



April 29, 2025

Via Electronic Mail: [OCR@ed.gov](mailto:OCR@ed.gov)

Craig Trainor  
Acting Assistant Secretary  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

**Request for Investigation Regarding Violations of Title VI of the Civil Rights Act of 1964 by Upper Arlington City School District**

Dear Acting Assistant Secretary Trainor:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to promote the rule of law, ensure due process and equal protection for all Americans, and combat invidious discrimination on the basis of race, color, national origin, and sex in America’s schools. Based on the facts and for the reasons described below, AFL respectfully requests that the Department of Education open an investigation of Upper Arlington City School District (“Upper Arlington School District,” “Upper Arlington,” or the “District”) located in Upper Arlington, Ohio.

**I. OCR’s Authority**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., prohibits discrimination on the basis of race, color, and national origin in educational programs and activities operated by entities receiving federal financial assistance from the Department of Education. Upper Arlington School District is a recipient of federal financial assistance from the Department of Education. It is therefore subject to Title VI and OCR’s investigative and enforcement authority. *See, e.g.*, 42 U.S.C. § 2000d-1; 34 CFR §§ 100.7, 100.8; *United States v. Morton Salt Co.*, 338 U.S. 632 (1950); *see also* U.S. Dept. of Education, *Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and SFFA v. Harvard* (Apr. 3, 2025).

## II. The District’s Illegal DEI Policies and Actions

Upper Arlington School District Board Policy 2260 states, “the Board of Education does not discriminate on the basis of race, color, national origin, sex[], disability, age[], religion, ... or any legally protected category, in its programs or activities, including employment opportunities.” Despite this policy, Upper Arlington engages in discriminatory DEI practices, and it has done so for years. These practices are directed both at staff (through hiring, professional development, and other programs) and at students (through influences on curriculum and the use of disparate impact analysis to drive disciplinary decisions).

In June 2020, during the height of the Black Lives Matter riots, the Upper Arlington School Board, like many other educational institutions and corporations in our country, caved to Black Lives Matter demands and began to implement racist and discriminatory DEI policies in the District. The District added a Chief Talent Officer (“CTO”) to “foster workforce diversity.”<sup>1</sup> Upper Arlington also added an Equity Advisory Board, which aims to “provide invaluable insight and feedback on the recruitment of a diverse staff.”<sup>2</sup> The School District also created a new position, the Chief Excellence and Engagement Officer, who was tasked with “spearhead[ing] Diversity, Equity, and Inclusion (DEI) efforts.”<sup>3</sup>

### A. Superintendent Hunt’s “UAdventure” Report and Illegal DEI Policies

The District’s push for DEI policies continued after the Black Lives Matter riots of 2020. In July 2023, Dr. Robert Hunt became Superintendent of Upper Arlington Schools<sup>4</sup> and he expanded the District’s DEI efforts. The District launched the Excellence & Innovation 2030 Strategic Plan, which is a vision for Upper Arlington School District over the next five years.<sup>5</sup> Shortly after being promoted to his role, Superintendent Hunt began his “UAdventure,” with the goal of utilizing this program to “support the framing of the upcoming strategic planning process.”<sup>6</sup> The report repeatedly advocates for illegal and discriminatory policies.<sup>7</sup> For example, the report explains that District staff believe “[t]here is a need for a clear vision for DEI

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<sup>1</sup> UPPER ARLINGTON CITY SCHOOLS, COMPREHENSIVE EQUITY AUDIT (2024) (available at <https://perma.cc/4S7L-KFUK>).

<sup>2</sup> *Id.* at 38.

<sup>3</sup> *Id.*

<sup>4</sup> UPPER ARLINGTON SCHOOLS, *Superintendent*, <https://perma.cc/8CTX-XSUW>.

<sup>5</sup> UPPER ARLINGTON SCHOOLS, *Strategic Plan*, <https://perma.cc/95VM-DL8A>; UPPER ARLINGTON SCHOOLS, *2025-2030 Strategic Planning Process*, <https://perma.cc/9J5A-4TMN>.

<sup>6</sup> COACH TO LEAD, DR. HUNT’S UADVENTURE SUMMARY OF LEARNINGS – DECEMBER 2023, (available at <https://perma.cc/4KFS-GVF8>).

<sup>7</sup> *Id.*

initiatives [and] advocacy for LGBTQIA+ students” while casting “those who oppos[e] DEI efforts” as “negative voices.”<sup>8</sup>

Superintendent Hunt’s report suggests that, “[t]o address the overarching desire for inclusivity among students, staff, and parents, the school district should prioritize the development of a plan for Diversity, Equity, and Inclusion (DEI).”<sup>9</sup> His report also argued that, “[t]here is a clear vision for DEI initiatives, advocacy for LGBTQIA+ students, and the importance of creating an environment where individuals can be their authentic selves and overcome challenges related to inter-generational communities.”<sup>10</sup> Superintendent Hunt acknowledged that despite some opposition to DEI, the district will continue to pursue it.<sup>11</sup>

### **B. Upper Arlington School District’s Comprehensive Equity Audit (“CEA”)**

Even while Superintendent Hunt conducted his study, the District conducted its own Comprehensive Equity Audit (“CEA”).<sup>12</sup> The purported goal of the audit was to address “the current district landscape pertaining to equity and presents an important opportunity for district leadership to develop a plan to implement the recommendations.”<sup>13</sup> The CEA contains many such discriminatory and illegal recommendations.

The CEA, for example, recommends that the District “develop a comprehensive Recruitment and Retention Plan,” pursuant to which the district should require the Chief Talent Officer to include an “Equity Lens” in their responsibilities, and “develop measurable targets for year-over-year recruitment and retention of educators and staff from diverse backgrounds.”<sup>14</sup> The Recruitment and Retention plan was also supposed to “guarantee systemic coherence in diversity hiring efforts” and “[e]stablish a formal process for recruiting educators of color.”<sup>15</sup>

The CEA also recommended developing the Office of Excellence and Engagement and ensuring that it “has a committed team and sufficient resources.”<sup>16</sup> It instructed the

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<sup>8</sup> *Id.* at 15.

<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.* at 15.

<sup>11</sup> *Id.* at

<sup>12</sup> UPPER ARLINGTON CITY SCHOOLS, COMPREHENSIVE EQUITY AUDIT (2024), (available at <https://perma.cc/4S7L-KFUK>).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 42.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 44.

district to “[s]taff the office with experienced professionals representing diverse backgrounds and expertise in equity, policy, data analysis, and community engagement.”<sup>17</sup> This office should “Develop a comprehensive district-wide equity framework with measurable goals and strategies. This framework should guide all decision-making and resource allocation, **ensuring equity is embedded in every aspect of the district's operations**” and “focus[] on specific equity areas including educator diversity.”<sup>18</sup> To aid in these goals, the office should track staff demographic information, to “track progress and inform program modifications.”<sup>19</sup> The CEA also suggests that, in order to maximize its impact, the office should be connected with “existing initiatives and programs focused on diversity, inclusion, and social justice.”<sup>20</sup>

The CEA also recommends that the District should “comprehensively analyze data pertaining to attendance, discipline, and academic achievement among student subgroups. Use insights from this analysis to identify disparities and implement targeted interventions.”<sup>21</sup> Similarly, the report recommends that the District should “[a]nalyze data related to academic achievement, disciplinary actions, and access to gifted programs across different demographic groups [and] [i]dentify disparities and implement targeted interventions to close achievement gaps.”<sup>22</sup>

In addition to the CEA’s focus on student race and identity demographics, and the repeated suggestion that disparities require “targeted intervention,” the report praises the District for its ongoing use of identity based “Affinity Groups” for high school students.<sup>23</sup>

### C. The District’s Excellence & Innovation 2030 Strategic Plan

After both of these studies concluded, the findings were then compiled, and the Strategic Coordination Team reviewed their recommendations before incorporating them into the Excellence & Innovation 2030 Strategic Plan.<sup>24</sup> Some of the recommendations include, “[i]nfus[ing] Diversity and Equity into Curriculum

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.* (emphasis added).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 45

<sup>21</sup> *Id.* at 53.

<sup>22</sup> *Id.* at 61.

<sup>23</sup> *Id.* at 29.

<sup>24</sup> *2025-2030 Strategic Planning Process*, UPPER ARLINGTON CITY SCHOOLS, <https://perma.cc/9J5A-4TMN>.

Instruction,”<sup>25</sup> and “enhance[ing] DEI connection/understanding of impact on UA (Upper Arlington) community[.]”<sup>26</sup>

The CTO and the District’s Deputy Superintendent serve as the District’s Compliance Officers (COs).<sup>27</sup> The COs are required to verify that the district complies with many federal statutes, including Title VI of the Civil Rights Act.<sup>28</sup> The COs have failed at this task as the board unanimously approved the Excellence & Innovation 2030 Strategic Plan, which was filled with discriminatory and illegal DEI policies, on January 14, 2025.<sup>29</sup>

On April 15, 2025, the Upper Arlington School District held a special meeting to discuss a notification from the U.S. Department of Education to the Ohio Department of Education and Workforce (DEW) requiring the DEW “to collect certification from school districts to verify districts’ compliance with U.S. civil rights laws. Failure to comply with this certification may jeopardize access to federal funding.”<sup>30</sup>

### **III. The District Intentional Title VI Violations Warrant Enforcement Action**

On January 21, 2025, President Trump signed Executive Order 14173, titled “Ending Illegal Discrimination and Restoring Merit-Based Opportunities.”<sup>31</sup> There, the President specifically authorized the Attorney General and the Secretary of Education to issue guidance requiring all entities that receive federal funds to comply with *Students for Fair Admission v. President and Fellows of Harvard College*.<sup>32</sup> In that case, United States Supreme Court emphasized in “[e]liminating racial discrimination means eliminating all of it,” necessarily including DEI.<sup>33</sup>

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<sup>25</sup> *WELL-BEING AND BELONGING INQUIRY TEAM BRIEFING REPORT*, UPPER ARLINGTON SCHOOLS, <https://perma.cc/TRG2-PGNR>.

<sup>26</sup> *CONNECTIONS AND COMMUNICATION INQUIRY TEAM BRIEFING REPORT*, UPPER ARLINGTON SCHOOLS, <https://perma.cc/BVM7-572F>.

<sup>27</sup> *Board Policy 2260*, UPPER ARLINGTON SCHOOLS, <https://perma.cc/HP2Z-P5VE>.

<sup>28</sup> *Id.*

<sup>29</sup> *Jan 14, 2025 – REGULAR MEETING WITH EXECUTIVE SESSION*, UPPER ARLINGTON CITY SCHOOLS, <https://perma.cc/D3PX-JBS4>.

<sup>30</sup> *Apr 15, 2025 – SPECIAL MEETING*, UPPER ARLINGTON CITY SCHOOLS, <https://perma.cc/D3PX-JBS4>.

<sup>31</sup> Exec. Order No. 14,173, 90 Fed Reg. 8,633 (Jan. 31, 2025).

<sup>32</sup> 600 U.S. 181, 206 (2023).

<sup>33</sup> 600 U.S. 181, 206 (2023) (interpreting Equal Protection Clause and Title VI of the Civil Rights Act). *See also*, Craig Trainor, Acting Assistant Sec’y for C.R., Dep’t of Educ., Dear Colleague Letter (Feb. 14, 2025), <https://perma.cc/7SSA-TM9S>, (“DEI programs, for example, frequently preference certain racial groups.”).

On February 14, the United States Department of Education released its “Dear Colleague” letter, clarifying and reaffirming the Department’s stance on the nondiscrimination obligation of schools.<sup>34</sup> While the Supreme Court’s decision focused on universities, the Department of Education clarified that it will “vigorously enforce the law on equal terms as to all preschool, elementary, secondary, and postsecondary educational institutions, as well as state educational agencies, that receive financial assistance.”<sup>35</sup>

On April 3, 2025, the Department of Education published a guidance document, which again reminded all State Educational Agencies and Local Educational Agencies that their receipt of Title VI funds is contingent upon their compliance with Title VI and the Supreme Court’s opinion in *SFFA v. Harvard*.<sup>36</sup> Certification of understanding and compliance is a requirement of continued receipt of Title VI funding. Weeks later, the Department issued yet another guidance document, entitled “Frequently Asked Questions About Racial Preferences and Stereotypes Under Title VI of the Civil Rights Act,” which made clear that “Title VI prohibits recipients of federal funding from discriminating on the basis of race, color, or national origin.”

That same guidance document explained that DEI programs are unlawful “if they intentionally discriminate on the basis of race, color, or national origin in their programs or activities. Many schools have advanced racially discriminatory policies and practices under the banner of “DEI” initiatives. Other schools have sought to veil racially discriminatory policies with terms like ‘social-emotional learning’ or ‘culturally responsive’ teaching.”<sup>37</sup> The Department of Education has repeatedly made clear that such efforts to obscure discriminatory programs do not render them legal and emphasized that it will evaluate the “the facts and circumstances of each case.”<sup>38</sup>

Accordingly, the District’s intentional Title VI violations, as described above, warrant OCR investigation and enforcement action.

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<sup>34</sup> Craig Trainor, Acting Assistant Sec’y for C.R., Dep’t of Educ., Dear Colleague Letter (Feb. 14, 2025), <https://perma.cc/7SSA-TM9S>.

<sup>35</sup> *Id.*

<sup>36</sup> United States Department of Education, Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and *SFFA v. Harvard*, (Apr. 3, 2025), <https://perma.cc/948R-KX3A>.

<sup>37</sup> *Id.* at 6.

<sup>38</sup> *Id.*

**IV. Relief Requested**

AFL requests that OCR promptly open a directed investigation into the allegations in this complaint, take all actions necessary to remedy the unlawful practices and procedures, and order all appropriate relief.

Thank you for your attention to this crucial matter.

Sincerely,

/s/ Jacob Meckler  
America First Legal Foundation

Cc: Candice Jackson, Deputy General Counsel, Office of the General Counsel