black students with disproportionate frequency. *E.g.*, American Civil Liberties Union of Pennsylvania, *Beyond Zero Tolerance: Discipline and Policing in Pennsylvania Public Schools* 12 (Feb. 2015), available at http://www.aclupa.org/index.php/download_file/view/1453/767/ (“Black students have the greatest likelihood of receiving out-of-school suspensions and expulsions. Statewide, 1 out of every 6 Black students was suspended from school at least once in 2009-2010, making Black students almost five times more likely to be suspended than White students.”).

VII. UDSD’s Tracking Policies and Practices Disproportionately Place Black Students Into Lower-Level Courses

UDSD makes pervasive use of tracking at the secondary-school level. This tracking takes two forms, both at the disproportionate expense of black students: (A) placement of students into higher- or lower-level tracks for core-curriculum courses and (B) placement of students into gifted education. These policies and practices have a disparate negative impact on black students, in contravention of Title VI and the PHRA.

A. UDSD Disproportionately Assigns Black Students to Lower-Track Core-Curriculum Courses

UDSD divides students into three or four different tracks for core-curriculum courses at both SRMS and UDHS. At SRMS, each student is assigned to one of three or four tracks for math, and is separately assigned to one of two or three tracks for reading. Black students at

SRMS are underrepresented in the highest-track courses and overrepresented in the lowest-track courses. Placement in a low-track course at the start of middle school typically means that the student will remain in low-track courses in that subject through high school.

At UDHS, in addition to the three tracks for classes such as math, English, and science, students can take Advanced Placement (AP) classes, which are typically more rigorous than the highest-track non-AP courses. At UDHS, black students are underrepresented in the highest-track courses (including AP courses) and overrepresented in the lowest-track courses.³

As reflected in 2014-2015 enrollment figures provided by UDSD pursuant to a public records request, these racial disparities are manifest in various higher-level classes at UDHS:

Course Name (Course No.)	Asian (11.3% of students)	Black (8.5% of students)	Hispanic	Multi- Racial	White (76.1% of students)	Total Students
Algebra II Honors (0291) (9th grade)	19%	0%	1%	0%	80%	83
AP English Literature and Composition (0031) (11th grade) ⁴	14%	7%	1%	2%	77%	123
AP English Language and Composition (0051) (12th grade)	23%	3%	1%	2%	71%	93
AP Calculus AB (0231) (12th grade)	25%	1%	0%	1%	73%	76

³ There are not publicly available sources that would allow CAAP to analyze whether the disparate assignment of black students to lower-track courses results in racial disparities in students' access to experienced or skilled teachers. The Commission could investigate this issue by analyzing, for each track, teachers' seniority levels or their classrooms' scores under the Pennsylvania Value-Added Assessment System.

⁴ The disparities are less striking for this upper-level class because, as a result of CAAP's efforts, several black families submitted AEA forms to get their children into this course for 2014-2015.

At a school where 8.5% of students are black, these enrollment figures demonstrate worrisome disproportionalities. Anecdotally, CAAP's experience has been that when black, white, and Asian students have similar grades, black students are significantly less likely to be recommended for higher-track classes, especially upon entering SRMS from elementary school or upon entering UDHS from middle school. CAAP believes that a full investigation by the Commission, which can get access to more data sources, will reveal the disparities in starker terms.⁵

UDSD assigns significant discretion to school personnel to select tracks for students. At UDHS, "[t]eachers and counselors will recommend courses they feel are most appropriate based on your abilities and performance." *UDHS Course Selection Protocol, 1, available at* http://www.udsd.org/uploaded/Schools/UDHS/Guidance/Misc_/Course_Selection_Protocol.pdf. UDHS discourages parents from challenging these recommendations; if parents believe their child belongs in a higher-track course than school personnel recommend, including an Advanced Placement course, the parents must submit an "Against Educational Advice" form. As UDHS puts it: "Your parent/guardian may **override our professional opinion** by completing an Against Educational Advice (AEA) Form with your counselor if you decide to choose a non-recommended course." *Id.* (emphasis added). The AEA Form, attached as Exhibit B, is worded so as to further discourage challenges to the recommended placements. As an additional push for parents to go along with recommended placements, students who opt out of the

⁵ There are not publicly accessible sources allowing CAAP to compare individual students' grades or PSSA scores with UDSD's subsequent assignments of students to tracks. CAAP requests that the Commission conduct as part of its investigation an analysis comparing grades and/or PSSA scores to UDSD's track assignments, and that it report its findings (in a form that protects individual students' private information).

recommend track but later withdraw from the non-recommended course will get a negative notation on their transcript. Exhibit B.

The experience of D.L. and his parents provides just one of many example of UDHS's discouragement of questioning teachers' recommended placements. D.L., an African-American student at UDHS, was maintaining a grade of 92.5% in his eighth-grade social studies class. His teacher nonetheless recommended him for a track 2 U.S. History class for the following year. When his parents asked the teacher to explain why he did not recommend D.L. for the honors-level U.S. History class, he cited D.L.'s score of 80% on **one** test, which had resulted in one marking period grade slightly below an A, and said he thus "does not qualify" for honors classes. Only after repeated parental requests did UDHS agree to place D.L. into honors-level U.S. History. D.L. did well in the honors-level class and is now in an Advanced Placement U.S. History class.

A second example concerns the experience of S.B., who is an African-American student, and her mother. In the 2013-2014 school year, when S.B. was in the sixth grade, SRMS recommended her for placement in a lower-track math class. Her mother was able to get her placed into a higher-level math class only by submitting an AEA Form. S.B. struggled with certain topics in the class and would have benefitted from more support from the math teacher at times, but the teacher repeatedly told her mother that the reason for S.B.'s problems was that she did not belong in the class, and the teacher was unhelpful to S.B. In the 2014-2015 school year, SRMS again placed S.B. in the lower-track math course. This transition was difficult for S.B., because the two tracks used different curricula, making it difficult for a student to move from one track to another from year to year. Her mother again had to resort to an AEA

Form to get her placed back in a higher-level math class; this math placement also meant that S.B. would be part of an “upper level team” for her science class. Throughout the 2014-2015 school year, the science teacher was unsupportive of S.B. Because of these negative experiences and S.B.’s continuing academic struggles, S.B.’s mother withdrew S.B. from UDSD and enrolled her in a cyber charter school for the 2015-2016 year.

UDSD’s practices steer disproportionately high numbers of black students into low-track courses. Many of these students enroll in these low-track courses as suggested by the District, resulting in racial disparities across tracks. In many other cases, including numerous cases that have followed CAAP information sessions, parents of black students have submitted AEA Forms. Filing such a form can undercut parent-school relations, and can inculcate the damaging belief in both teachers and students that the student does not belong in and will not succeed in the higher-level course. This is particularly damaging in light of the long-established finding that teachers’ expectations about student performance are influential and self-fulfilling. *See generally* ROBERT ROSENTHAL & LENORE JACOBSON, PYGMALION IN THE CLASSROOM: TEACHERS’ EXPECTATIONS AND STUDENTS’ INTELLECTUAL DEVELOPMENT (1968). UDSD’s practices interfere with the learning potential of black students, adversely impact black students’ educational achievement, and ultimately limit black students’ opportunities for success in college and careers.

Education experts have long recognized that sorting children into different educational tracks promotes racial segregation within schools, to the disproportionate disadvantage of black children. *See, e.g.,* Demetra Kalogrides & Susanna Loeb, *Different Teachers, Different Peers: The Magnitude of Student Sorting Within Schools*, 42 EDUC. RESEARCHER 304, 304 (2013) (“[T]racking tend to contribute to within-school sorting by race and socioeconomic status.”)

(collecting sources). One recent study sheds light on how this phenomenon works, finding that “[w]ithin-school sorting may create inequities in access to high-quality teachers as well as to high-performing peers. . . . Black and Hispanic students are more likely than White students to have novice teachers than their peers at their school.” *Id.* at 311. These racial disparities do not simply flow from differences in academic achievement or ability: “Even after controlling for prior achievement and grade point average, Black high school students still have 1% to 5% more Black classmates than similar scoring Whites students in their grade.” *Id.*; see also Roslyn Arlin Mickelson, *The Cumulative Disadvantages of First- and Second-Generation Segregation for Middle School Achievement*, 52 AM. EDUC. RES. J. 657, 664 (2015) (“[R]esearch consistently indicates non-meritocratic factors informally influence track placement. Such factors include the recommendations of educational gatekeepers (teachers and counselors), parents’ pressure on decision makers, students’ race and social class, their prior exposure to segregated schooling, and students’ desire to be with their friends or to be in a class with a welcoming social climate.”).

A recent study further examines how tracking disadvantages children assigned to lower tracks:

In theory, the same courses taught at different track levels cover the formal curricula while differing in the breadth and depth of coverage. In practice, students in higher tracks are exposed to broader curricula, better teaching, and more highly motivated peers. Students in lower level tracks are likely to cover less of the formal curricula, experience less rigorous pedagogy, are often taught by less qualified teachers, and experience a weaker academic climate.

Mickelson, 52 AM. EDUC. RES. J. at 663 (citations omitted). These disadvantages accumulate and endure: “There is a great deal of evidence that a critical component of persistent race differences in achievement is the relative absence of disadvantaged minority students in

higher-level courses and their disproportionate enrollment in lower-level ones.” *Id.* at 664 (citations omitted). In high school, tracking “offer[s] uneven opportunities for further achievement and college placement,” Stephanie Moller & Elizabeth Stearns, *Tracking Success: High School Curricula and Labor Market Outcomes by Race and Gender*, 47 URB. EDUC. 1025, 1026 (2012) (collecting sources), and “high school track significantly predict[s] annual and hourly earnings,” *id.* at 1039; *see also id.* at 1044 (“[E]ducational tracking is indeed associated with income, independent of the quantity of education.”).

B. UDSD Under-Identifies Black Students for Gifted Education

Pennsylvania law requires each school district to identify and evaluate each gifted student, and to provide gifted education to students it identifies as gifted. 22 Pa. Code § 16.2(d). UDSD identifies disproportionately few black children for gifted education at all grade levels. Although PDE’s data-masking, *see supra* note 1, has made it impossible for CAAP to perform exact calculations for most grade levels, the disparities are obvious where unmasked numbers are available. In all four of UDSD’s elementary schools in 2014-2015, **zero** black students were in gifted education. In that year at SRMS, there were forty-two sixth-graders in gifted education, **zero** of them black. These unmistakable disparities reflect violations of Title VI and the PHRA.

UDSD provides enrichment programs at all grade levels for students it identifies as gifted. In elementary school, gifted students receive enrichment in the general classroom, plus they receive “instruction in an eighty-minute weekly itinerant pull-out program with gifted peers.” School District of Upper Dublin, *Gifted Education (Chapter 16)*, <http://www.udsd.org/page.cfm?p=666>. At SRMS, gifted students receive enrichment in the

general classroom, and they participate in special classes for social studies (6th grade), language arts (7th grade), and science (8th grade). *Id.* As UDHS:

gifted students have the opportunity to participate in honors and advanced placement courses to meet their instructional needs. If additional challenge beyond honors and advanced placement is found to be necessary, GIEP's are established to meet individual student's [sic] needs. In addition, all gifted students have the opportunity [sic] to participate in an independent study project, under the guidance of a mentor from the faculty.

Id.

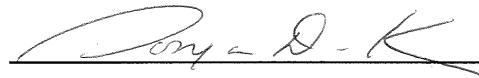
The Commission should investigate whether one factor contributing to UDSD's disproportionately low identification of black students as gifted is the use of a strict IQ score cutoff. Pennsylvania law requires that "Determination of gifted ability will not be based on IQ score alone." 22 Pa. Code § 16.21(d). However, it is the understanding of CAAP that UDSD sometimes refuses to identify black students as gifted if they score under 130 on an IQ test, even if they score 129. This would contravene 22 Pa. Code § 16.22(g)(2), which provides: "Intelligence tests yielding an IQ score may not be used as the only measure of aptitude for students of limited English proficiency, or for students of racial-, linguistic- or ethnic-minority background." It would also be concerning in light of the fact that Pennsylvania law recognizes that "race bias, or socio/cultural deprivation [may] mask[] gifted abilities" and thus that criteria other than IQ score must be used in evaluating giftedness. *Id.* § 16.21(e)(5).

VIII. Conclusion

Based on the foregoing, CAAP requests that the Pennsylvania Human Relations Commission (1) accept jurisdiction over and fully investigate these claims; (2) perform compliance reviews to determine whether the Upper Dublin School District discriminates against black students or other minority groups in its disciplinary practices, tracking, and gifted

programming; (3) compel the Upper Dublin School District to eliminate racial disparities in discipline by reducing its reliance on the harsh penalty of out-of-school suspensions; (4) compel the Upper Dublin School District to eliminate racial disparities in its tracking and gifted education practices, by abolishing tracking systems at Upper Dublin High School and Sandy Run Middle School; and (5) require other corrective action as is warranted following a full investigation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sonja D. Kerr", written over a horizontal line.

Sonja D. Kerr, Pa. Bar No. 95137
Benjamin D. Geffen, Pa. Bar No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103
Phone: 215-627-7100
Fax: 215-627-3183
Email: skerr@pilcop.org
bgeffen@pilcop.org

Counsel for Complainant

Dated: November 23, 2015

Chairman
GERALD S. ROBINSON
Vice Chair
DR. RAQUEL O. YIENGST
Secretary
REV. DR. JAMES EARL GARMON, SR.
Executive Director
JOANN L. EDWARDS



COMMONWEALTH OF PENNSYLVANIA
Human Relations Commission
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Commissioners
M. JOEL BOLSTEIN
HON. TERENCE FARRELL
PAMELA L. MCGAHA
J. WHYATT MONDESIRE
S. KWEILIN NASSAR
SYLVIA A. WATERS

August 20, 2013

Claudia Huot, Esquire
Wisler Pearlstine, LLP
Blue Bell Executive Campus
460 Norristown Road
Blue Bell PA 19422

Re: William Colon v Upper Dublin School District
Case No. 201003104

Dear Attorney Huot:

The Pennsylvania Human Relations Commission (Commission) has reviewed the records of the investigation in the above named complaint in which the complainant alleged unlawful discrimination. This is to inform you that the Commission is hereby closing this case as settled. The basis for the case closure is the signed agreement executed between you and the Commission. A copy of the fully executed agreement is attached. Enclosed is a Notice of the complainant's further rights in this matter.

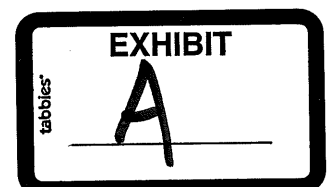
The Pennsylvania Human Relations Act affords the complainant and the respondent the opportunity for comments after the final disposition of the complaint. If you wish to make written comments regarding the investigation of the complaint, please send them to James Kayer, the Director of Compliance, at the above address. Your comments will be provided to the Commission members. Thank you for your cooperation during the course of this investigation.

Very truly yours,

A handwritten signature in black ink, appearing to read "JoAnn L. Edwards".

JoAnn L. Edwards
Executive Director
SSL:

Enclosures



PENNSYLVANIA HUMAN RELATIONS COMMISSION

NOTICE OF RIGHTS OF COMPLAINANTS AFTER DISMISSAL OF COMPLAINT

The complainant has the right to request a preliminary hearing in this matter, pursuant to the Commission's Special Rules of Administrative Practice and Procedure, 16 ADMIN CODE Section 42.62. Should the complainant desire to file such a request, it must be in writing and it must state specifically the grounds upon which the complainant disputes the Commission's findings. It may contain new evidence not previously considered. If the Request for a Preliminary Hearing is based upon new or previously unconsidered evidence, the nature, location, and form of the evidence in issue must be explicitly set forth in the request.

The purpose of the hearing, should the Commission grant one, will be to decide whether the Commission has properly dismissed the complaint. The Commission may also decide to reopen the complaint for further investigation instead of conducting a hearing.

Should the complainant desire to file a Request for a Preliminary Hearing, it **must be received** within ten (10) days of the receipt of this notice in order to be entitled to these rights. The request should be addressed to:

James Kayer, Director of Compliance
Pennsylvania Human Relations Commission, Executive Offices
333 Market St., 8th Floor
Harrisburg, PA 17126-0333

If the complainant files a proper Request for a Preliminary Hearing with the Commission, he will be notified as to whether a preliminary hearing has been granted. Should the Commission grant a preliminary hearing, you will be provided with more information about the hearing. At any time, the complainant may decide that a preliminary hearing is no longer wanted and may withdraw his request.

In addition, you are hereby notified, as required by Section 12 (c) of the Pennsylvania Human Relations Act, 43 P.S. Section 962(c), that complainant has the right, upon the dismissal of the case, to file a complaint in the courts of common pleas of the Commonwealth based on the right to freedom from discrimination granted by the Act. Section 962 (c)(1). If he wishes to file a complaint in the court of common pleas, the complaint must be filled within two (2) years after the date of the notice from the commission closing the complaint. Section 962 (c)(2). He may also wish to consult a private attorney about this right and about any other rights he may have in this matter.

Should the complainant file a complaint in the appropriate Court of Common Pleas, he is required by Section 12 (c) (2) of the Pennsylvania Human Relations Act to serve the Human Relations Commission with a copy of the Court complaint. This copy must be served on the Commission at the same time the complainant files it in Court. The copy is to be sent to:

Kathy Morrison, Chief Counsel
Pennsylvania Human Relations Commission, Executive Offices
333 Market St., 8th Floor
Harrisburg, PA 17126-0333

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

William Colon,
Complainant

v.

Upper Dublin School District,
Respondent

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: PHRC Case No 201003104
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NOTICE

You are hereby advised that the attached Conciliation Agreement/Consent Order must be executed by an individual who is authorized to legally bind Respondent Upper Dublin School District. Any other execution will result in the Commission's refusal to ratify this Agreement. All signatures must be witnessed by another person who knows the identity of the signer. Additionally, please be sure to fill in the date of execution on the space provided near each signature line.

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

William Colon,
Complainant

v.

Upper Dublin School District,
Respondent

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: PHRC Case No. 201003104
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CONCILIATION AGREEMENT

WHEREAS, on December 2, 2010, the above-named Complainant filed a verified complaint against the above-named Respondent with the Pennsylvania Human Relations Commission (hereinafter referred to as "Commission"); and

WHEREAS, the aforesaid verified complaint alleged that the Respondent had violated Section 5 of the Pennsylvania Human Relations Act (hereinafter referred to as "Act"), *as amended*, 43 P.S. § 955, as set forth in the true and correct copy of such verified complaint attached hereto as Appendix "A"; and

WHEREAS, the Respondent does not admit any violation of the Act, but wishes to resolve this matter amicably; and

WHEREAS, the Commission finds that the settlement terms, as set forth in Appendix "B" hereof, are reasonable under the circumstances and finds further that the public interest will be served by settlement of this case; and

WHEREAS, the Respondent, for the reasons set forth above, does hereby waive all rights to a public hearing under Section 9 of the Act, 43 P.S. § 959, and the Regulations promulgated by the Commission, and does hereby consent to the entry of this Conciliation Agreement (hereinafter referred to as "Agreement") as a Consent Order of the Commission, which shall have the same force and effect as a Final Order following a public hearing by the Commission, and shall be enforceable as such under Section 10 of the Act, 43 P.S. § 960;

NOW THEREFORE, the Respondent hereby agrees to be legally bound as follows:

1. The foregoing preamble shall be included herein as if fully set forth.
2. The Respondent admits the jurisdiction of the Commission in this matter and hereby waives all objections thereto.
3. Appendices "A" and "B" annexed hereto are incorporated into this Agreement as integral parts hereof as if fully set forth.
4. The term "Respondent" as used herein shall include all agents, servants and employees of the Respondent named above, in addition to the principal.
5. The execution and implementation of this Agreement shall not constitute any waiver of powers and duties conferred upon the Commission, nor shall this Agreement be deemed a declaration of policy or precedent by the Commission. This Agreement shall in no way affect the intake, processing, adjudication or disposition of future complaints involving the Complainant and/or the Respondent, except that the Respondent may, in the course of any proceedings, refer to this Agreement and to its performance thereunder, to the extent relevant to such proceedings.
6. The Respondent shall hereafter fully comply with all of the provisions of the Act and the regulations promulgated by the Commission and with each of the terms of settlement set forth in Appendix "B."
7. The Respondent shall report to the Commission, in writing, the manner of compliance with the Terms of Settlement set forth in Appendix "B" within thirty (30) days of receipt of the attached Final Order or at such time specified within a particular settlement term.
8. The Commission, finding that the above-captioned complaint has been satisfactorily adjusted in that the Respondent has agreed to the Terms of Settlement incorporated into the Agreement as Appendix "B," will, following entry as a Consent Order, close the above-captioned case.
9. This Agreement shall in no way discharge, release or absolve the Respondent from liability for any violation of Section 5(d) of the Act, 43 P.S. § 955 (d) (relating to retaliation) which may occur after execution of this Agreement, nor in any way limit the Complainant's right to file complaints based in whole or in part on any violation of the Act or other applicable law which may occur in the future.

-
10. If any portion of this Agreement, or the application hereof to any persons or circumstances, should for any reason be adjudged by any court of competent jurisdiction to be invalid or unenforceable, in whole or in part, such judgment shall not affect, impair, or invalidate any other portions of this Agreement.
 11. This Agreement constitutes a settlement of disputed claims. By entering into this Agreement, Respondent shall not be deemed to have admitted any fault or liability with respect to the claims settled hereby or any alleged violation of any law.
 12. The Respondent, being duly authorized to do so, enters into this Agreement with the intent to be legally bound hereby.
 13. This Agreement shall become final when approved and ratified by the Commission and inure to the benefit of Respondent and each of its respective heirs, successors and assigns, effective from the date of such approval. If not so approved and ratified, it shall be null and void from its inception.

IN WITNESS WHEREOF, the undersigned, being duly authorized to do so, have executed the foregoing Conciliation Agreement. Each certifies that they have full authority to negotiate and conciliate the above-captioned case. Each signed this Agreement freely, with full intent to be legally bound to all terms and conditions contained in the Conciliation Agreement/Consent Order and in the attached Appendices. Each clearly understood that they are waiving rights to a hearing by signing this Agreement.

The undersigned have executed the Agreement with a full understanding that false statements herein are made subject to the penalties of 18 PA. C.S. § 4904, relating to unsworn falsification to authorities.

BY THE RESPONDENT:

Walter J. Pich
Respondent Representative Name

Date: May 21, 2013

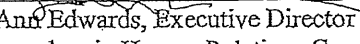
Title: Superintendent of Schools

ATTEST/WITNESS:

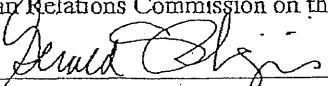
Brenda J. May
Title: Board Secretary

Date: May 21, 2013

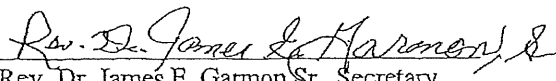
Recommended for approval by the Commission and entry as a Consent Order:


JoAnn Edwards, Executive Director
Pennsylvania Human Relations Commission

Approved, ratified and entered as a Consent Order at a meeting of the Pennsylvania Human Relations Commission on the 9th day of August, 2013.


Gerald S. Robinson, Chairman
Pennsylvania Human Relations Commission

ATTEST:


Rev. Dr. James E. Garmon Sr., Secretary
Pennsylvania Human Relations Commission

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

William Colon, on behalf of J [REDACTED] C [REDACTED],
his minor son,
Complainant

v.

Upper Dublin School District,
Respondent

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: PHRC Case No. 201003104
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COMPLAINT

(SEE ATTACHED COPY OF THE COMPLAINT)

APPENDIX "A"

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

William Colon on behalf of minor son J [REDACTED]
Complainant

v.

Upper Dublin School District,
Respondent

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COMPLAINT

JURISDICTION

1. Jurisdiction is pursuant to the Pennsylvania Human Relations Act 43 P.S. §§951-963.

PARTIES

2. The Complainant herein is:

William Colon on behalf of minor son J [REDACTED]
609 Dreshertown Rd.
Fort Washington PA 19034

3. The Respondent herein is:

Upper Dublin School District
Fort Washington Elementary School
1010 Fort Washington Avenue
Fort Washington PA 19034

UNDERLYING FACTS

4. My 10 year old son, J■■■■, is a student at the respondent's school.

Count 1

Privileges Revoked

Race - Discrimination

5. Paragraphs 1 through 4 are incorporated herein by reference as though set forth in full.
6. My protected class is race, African American.
7. Of the about 400 students at this school, there are about 10 African Americans.
8. October 27, 2010, the Principal, William DelCollo disciplined J■■■■ by taking away 2 weeks of recess time, not allowing him to use the school's computers, making him take his school work home to do on our home computer and being assessed a 1 strike disciplinary point. With 3 strikes, he would not be allowed on the end of year school trip. He was also told write a letter of apology.
9. The reason given for these actions was because J■■■■ had used the school's computer, as allowed, to download a picture for art class. J■■■■ was going to draw the head of this mythical art picture. A female student called the picture inappropriate and told the teacher.
10. About two weeks later, J■■■■ had fallen asleep on the bus. When he woke-up, he found the children on the bus laughing at him. Two students had pulled his shirt up to which his midsection was exposed.
11. The two student were never disciplined for putting their hands on J■■■■ and causing him embarrassment. These students are Caucasian.
12. Based upon the foregoing, I allege that the respondent violated Section 5(i)1 of the Pennsylvania Human Relations Act 43 P.S. 951-963.
13. The Complainant prays that the respondent be required to provide all appropriate remedies under § 9 of the Pennsylvania Human Relations Act.

VERIFICATION

I hereby verify that the statements contained in this complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 P.A.C.S. § 4904, relating to unsworn falsification to authorities.

12 / 2 / 2010
(Date Signed)

William Colon
William Colon
on behalf of minor son J [REDACTED]

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
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TERMS OF SETTLEMENT

1. Respondent shall not discriminate against students because of their race, African American.
2. Respondent shall remove the disciplinary notice and any other documents related to the October 27, 2010 incident from the education file of minor child Justin Colon.
3. Complainant shall have the opportunity to review all files in the possession of the Respondent for the minor child J. Colon to verify that the disciplinary notice and any other documents related to the October 27, 2010 incident have been removed.
4. At new employee orientation and on an annual basis, Respondent shall implement anti-discrimination training for administrators, teachers and staff, including training related to reducing any incidence of bias or disparate impact with regard to discipline- providing positive discipline training, behavior management training and conflict resolution training for new teachers and those expressing interest for a period of three years.
5. Respondent shall provide to the Commission verification of anti-discrimination training described in item number 4 to the Commission's legal division, to the attention of Assistant Chief Counsel, Central Office, Education and Community Services Division, on a bi-annual basis (July 31st and January 31st) for a period of three years.
6. Respondent shall collect and analyze data for the following for Fort Washington Elementary School: class enrollment by race/ethnicity; all referrals for discipline by race/ethnicity; disciplinary actions by race/ethnicity including type of offense; name and race of the decision maker(s) imposing the discipline. Respondent will explore implementation of guidelines for examining patterns of disparate discipline and guidelines whereby, if identified, Respondent will make a good faith effort to eradicate disparate discipline for African American students.

7. Respondent shall provide to the Commission verification of the analysis listed in item number 6 to the Commission's legal division, to the attention of Assistant Chief Counsel, Central Office, Education and Community Services Division, on a bi-annual basis (July 31st and January 31st) for a period of three years.
8. If identified, Respondent shall provide specialized anti-discrimination training, related to reducing any incidence of bias, for any/all staff who refer African American students for discipline in a statistically significant disproportion to the student's class enrollment.
9. Respondent shall provide to the Commission verification of trainings listed in item number 8 to the Commission's legal division, to the attention of Assistant Chief Counsel, Central Office, Education and Community Services Division, on a bi-annual basis (July 31st and January 31st) for a period of three years.
10. Respondent shall explore and establish as appropriate an effective mediation program to resolve minor behavior infractions within 120 days of the date of execution of this Agreement.
11. Respondent shall add the Pennsylvania Human Relations Act and the web address for the Pennsylvania Human Relations Commission (<http://www.phrc.state.pa.us>) to its anti-discrimination policy statement wherever the Respondent anti-discrimination statement appears, including student handbooks (as they are revised) and the Respondent's website within 30 days of the date of execution of this Agreement and provide verification to the Commission when it is complete.
12. Respondent agrees to post the Pennsylvania Human Relations Commission's Fair Practices poster, "Education Provisions", and the "Public Accommodations" poster on all bulletin boards, by the faculty entrances, on the Respondent's website, in the student and faculty handbooks and in its publications.

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

William Colon,
Complainant

v.


; PHRC Case No. 201003104

Upper Dublin School District,
Respondent

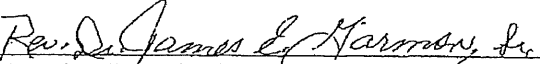
FINAL ORDER

AND NOW, this ____ day of _____, 20____, upon consideration of the Conciliation Agreement submitted in the above-captioned case, it is hereby ORDERED that said Conciliation Agreement be entered into the official record of the Pennsylvania Human Relations Commission as a Final Order to be given the same force and effect as if entered after a public hearing.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By:  8/7/13
Gerald S. Robinson, Chairman

ATTEST:

By: 
Rev. Dr. James E. Garmon, Sr., Secretary



Request for Student Placement Against Educational Advice Upper Dublin High School

Please note that this form must be completed & returned to your guidance counselor before March 6, 2015 3PM for you to be considered for the requested course.

Student Name: _____ Grade: _____ Student ID: _____
Current Teacher & course: _____
Recommended Course: _____ Level: _____
Requested Course: _____ Level: _____

The course/level you are requesting has not been recommended by Upper Dublin High School. By signing this form, you are choosing to disregard this recommendation and place your child in a course **AGAINST EDUCATIONAL ADVICE (AEA)**. Student course requests will not reflect the change until this form is returned to the child's Guidance Counselor. AEA form received after 3/6/15 will be considered based on seat availability.

Moving Up a Level

Please be advised that a more rigorous course will require a student to work much harder than they would in a lower level course. It is strongly recommended that any student overriding a professional recommendation do so knowing that they may need to seek out extra help and spend more time on homework in order to succeed in the course at a satisfactory level. A lower grade than in the previous level course may be a result due to the increased workload or pacing. The pace and workload of the course will not be adjusted to accommodate students who have used the override option.

Moving Down a Level

Please be advised if a student chooses a lower level, it is with knowledge that the course work may be less challenging and the pace and/or the workload will not be adjusted to accommodate the students who have chosen to drop levels. Expectations of earning higher grades in a lower level should not be anticipated.

AEA Agreement

I understand that I am opting to enroll my child in a course that is different from the teacher recommended course. Once an AEA occurs, the student will stay in the class for the duration of the school year. If a student does withdrawal from the course, a WP or WF will be placed on the student's transcript.

Student Signature

Date

Parent/Guardian Signature

Date

Section for Guidance Department Use Only

Date AEA form was returned to counselor: _____

Date schedule change form submitted by counselor: _____

