

Office for Civil Rights (OCR) Complaint filing – U.S. Department of Education

Complainants: Texas Appleseed (public interest law center)
Brazos County NAACP

Counsel for Complainants: NAACP Legal Defense and Educational Fund, Inc.
National Center for Youth Law

Filed date/time: 10 a.m. Wednesday, February 20, 2013

SUMMARY:

This federal civil rights complaint is being filed with the U.S. Department of Education, Office for Civil Rights (OCR), on behalf of African-American students in Bryan Independent School District in Bryan, Texas, who are disproportionately harmed by the district’s policy of issuing Class C misdemeanor tickets for “Disruption of Class” and “Disorderly Conduct-Language” (profanity) as a response to relatively minor misbehavior. Before the advent of campus policing, such behavior was typically handled through school-based interventions—but now children as young as 12 years old are labeled as criminals, simply for engaging in normal teenage and pre-adolescent behavior.

Bryan ISD’s policy results in stark racial disparities. *While African-American students comprise less than 25% of the students in Bryan public schools, they received more than half of all Class C tickets issued over the last three school years.* African-American students are *four times more likely* to receive a ticket for “Disruption of Class” or “Disorderly Conduct-Language” (profanity) compared to other students.

The Complainants contend that Bryan ISD must be held accountable for the historical and continuing pattern of disproportionate ticketing of African-American students that flows from its contracting with local law enforcement to function as its “disciplinary arm” in local middle and high schools. The annual cost of deploying law enforcement officers to handle minor student misbehavior in Bryan schools is over three quarters of a million dollars per year. The Bryan school district pays half of this cost and provides other in-kind support as well. Class C misdemeanor “Disruption of Class” and “Disorderly Conduct-Language” tickets trigger a range of consequences that far outweigh the relatively minor adolescent behavior that the school is attempting to address. “Disruption of Class” tickets can be written for talking too much or making a loud noise in class. These tickets require a court appearance by the ticketed students and their parents, causing them to miss school and work in many cases, and have the potential for court-ordered fines of up to \$500, community service hours, and behavior management classes. Students who fail to appear in court or to pay their fines can be arrested and jailed at age 17. A conviction on a Class C ticketing charge can have lasting consequences: it must be reported on college and employment applications. Moreover, the courts hearing Class C cases in Texas are adult courts (justice of the peace and municipal courts) and do not provide a right to appointed counsel, confidentiality, and other protections typically afforded by juvenile courts.

The filing includes the following examples of student ticketing recently encountered by Texas Appleseed in Bryan ISD:

- A 13-year-old middle school student, who was overheard using profanity before class started, was referred to the principal by a teacher. The principal called the School Resource Officer (SRO) stationed in the school and asked the officer to write a ticket to the student based on the teacher’s referral. The student also received in-school suspension for this behavior.
- A 16-year-old high school student was sent to the principal’s office after she got into a verbal argument with a classmate. The principal asked the SRO to write the student a ticket based on the teacher’s referral.

Both of these examples demonstrate the improper use of ticketing by school administrators and SROs as a mechanism for enforcing school rules.

Specifically, the Complainants allege that Bryan ISD’s ticketing practices violate **Title VI of the Civil Rights Act of 1964**, which provides that recipients of federal funds may not discriminate on the basis of race, color, or national origin. Complainants are asking the OCR to apply what is known as the “disparate impact” standard. In applying that standard, school districts can be held liable for policies that have the *effect* of discrimination based on race, regardless of whether that discrimination is intentional.

Here, Bryan ISD’s *de facto* policy of Class C ticketing of students for minor misbehavior violates Title VI because it:

- (1) disproportionately harms African-American students;
- (2) does not support the school district’s educational mission or align with recognized best practices; and
- (3) could be replaced by less discriminatory alternatives that would keep schools safe and orderly.

Data provided by local officials makes the extreme racial disparities clear. And, Bryan ISD cannot justify this practice as “legitimate, important and integral to its educational mission”—given that extensive national research shows that punitive discipline, such as ticketing, that removes students from the classroom and introduces them to the court system is strongly linked to grade retention, school dropout, and future involvement in the juvenile and criminal justice system.

Moreover, even if the school district could show an educational necessity for its ticketing practices, it could still be held liable under Title VI because of the existence of alternative practices that would better serve the district’s educational mission and have *a less discriminatory impact*. The OCR complaint points to other school districts across the country, including Clayton County, Georgia; Denver, Colorado; and Waco, Texas that have successfully employed available alternative disciplinary practices to reduce disciplinary referrals, improve school climate, and boost academic achievement.

Key Statistics

Bryan ISD's overall Class C misdemeanor **ticketing rate** in 2010-11 (**59.6 tickets per 1,000 students**) ranked **second highest** (only after Galveston ISD) among the 42 Texas school districts recently analyzed by Texas Appleseed—and that rate remains “consistently high” over time, according to the OCR filing.

During the 2011-12 school year, 61% of all tickets issued to Bryan ISD students were for Disruption of Class or Disorderly Conduct – Language (profanity), suggesting that ticketing has replaced the principal's office as the disciplinary arm on Bryan ISD campuses.

In the 2011-12 school year, African-American students accounted for only **21% of Bryan ISD's student population**, but received the majority of citations for “Disruption of Class” (**143 or 53%**) and “Disorderly Conduct-Language” (**54 tickets or 52%**). African-American students' were **four times more likely** than other students to receive tickets for these offenses.

Recommendations

The Complainants are requesting that the OCR require Bryan ISD to engage an independent expert consultant, approved by all parties, to develop and implement a plan that contains strategies, objectives, and timelines to accomplish the following:

- Revise its Memorandum of Understanding with the Bryan Police Department to include clear guidelines for the kind of school-based behavior that is properly handled by police working as School Resource Officers (SROs).
- Provide additional training for SROs in adolescent behavior, conflict resolution and de-escalation techniques, and cultural factors affecting children's behavior.
- Require annual training for school administrators, teachers, staff, and SROs on the type of school incidents that warrant referral to SROs.
- Establish a complaint process to report the misconduct of SROs or other officers involved in a school-related incident.
- Require campus-based quarterly reporting of data on ticketing and school-related arrests, by type of incident disaggregated by race.
- Revise the Bryan ISD Student Code of Conduct to establish graduated consequences for misbehavior that minimize missed class time and that reserve suspension, expulsion, and police responses to student misbehavior to only those incidents that pose a safety risk.
- Solicit and employ the feedback of affected community members, including ticketed students and their families, in the process of revising the MOU, complaint process, and Student Code of Conduct.
- Implement evidence-based practices, such as school-wide Positive Behavior Interventions and Supports, to address minor misbehavior while improving school climate and academic achievement.

- Conduct an annual comprehensive review and issue a report analyzing all data regarding SRO-issued Class C misdemeanor tickets to ensure that revised ticketing practices align with the revised MOU and Student Code of Conduct as well as any Resolution Agreement that results from this investigation.
- Implement early intervention programs for students who receive multiple Class C citations and/or disciplinary referrals and who are at risk of being retained in grade or dropping out of school.

FOR MORE INFORMATION, CONTACT:

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Parent

Marjorie Holman, whose son previously attended Bryan ISD, is also available to answer questions about the impact of ticketing on her child and others in the Bryan school district.

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