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**Via Electronic Mail:**

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**Request for Investigation: Cherry Creek School District's Race-Based Violations of Title VI**

Dear Assistant Secretary Richey and Assistant Attorney General Dhillon:

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.

We submit this complaint requesting that the Department of Education’s Office for Civil Rights (“OCR”) and the Department of Justice’s Civil Rights Division (“DOJ”) (collectively, the “Departments”) investigate Cherry Creek School District (“Cherry Creek” or the “District”), located in Greenwood Village, Colorado, for violations of Title VI of the Civil Rights Act of 1964<sup>1</sup> resulting from race-based discrimination and retaliation in the administration of its programs and activities while receiving federal financial assistance.

The District disciplines its students differently based on race. Specifically, the District favors and affords leniency to Black students when compared to students of other races. This leniency derives from the District’s policy of “culturally responsive” discipline—i.e., applying subjective disciplinary standards dependent upon a student’s race. Furthermore, it punishes administrators who refuse to comply with the District’s race-based discrimination. As detailed below, several recordings of District officials corroborate these allegations.

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<sup>1</sup> 42 U.S.C. 2000d *et seq.*

## **I. The Departments Have Jurisdiction and Authority to Investigate Title VI Violations**

Title VI prohibits discrimination on the basis of race, color, and national origin in programs or activities receiving federal financial assistance.<sup>2</sup> As a public school district receiving federal funds, Cherry Creek is subject to Title VI and the implementing regulations.<sup>3</sup> Title VI forbids intentional discrimination, including differential treatment in discipline based on race, and prohibits retaliation against individuals who oppose practices made unlawful by Title VI or participate in protected activity.<sup>4</sup> The Departments have investigative and enforcement authority, including the power to conduct directed investigations, require remedial action, and, where necessary, refer matters for enforcement.<sup>5</sup>

## **II. Cherry Creek Has Engaged in Disparate Treatment and Retaliation in Violation of Title VI**

Cherry Creek's policies state that the District complies with federal and state nondiscrimination requirements and prohibits harassment or intimidation on the basis of race, color, religion, ancestry, or national origin.<sup>6</sup> Despite these policies, Cherry Creek engages in discriminatory behavior and has selectively harmed students based on their race. Like many other educational institutions and corporations in our country, Cherry Creek has also implemented DEI policies in the District.<sup>7</sup> In fact, Cherry Creek's *Vision, Mission, and Values* states that "[it] must

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

<sup>3</sup> *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 Educ., *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).

<sup>4</sup> 42 U.S.C. § 2000d-1; *see also* 28 CFR § 42.107 (DOJ regulations prohibiting retaliation under Title VI); 34 C.F.R. § 100.7 (Department of Education regulations prohibiting retaliation under Title VI).

<sup>5</sup> *Id.*

<sup>6</sup> *See* CHERRY CREEK SCHS., *Policy AC: Nondiscrimination/Equal Opportunity Interpersonal/Human*, EBOARD SOLUTIONS (Aug. 11, 2025), <https://perma.cc/3HDK-GL4X> ("The schools in the District are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of race, color, ancestry, creed, sex, gender, gender identity, gender expression, sexual orientation, religion, national origin, marital status, age, disability or need for special education services."); *see also* CHERRY CREEK SCHS., *Policy AC-R-6: Nondiscrimination on the Basis Ethnicity and Race*, EBOARD SOLUTIONS (May 13, 2024), <https://perma.cc/YPK7-GJ3S> ("It shall be a violation of Board Policy AC, as well as federal and state law for any staff member or student to harass or intimidate any other staff member or a student because of that person's race, color, religion, ancestry, or national origin. Individuals or groups are in violation of Policy AC if...they actually harm a person on the basis of that person's race, color, religion, ancestry, or national origin.").

<sup>7</sup> *See, e.g.*, *HCMS Students Learn and Grow in Equity Workshops*, CHERRY CREEK SCHS.: ECCE IN THE NEWS (Apr. 24, 2025), <https://perma.cc/EF5M-5H76> ("At Horizon Community Middle School, equity is the foundation of meaningful student engagement and transformative conversations. For the past few years, the school has been building a culture where students don't just learn about equity—they help lead the work.").

incorporate equity into every part of [its] district to create meaningful, positive change.”<sup>8</sup>

Although shrouded in the appearance of “inclusivity”, the reality within the District is far more insidious. Despite its formal policies prohibiting discrimination, Cherry Creek has implemented and enforced practices that appear to condition disciplinary outcomes and employment consequences on adherence to race-based ideologies.

### **A. Cherry Creek Condone Disparate Treatment Through “Culturally Responsive” Discipline and Denigrates “Whiteness” of its Schools.**

Cherry Creek leadership has a problematic and ongoing pattern of leniency in its application of disciplinary standards for Black students as opposed to students of other races. In several recordings obtained by AFL, teachers and administrators of the District’s Campus Middle School (“Campus”) express concern over the District’s intervention in disciplinary matters involving Black students.<sup>9</sup> Through these recordings and statements from whistleblowers inside the District, AFL believes there is sufficient evidence warranting an investigation into the District’s repeated exertion of pressure upon District staff to apply preferential disciplinary standards based on race.

#### **1. Black students engaged in materially identical conduct in sharing an inappropriate video were not disciplined, while an Asian student faced expulsion and was ultimately suspended.**

For example, in late 2023, Campus disciplined and suspended three female students following the dissemination of an inappropriate video filmed off campus over Thanksgiving Break.<sup>10</sup> The video depicted Jane Doe 1 and Jane Doe 2 using inappropriate, racially charged language (variations of the “N” word) while under the influence of alcohol.<sup>11</sup> A third student, Jane Doe 3, did not appear in the video and only recorded the encounter. Does 1 and 2 are White and Hispanic, respectively, and Doe 3 is Asian. Jane Doe 4, a Black female student at Campus, asked Doe 3 to send her the video.<sup>12</sup> After obtaining the video, Doe 4 sent the video to her sister, Jane Doe 5 (a Black female student at Cherry Creek High School). Doe 5 then posted the video

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<sup>8</sup> *Vision, Mission and Values*, CHERRY CREEK SCHS.: EQUITY (last visited Nov. 19, 2025), <https://perma.cc/P569-JS8N>.

<sup>9</sup> See *infra* Notes 17-27.

<sup>10</sup> Kristin Oh, *2nd racist video by Greenwood Village middle school students draws ire from parents, calls for Cherry Creek schools action*, SENTINEL COLORADO (Dec. 12, 2023), <https://perma.cc/3G2R-AL8J>.

<sup>11</sup> Does 1 and 2 are children using a phrase popularized in music and media. There is no indication Does 1 and 2 were using terms as a way to express malice or hate towards Black people. This video is not publicly available but has been shown to AFL attorneys in confidence via a whistleblower within the District.

<sup>12</sup> It is unclear whether Jane Doe 3 actually sent the video to Jane Doe 4, or if Jane Doe 4 took Jane Doe 3’s phone and sent the video to herself.

to social media, tagging Does 1-3's social media accounts. Doe 5's post states, "reason why ion [I don't] fuck with [W]hite people period." Doe 4 also disseminated the video to her mother, who then provided Rocky Mountain NAACP a copy of the recording.<sup>13</sup>

Cherry Creek applied disparate disciplinary standards to Doe 3 versus Does 4 and 5. As a non-participant in the video, Cherry Creek disciplined Doe 3 for her dissemination of the video at issue. Does 4 and 5 disseminated the video to a much broader audience than Doe 3. Despite engaging in identical conduct, Does 4 and 5 received no discipline.

Specifically applicable to the conduct at issue are Cherry Creek Student Conduct Manual provisions JICDB(12) and JKD-1-E(3):

Cyberbullying: the use of any electronic communication device to convey a message in any form (text, image, audio or video) that defames, intimidates, harasses or is otherwise intended to harm, insult, or humiliate another in a deliberate, repeated or hostile and unwanted manner under a person's true or false identity. In addition, any communication of this form which disrupts or prevents a safe and positive educational or working environment may also be considered cyberbullying. Students shall refrain from using personal communication devices or district property to harass or stalk another.<sup>14</sup>

Behavior on or off school property which is detrimental to the welfare, morals, or safety of other students or District personnel, including behavior which creates a threat of physical harm to the student exhibiting the behavior or another student.<sup>15</sup>

Despite both Does 4 and 5 engaging in materially identical conduct as Doe 3, the District did not impose any discipline. Doe 3, however, faced several months of expulsion hearings, ultimately culminating in her suspension from school. After Does 4 and 5's identical infractions came to light, former Campus Assistant Principal, Dan Hanson, instructed personnel not to address the matter in electronic communications due to concerns about public records requests and adverse publicity.<sup>16</sup>

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<sup>13</sup> See *supra* Note 10 (article citing to Rocky Mountain NAACP publishing of the video).

<sup>14</sup> *Student Conduct and Discipline, Rights and Responsibilities*, CHERRY CREEK SCHOOL DISTRICT (Jul. 1, 2025) at 25, <https://perma.cc/MZ3Z-WMP8>.

<sup>15</sup> *Id.* at 61; see also C.R.S. § 22-33-106(1)(c).

<sup>16</sup> Audio tape: Campus Administration Team Conversation Regarding Avoiding Electronic Communication About Incident, at 0:02-1:59 (Dec. 1, 2023), <https://media.aflegal.org/wp-content/uploads/2025/12/10142041/Administration-Team-Conversation-Regarding-Avoiding-Electronic-Communication-About-Incident-Censored.mp4>.

**2. Campus officials admit the District’s Equity Department interferes with the equal application of disciplinary policies and condones favoritism based on race.**

In February 2024, Campus administrators held a leadership meeting. It included Principal Lissa Staal, Assistant Principal Aoi Jackson, Dean of Students Patrick Hogarty, and other school staff. The discussion centered on how the District’s Department of Equity, Culture, and Community Engagement (“Equity Department”), specifically its Director, Dr. Omar Montgomery, frequently interfered with Campus discipline based on race.<sup>17</sup> In particular, the discussion focused on the behavior of the non-disciplined Doe 4 at Campus. This student continued to exhibit behavioral issues, negatively influencing other students, and received no consequences for her behavior.

Doe 4 received no consequences because the District punishes students differently based on their race. Principal Staal’s own statements regarding the Equity Department make this clear:

[T]heir first instinct is implicit bias. So if, for example, [Redacted] is not responding appropriately to [Doe 4]’s concerns, it’s because [Redacted] has implicit bias towards a Black young lady, and that she does not know how to navigate the cultural identity of a Black young lady and that [Doe 4] is talking to her like [Doe 4] talks to anybody. This is just how [Doe 4] communicates. And **that is culturally appropriate for [Doe 4] to communicate that way** because that’s what is culturally appropriate. And that what is happening is that the **Whiteness that is present in our building is looking at that in a punitive way** ... that we are attributing negative connotations to what is essentially, exactly, **we’re calling her disrespectful or disruptive or defiant when she is just communicating in a culturally appropriate way**.<sup>18</sup>

Ultimately, the Equity Department was the group responsible for determining the disciplinary actions. If school personnel ever attempted to reprimand Doe 4, the District made the situation about race and “nix[ed] any type of discipline” of the student.<sup>19</sup> Anyone else attempting to remedy “were biased” because the student was Black, and the Department would immediately ask school personnel to rethink or

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<sup>17</sup> Audio tape: Campus Leadership Meeting Discussing Behavioral Issues and Equity Department Running the Show (Feb. 26, 2024), [https://media.aflegal.org/wp-content/uploads/2025/12/15152516/2\\_26-School-Leadership-Meeting-Censored.mp4](https://media.aflegal.org/wp-content/uploads/2025/12/15152516/2_26-School-Leadership-Meeting-Censored.mp4).

<sup>18</sup> *Id.* at 12:32-13:29 (emphasis added).

<sup>19</sup> *Id.* at 4:57-11:15.

remove any suspension they had in mind for Doe 4.<sup>20</sup> School personnel said they had “no ability to enforce anything” against the student and would “lose every time” when trying to, as their “hands were tied” against the Equity Department.<sup>21</sup>

Additionally, the District claimed that the reason Doe 4 was exhibiting her continuous behavioral issues, such as skipping school, was that she couldn’t “show up because of the **Whiteness of the school**,” and leadership’s “**Whiteness**” stood in the way of any discipline.<sup>22</sup> Campus personnel decidedly stated that any other student would be disciplined in these situations, but the Black student was not.<sup>23</sup> The District’s responses were inconsistent, and the student was given “special privileges” due to her race.<sup>24</sup>

Campus faculty specifically voiced concerns over the “District’s approach” to discipline, one person stating he felt that Campus staff were being forced to “act in an unethical manner.”<sup>25</sup> When pressed by faculty, Principal Staal on one hand conceded to hold the student accountable, yet simultaneously revealed how ‘accountability’ within the District would nevertheless be shaped according to a student’s race:

Principal Staal: Hold her accountable. Like any other kiddo in this building, hold her accountable.

...

If you feel like we're not behaving ethically because of the pressure that we're receiving, then do what you feel is right to do. **As long as we are administering discipline in an appropriate and culturally responsive way**, then I will back you.

Campus Staff: And consistent across all cultures. Consistent, right? Because that's what you're saying, is it's inconsistent if we're protecting...

Principal Staal: Yes, and I mean there does need to be some **culturally responsive lens** that we use when we're talking about student behaviors.

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<sup>20</sup> *Id.* at 7:17-22:27.

<sup>21</sup> *Id.* at 0:49-22:27.

<sup>22</sup> *Id.* at 8:45-14:09 (emphasis added).

<sup>23</sup> *Id.* at 5:15-6:16.

<sup>24</sup> *Id.* at 31:26-33:15, 34:23-39:19.

<sup>25</sup> *Id.* at 26:59.

And the **cultural expectations for behavior differ**.<sup>26</sup>

Principal Staal’s comments unquestionably make clear that the District engages in discriminatory doublespeak. Staff can “hold [Doe 4] accountable” and treat her “[l]ike any other kiddo in this building”—so long as it is done within the subjectively specified lens applicable to Black students.<sup>27</sup> In short, the District’s disciplinary regime illustrates the tangible outcome of equity over equality —“all [students] are equal, but some [students] are more equal than others.”<sup>28</sup>

Cherry Creek’s leadership has expressed discriminatory views on multiple occasions, including that only White people can be racist. Former District Equity Representative, Lisa Drangholtz, stated that she would not label racism the same for different races and that minorities cannot be racist because of “societal power.”<sup>29</sup> When asked about whether a Black student calling a White student “cracker” or stating “ching chong chang” to an Asian student would be racist, Drangholtz stated that would be “prejudice” not “racism.”<sup>30</sup>

Taken together, these recorded statements and actions demonstrate that District decision-makers intentionally conditioned disciplinary outcomes on race and discouraged documentation to conceal that fact. This is not a matter of disparate impact or miscommunication—it is intentional discrimination prohibited by Title VI and warrants immediate intervention.

### **B. Cherry Creek Retaliates Against School Administrators Who Refuse to Perpetuate Race-Based Ideology**

In addition to the conduct above, the District has also engaged in retaliation in violation of Title VI. In early 2024, Patrick Hogarty (“Mr. Hogarty”), the former Dean of Students of Campus Middle School, suffered retaliation at the hands of the District for his disagreement with DEI-inspired messaging during the District’s mandatory Courageous Conversations training.<sup>31</sup>

Courageous Conversations is facilitated by the Pacific Education Group (“PEG”), which per its own Frequently Asked Questions document, “believe[s] systemic racism is the most devastating factor contributing to the diminished capacity of all people,

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<sup>26</sup> *Id.* at 28:06-29:04 (emphasis added).

<sup>27</sup> *Id.* at 28:06.

<sup>28</sup> George Orwell, *Animal Farm* ch. 10, at 112 (Signet Classics ed. 1996) (inserting “student” in place of “animal” from the original text).

<sup>29</sup> Audio tape: School Equity Pod with Equity Representative Lisa Drangholtz, at 26:41-28:03 (Sep. 8, 2023), <https://media.aflegal.org/wp-content/uploads/2025/12/10171033/09.08.23-School-Equity-Pod-with-Equity-Representative-Lisa-Drangholtz-Censored.mp4>.

<sup>30</sup> *Id.* at 27:10-28:02.

<sup>31</sup> See generally Complaint, *Hogarty v. Cherry Creek Sch. Dist.*, No. 1:24-cv-02650-RMR (D. Colo. Sept. 25, 2024), ECF No. 1 (hereinafter, “Hogarty Complaint”).

and especially people of color and indigenous people, to achieve at the highest levels.”<sup>32</sup> Through its programming, PEG seeks to “transform environments to be more equitable, diverse and inclusive.”<sup>33</sup> PEG’s Courageous Conversations program chastises “Whiteness” and shames White individuals based on the color of their skin.<sup>34</sup>

In January 2024, Mr. Hogarty took part in the Courageous Conversations training. When faced with the topics of “What does it mean to be White?”, “What experiences define Whiteness?” and “How do you identify?” Mr. Hogarty stated that “he identifies as an American, that he loves his country, and that he believes it is the greatest country ever founded.”<sup>35</sup> Shortly after the training, Principal Staal informed Mr. Hogarty that the Equity Department’s Executive Director, Mr. Garcia y Ortiz, took issue with Mr. Hogarty’s failure to “acknowledge what people of color go through” and refusal to “admit that America is systemically racist.”<sup>36</sup> Mr. Hogarty later learned that Garcia y Ortiz had referred to Mr. Hogarty’s comments in the training as having “racist undertones.”<sup>37</sup> Approximately a month later, Mr. Hogarty was informed that his position had been eliminated due to “budgetary reasons,” specifically a decrease in FTE (i.e., Full Time Equivalent staff positions).<sup>38</sup> In fact, the District’s own budgetary documents reflect an increase in FTE from 116.66 to 117.35 from the 2023-24 to the 2024-25 school year at Campus.<sup>39</sup> When Mr. Hogarty questioned the District’s justification for his termination, expressing suspicion that it related to the Courageous Conversations training, he was placed on administrative leave.

It is unlikely Mr. Hogarty is the only employee to fail to fall in line. The District’s actions demonstrate a clear *modus operandi* of silencing dissent through the pretextual elimination of educators who are courageous enough to speak out against the District’s unlawful policies. If the District is taking such action, it would constitute retaliation in violation of Title VI and merit investigation. Moreover, to the extent the District has allocated federal funds for the implementation of the discriminatory Courageous Conversations program, AFL requests that the Departments investigate and take all appropriate action.

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<sup>32</sup> *Id.* at 7; see also *Frequently Asked Questions*, PACIFIC EDUCATIONAL GROUP, Tredyffrin/Easttown School District Website (last visited Sep. 18, 2024), <https://perma.cc/M4M3-KBBU>.

<sup>33</sup> *Id.*

<sup>34</sup> See *Professional Development*, CHERRY CREEK PARENT ADVOCACY NETWORK (last visited Sep. 18, 2024), <https://perma.cc/VQ6F-7C9R>; see also *Beyond Diversity Courageous Conversations Handout*, PACIFIC EDUCATIONAL GROUP (last visited Jul. 30, 2024), <https://perma.cc/Q3EG-7M65>, at 30-31 (requiring participants to engage in a “White Privilege Exercise”).

<sup>35</sup> Hogarty Compl. ¶¶ 48-49.

<sup>36</sup> *Id.* at ¶ 50.

<sup>37</sup> *Id.* at ¶ 54.

<sup>38</sup> *Id.* at ¶ 56.

<sup>39</sup> *2023-24 Adopted Financial Plan and Budget*, CHERRY CREEK SCHS. (last visited Dec. 10, 2025), <https://perma.cc/TEB4-9ZMR>, at 18 (citing to PDF pagination, page 8 on the document itself); *2024-25 Adopted Financial Plan and Budget*, CHERRY CREEK SCHS. (last visited Dec. 10, 2025), <https://perma.cc/F8WS-M3P7>, at 18 (citing to PDF pagination, page 10 on the document itself).



### **III. AFL Requests the Departments Take All Action Necessary to Remedy Cherry Creek's Discriminatory Practices**

Although by no means exhaustive, these examples highlight the systemic and ideologically motivated violations of Title VI at Cherry Creek. Ideologues have taken over the District leadership and they enforce adherence to their race-based decision making. This impacts school administrators, staff, and ultimately the students. For employees daring to challenge the discriminatory dogma, the District swiftly works to eliminate dissenters to ensure ideological conformity. The District's behavior clearly contravenes Title VI and the U.S. Constitution, all while it receives federal dollars.

Accordingly, the District's intentional Title VI violations, as described above, warrant investigation and enforcement action by OCR and DOJ. AFL requests that the Departments 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 matter.

Sincerely,

/s/ Nicholas R. Barry

Senior Counsel

America First Legal Foundation