

CLIENT NEWS BRIEF

Federal Agencies Withdraw Previously Issued Guidance On The Nondiscriminatory Administration Of School Discipline

The United States Department of Education's Office for Civil Rights (OCR) and Department of Justice (DOJ) have [withdrawn](#) their 2014 joint Dear Colleague Letter (DCL) on Nondiscriminatory Administration of School Discipline, which provided recommendations and guidance on remediating disproportionate student discipline of minority and disabled students. The stated justification for the agencies' reversal is that implementation of the 2014 DCL resulted in schools easing up on punishment for student misconduct and contributed to rising violence in the nation's schools.

Background: 2014 DCL

In 2014, under the Obama administration, the non-binding discipline guidance DCL (See 2014 Client News Brief No. 7) was published pursuant to the OCR's responsibilities for implementing Title VI of the Civil Rights Act of 1964 and the DOJ's responsibilities for implementing Title IV of the Civil Rights Act of 1964, respectively. The stated goal of the 2014 DCL was to break or slow the cycle known as the school-to-prison pipeline, by prodding schools to reduce the number of suspensions and expulsions, especially for students of color and students with disabilities which data shows are disciplined at disproportionately high rates. The 2014 DCL set forth guidelines for measuring for disproportionality in the discipline of minority students and students with disabilities, and recommended practices for reducing or eliminating such disproportionality. The 2014 DCL also included instructions on how to "reduce disruption" without discriminating against students according to "personal characteristics," as well as guidelines for designing school discipline-related policies and practices which emphasize alternatives to suspension and expulsion.

Guidance Withdrawn

In 2018, U.S. Department of Education Secretary Betsy DeVos led a new Federal Commission on School Safety, established after the deadly school shooting at Marjory Stoneman Douglas High School in Parkland, Florida. The new commission's task was to study and make recommendations regarding several issues, including violence prevention strategies. On December 18, 2018, the commission recommended the rescission of the 2014 DCL, along with other associated documents, including:

- [Overview of the Supportive School Discipline Initiative](#) (Jan. 8, 2014);
- [Guiding Principles: A Resource Guide for Improving School Climate and Discipline](#) (Jan. 8, 2014);
- Appendix 1: U.S. Department of Education Directory of Federal School Climate and Discipline Resources (Jan. 8, 2014);
- Appendix 2: Compendium of School Discipline Laws and Regulations for the 50 States, Washington D.C., and Puerto Rico (Jan. 8, 2014); and
- [School Discipline Guidance Package FAQs](#) (Jan. 8, 2014).

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Sloan R. Simmons
Partner
Sacramento Office
ssimmons@lozanosmith.com



Marisa Montenegro
Associate
Los Angeles Office
mmontenegro@lozanosmith.com



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The commission reasoned that states and local school districts should play the primary role in establishing educational policy, including how to handle specific instances of student misconduct and discipline, and ensuring that classroom teachers have the support they need to implement such local policies. OCR and the DOJ adopted the commission's recommendations.

Takeaways

The rescission of the non-binding 2014 DCL and related federal guidance does not change any federal civil rights laws. It also does not change states' or school districts' obligation to administer school discipline in a non-discriminatory way, whether as a matter of federal or state law. School districts that continue to find value in the now-withdrawn guidance documents may continue to refer to and utilize that guidance and recommended policies and practices as they see fit.

If you have any questions about the guidance rescission, please contact the author of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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