

**Settlement Agreement**

**between**

**The United States of America**

**and**

**The Prince William County School District**

## SETTLEMENT AGREEMENT

### DEFINITIONS

1. “The District” refers to the School Board of the Prince William County School District in Virginia, which operates the Fred Lynn Middle School.
2. “FLMS” refers to the Fred Lynn Middle School in Woodbridge, Virginia.
3. “ELLs” refers to students who are English Language Learners, Limited English Proficient, or Non-English Proficient and thus require assistance to overcome language barriers that impede their equal participation in the District's instructional programs. Students with English Language Proficiency (“ELP”) levels of 1, 2, 3, 4, and 5 based on the World-Class Instructional Design and Assessment (“WIDA”) ELP assessment shall be considered ELLs under this Agreement.
4. “Former ELLs” refers to students who achieved a composite score of at least 5 and a literacy score on Tier C of at least 5 on the Assessing Comprehension and Communication in English State-to-State for English Language Learners test (“ACCESS”), including those with ELP level 6 in their first and second year of monitoring.
5. “ESL” refers to English as a Second Language, which is direct, explicit instruction about the English language that provides a systematic and developmentally appropriate approach to teaching language.
6. “Sheltered content instruction” is a model for teaching grade-level content to ELLs by integrating language and literacy development into content area instruction. Sheltered content instruction systematically incorporates an array of teaching strategies that make the content (*e.g.*, math, science, and social studies) more comprehensible to ELLs while promoting their English language development.

7. “Reading Strategies” refers to a reading support class at FLMS provided to ELP Levels 3, 4 and 5 ELLs who are struggling with reading, based on not scoring at least 5 on their literacy score for ACCESS and scoring below 400 on the Virginia Reading Standards of Learning (SOLs).
8. “ESOL services” refers to English for Speakers of Other Languages (“ESOL”) services. In the District, ESOL services refers to ESL instruction, content instruction co-taught by a certified content area teacher and an ESOL certified teacher, and sheltered content instruction by a teacher dually certified in the content area and ESOL or a content certified teacher adequately trained in sheltering techniques. Classes in which some of these services are provided may include non-ELL students.
9. “SLATE training” refers to Second Language Acquisition Training for Educators and is a staff development model course for training educators of ESOL students. Students receive three graduate credits from George Mason University and 90 recertification points for completing the course, which constitutes approximately 45 hours. In addition, the course incorporates the Prince William County School District's vision, philosophy, and ESOL program procedures for ELLs.
10. “TSA” refers to a teacher on special assignment to the FLMS who shall have ESOL certification and significant experience in the implementation of ESOL programs.

## **BACKGROUND**

11. The United States is conducting a review of the ELL services provided at FLMS. The United States has not concluded its review because it is awaiting additional information and documents, which it requested from the District and which the District is still gathering. Nevertheless, the United States has identified several serious compliance

issues regarding the provision of ELL services at FLMS that need to be addressed by the District and FLMS during the 2010-11 school year. The compliance issues identified by the United States thus far pertain to the District's obligations to provide at FLMS:

adequate and appropriate ELL services to all ELLs by qualified teachers, adequate and appropriate materials, and adequate and effective monitoring of current and exited ELLs to assess their progress and evaluate whether FLMS's ELL program is overcoming ELLs' language barriers in a reasonable period of time.

12. In an effort to avoid litigation, the Prince William County School District, by its undersigned School Board Chairperson, agrees to the terms of this Settlement Agreement and to comply fully with its provisions in order to address and resolve the compliance issues raised by the United States Department of Justice, Civil Rights Division ("United States") regarding the District's legal obligations under the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1701 *et seq.* ("EEOA"). This Settlement Agreement is entered with the parties' understanding that it addresses the compliance issues raised thus far by the United States regarding FLMS and that additional remedies concerning FLMS and/or the District may be needed as the United States continues its review. This Settlement Agreement shall be binding upon the successor members of the Prince William County School Board and successor Division Superintendents.
13. In consideration for the commitments made herein by the District, the United States agrees not to initiate judicial proceedings to enforce the requirements of the EEOA regarding the specific issues at FLMS addressed in this Settlement Agreement. The Settlement Agreement does not foreclose the United States from seeking court intervention to address

other issues relating to the District's compliance with its EEOA obligations at FLMS or other schools in the District that are not addressed by this Agreement.

14. This Settlement Agreement shall become effective on the date of its entry and shall remain in effect for three school years following that date. The date on which counsel for the United States signs the Settlement Agreement shall be considered the entry date of this Settlement Agreement. This Settlement Agreement is undertaken as a means of alternative dispute resolution to avoid litigation and for the purposes of judicial and governmental economy. The Settlement Agreement shall not be construed as an admission of liability by the District to any violations of the EEOA.

#### **GENERAL REQUIREMENT**

15. As required by the EEOA, the District shall take appropriate action to overcome language barriers that impede equal participation by its students. *See* 20 U.S.C. § 1703(f).

#### **SPECIFIC REQUIREMENTS**

##### **Instruction of ELLs**

16. The District shall provide adequate and appropriate ESOL services to all ELLs at FLMS with ELP Levels 1 through 5. Toward that end, beginning in the 2010-11 school year, the District and FLMS have agreed to provide the following instruction at FLMS:
  - a. 4.5 hours a day of direct ESOL instruction to ELLs at ELP Level 1 (newcomer), including instruction in the content areas;
  - b. 4.5 hours a day of direct ESOL instruction to ELLs at ELP Level 2, including instruction in the content areas of which some classes shall include non ELL-students;

- c. 3.75 hours a day of direct ESOL instruction to ELLs at ELP Level 3, including instruction in the content areas of which some classes shall include non-ELL students. This instructional time shall include 45 minutes per day of the Reading Strategies class with (i) an ESOL certified teacher, (ii) a reading specialist who has completed SLATE training or at least its equivalent in substance and duration, or (iii) a language arts teacher who has completed SLATE training or at least its equivalent in substance and duration; and
- d. 2.25 hours a day of direct ESOL instruction to ELLs at ELP Levels 4 and 5, which includes 45 minutes per day of the Reading Strategies class with (i) an ESOL certified teacher, (ii) a reading specialist who has completed SLATE training or at least its equivalent in substance and duration, or (iii) a language arts teacher who has completed SLATE training or at least its equivalent in substance and duration. Students at ELP Levels 4 and 5 who are in extended classes (*i.e.*, advanced classes) shall receive 45 minutes a day of the Writers Workshop taught by a SLATE trained language arts teacher or an ESOL certified teacher in lieu of the Reading Strategies class and co-taught reading class.

The District shall ensure that all ELLs at FLMS are integrated with non-ELL students for recess, art, music, gym, lunch, library, and whatever other classes need not enroll exclusively ELLs to meet the District's obligations in this Settlement Agreement. The District also shall ensure that ELLs are integrated, to the extent practicable, with non-ELL students in school functions, co-curricular activities, and extracurricular activities.

- 17. The District and FLMS shall fully develop and assess the Reading Strategies course, and shall, *inter alia*, (a) ensure that the Reading Strategies course at FLMS has a stated scope

and sequence with a stated course description, goals, objectives, performance indicators, and outcomes; (b) ensure that teachers of the Reading Strategies course promptly receive the specific reading skills test data for each of the students enrolled in their classes in order to tailor instruction to the specific areas of weakness of the students; and (c) evaluate the growth in the reading skill and overall comprehension of the students enrolled in all sections of the course to determine if the course is producing results indicating that the ELLs' language barriers are actually being overcome.

18. FLMS and the District shall cease counting the homeroom time at the beginning and end of the school day as direct ESOL services, and the District shall inform FLMS teachers that they may not include this time as direct ESOL services when they report the amount of ELL services FLMS is providing to ELLs either in writing or in the District's database.
19. The District shall ensure that all teaching staff at FLMS are informed that they may use native language support strategically to facilitate ELLs' comprehension in class.

#### **Instructional and Administrative Staff**

20. The District shall ensure that teachers of ELLs at FLMS are adequately trained to provide quality ESOL services to ELLs. To the extent practicable, the District shall ensure that teachers of ESOL instruction at FLMS have an ESL endorsement, or if this is not possible, a provisional ESL endorsement and are making consistent progress toward obtaining an ESL endorsement within three years, the time period required by the Virginia Board of Education. The District shall contact the United States should the Virginia Board of Education alter the required time period for obtaining ESL endorsement. If neither a fully endorsed ESL nor provisionally endorsed ESL teacher is available, then the District shall provide a teacher at FLMS who receives adequate and appropriate training from the

District regarding providing ESOL instruction to ELLs prior to and during the school year. The District also shall ensure that all sheltered content instruction is taught by teachers at FLMS who have an ESOL endorsement or have completed SLATE training or at least its equivalent in substance and duration. Toward that end, the District has reserved 19 of the 30 seats in the fall 2010 SLATE training class for certain FLMS employees. The District shall ensure that FLMS's reading, math, science, and social studies teachers attend this SLATE training class by the end of the 2010-2011 school year, either in the fall 2010 or spring 2011 class.

21. When an ESOL position at FLMS is filled by a long-term substitute or temporary teacher by reason of necessity and that teacher works or is expected to work more than 45 days, he or she shall commence ESOL training within 45 days of starting work and shall complete the training within a reasonable time. Wherever space permits, the District shall ensure that ELLs at FLMS with a long-term substitute or temporary teacher lacking an ESOL endorsement shall be transferred to classes with an ESOL endorsed teacher unless a parent objects to the transfer in writing.
22. The District shall ensure that ESOL teachers and content teachers assigned to co-teach at FLMS have common planning periods in which to plan for their co-taught instruction. In addition, the District shall provide a common planning period for all grade-level ESOL teachers and grade-level general education teachers.
23. The District shall designate an official who will serve as the Settlement Agreement coordinator and have the ability to ensure compliance with the Settlement Agreement. The Settlement Agreement coordinator shall conduct a quarterly review both by onsite visit(s) and document review(s) to ensure that the District and FLMS are complying with



the terms of the Settlement Agreement, and shall provide a bi-annual written report evaluating and setting forth the District's and FLMS's status of compliance with the terms of this Settlement Agreement. The District shall provide a copy of the biannual report to the United States within ten (10) days of its completion.

24. The Settlement Agreement Coordinator shall have the authorization of the District's Superintendent to require the principal of FLMS to take specific actions with respect to the provision of ELL services.
25. The District shall employ or designate a Teacher on Special Assignment ("TSA") who shall serve as the FLMS Department Chairperson for the ESOL Department and perform the following duties:
  - a. Participate in all Child Intervention Committee, Eligibility, and Individual Education Plan ("IEP") meetings for students eligible for ELL services;
  - b. Meet with each ESOL teacher bi-monthly to review his or her student data notebook and case load documentation and to discuss any areas of concern;
  - c. Provide professional development and coaching as it relates to ESOL;
  - d. Serve as the liaison between the ESOL staff and the principal of FLMS;
  - e. Be available to address other duties related to ESOL services as assigned by the Principal of FLMS and the District's Settlement Agreement Coordinator;
  - f. Review the performance of current and former ELL students enrolled at FLMS on an ongoing basis and make appropriate recommendations regarding ESOL services based on student performance;
  - g. Establish an open line of communication with parents of ELLs;

- h. Oversee and monitor the development and implementation of a curriculum for the Reading Strategies course and evaluate the curriculum for the Sheltered Writer's Workshop; and
  - i. Meet with ELLs with ELP levels 4 and 5 enrolled in the Sheltered Writers Workshop to monitor and conference with them regarding goal setting.
- 26. The District shall monitor the progress that provisionally certified ESOL teachers at FLMS are making toward full certification and shall require them to attain full certification within three years, the time period required by the Virginia Board of Education. The District shall contact the United States should the Virginia Board of Education alter the required time period for obtaining ESL certification. The District also shall monitor the progress that reading, math, science, and social studies teachers of ELLs at FLMS are making toward obtaining adequate training in sheltering techniques through SLATE training or at least its equivalent in substance and duration, including but not limited to FLMS's compliance with paragraph 20 above.
- 27. The District shall continue to provide training for all current ESOL teachers and teacher aides, if any, at FLMS on how to implement the District's ESOL curricula during the 2010-11 school year. Training shall be provided to new ESOL teachers and aides at FLMS within forty-five (45) days of their first day of teaching and whenever possible before the start of the school year. After receiving the initial training, all ESOL teachers and aides at FLMS shall receive refresher training at least once a year.
- 28. FLMS shall continue to offer financial incentives to support the purchase of classroom materials and supplies to encourage teachers to obtain training regarding instructing ELLs, including but not limited to SLATE training, for the duration of this Settlement Agreement.

### **Resource Allocation**

29. The District shall provide adequate and appropriate instructional materials for ELLs at FLMS. Toward this end, the District shall conduct a complete review of FLMS's instructional materials for ELLs at the commencement of the 2010-2011 school year and shall provide FLMS with any materials needed for its ESOL and sheltered content classes by no later than the commencement of the second semester of the 2010-2011 school year. In conducting the review, the TSA shall interview each teacher providing services to ELLs in the ESOL, reading, math, science, and social studies classes at FLMS regarding their needs for classroom materials. The District shall provide to the United States a copy of the materials review by December 1, 2010. The District shall ensure that ESOL, reading, math, science, and social studies teachers at FLMS are retrained regarding how to obtain ELL-related materials in the 2010-2011 school year.

### **Special Education**

30. The District shall provide special education services and ESOL services to all students at FLMS who are eligible for both such services. The District shall not deny ESOL services to special education students who qualify for ESOL services at FLMS and shall not deny special education services to students who are ELLs at FLMS and qualify for special education (SPED) services.
31. The District shall expressly inform parents that dually identified SPED and ELL students at FLMS are eligible for both ELL and SPED services.
32. The District shall ensure that all IEP teams consider the language needs of all SPED ELL students at FLMS as such needs relate to their IEPs. As of the entry date of this Settlement Agreement, the IEPs shall include the FLMS students' ACCESS scores and ELP Levels.

The "Category 2 Special Education Folder" shall contain documents which identify the languages in which SPED assessments were conducted; modifications, if any, of standard assessment procedures; the qualifications of the individuals completing the SPED assessments; and the impact of language on the interpretation of the data, including a determination by the special education eligibility team that the ELL's level of English proficiency is not determinative of the decision to administer SPED services. Toward that end, the District shall evaluate ELLs at FLMS in their native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.

33. The District notices regarding its special education vacancies at FLMS shall express an interest in candidates with ESL and bilingual credentials and foreign language fluency.

**Monitoring Current and Exited ELLs and Evaluating ESOL services**

34. The District shall ensure that FLMS's ESOL teachers, ESOL Department chair, and Principal adequately implement the District's policy for reclassifying students per the District's ESOL Procedural Manual, and shall provide immediate training/retraining to these persons in these procedures at FLMS during the first semester of the 2010-2011 school year.
35. The District and FLMS shall implement a system for monitoring the academic performance of current and recently exited (*i.e.*, exited within the past two years) ELLs at FLMS. As part of this system, all current ELLs should be identified by their ELP levels on all class rosters. All recently exited students should be identified as former ELLs (*i.e.*, Level 6, year 1 and 2) for two years on all class rosters. The District and FLMS shall

conduct a quarterly review of current ELLs with ELP Levels 1 to 5 by reviewing at least their grades, standardized test scores, and progress reports. If this review indicates that the ELL needs additional ESOL services, the District shall provide an appropriate level of ESOL services as soon as possible but by no later than 30 days. The District shall monitor Level 6, year 1 and year 2 students at FLMS twice per year by reviewing at least their grades, standardized test scores, and progress reports to determine if these students need any academic support services (*e.g.*, tutoring) or need to be reentered into direct ESOL services. If a student with ELP Level 6 being monitored under this paragraph fails to make academic progress, as measured by grades and assessments, at any time during the two-year monitoring period, and if a school-based team familiar with the student determines that this failure is due to a lack of English proficiency, the student shall be provided with appropriate ELL services with parental consent.

36. For the duration of this Settlement Agreement, the District shall perform a longitudinal cohort analysis of FLMS's ELL program by disaggregating and monitoring the following data by current and former ELLs at FLMS during 2010-2011 school year, and current ELLs and former ELLs at and from FLMS in subsequent years: performance on standardized tests, including Virginia SOLs and ACCESS; exit rates; enrollment in special education and enrichment programs (*e.g.*, gifted classes); and retention-in-grade rates. The District shall use these data to analyze the performance of a cohort of current ELLs at FLMS and a cohort of former ELLs at and from FLMS longitudinally over the term of this Agreement to evaluate whether the District's ESOL services are overcoming ELLs' language barriers within a reasonable period of time and enabling ELLs' meaningful participation in all aspects of the educational program. Specifically, the District shall

track a cohort of students who are current and former ELLs at FLMS in the 2010-11 school year and remain at FLMS or one of the District's high schools over the course of this Agreement.

### **REPORTING TO THE UNITED STATES**

37. The District agrees to respond fully to requests from the United States for information and documents related to ELL services at FLMS and shall complete its document and information production to the United States' July 8, 2010 information and document request no later than October 15, 2010.
38. During the three (3) school years following execution of this Settlement Agreement, the District shall provide to the United States annual reports detailing its efforts to comply with the provisions of this Settlement Agreement. The District shall submit the annual reports outlined herein by July 10th of each year of this Settlement Agreement. If any of the information required for the annual report in a particular school year is available in a document that the District already has prepared to comply with the No Child Left Behind Act (20 U.S.C. § 6301, *et seq.*) or other federal or state statute or regulation, the District may include the document in its annual report and indicate the section of the annual report to which the document applies. The annual reports shall include the following information about the school year preceding each annual report, unless otherwise specified:
  - a. a list of all ELLs at FLMS by name, grade, ELP level, special education status, and native language who received ESOL services, including the type and duration of services provided (*e.g.*, sheltered math for 45 minutes per day) and the name(s) of the teacher(s) providing services;

- b. (i) a list of ELLs at FLMS by name, grade, ELP level, and native language who opted out of ESOL services; and (ii) a list of ELLs at FLMS by name, grade, ELP level, and native language who did not opt out of ESOL services and who did not receive them;
- c. copies of all forms related to student registration and ELL eligibility that are provided to students, parents, and/or the general public, as well as a list of other languages in which these forms are available;
- d. a list of all FLMS ESOL and sheltered content teachers by grade, language(s) that they speak, certification(s), and ELL-related training they have received;
- e. a list of all ELL-related training provided to FLMS instructional personnel, including a description of the content of each training, the date(s) of the training, and the number and position of the attendee(s);
- f. the class rosters of the ESOL self-contained, co-taught, and sheltered instruction classes provided to ELLs at FLMS, including the name of the teacher(s), the times of the class, and students' names, ELP levels, and grade levels;
- g. the name(s) and number of students by grade and native language who were exited from the District's ELL program at FLMS;
- h. the name(s) and number of Level 6, year 1 and year 2 students at FLMS by grade and native language who were re-entered into the District's ELL program;
- i. the name(s) and number of special education teachers and aides at FLMS with ESL/ELD certification(s), noting their training and/or certification(s), and their foreign language fluency.
- j. the name(s) and number of ELLs at FLMS by grade and native language who:

- (i) were referred for special education services, (ii) were found eligible for such services; and (iii) received such services, noting the nature and duration of such services;
- k. a description of the District's system for monitoring Level 6, year 1 and year 2 students at FLMS (referenced in paragraph 35) over a two-year period, specifying the data that are monitored and including a copy of the monitoring forms for each student who exited within the past two years and a description of the quarterly monitoring for current ELLs at FLMS including a copy of the quarterly monitoring sheets;
- l. a description of the District's progress at FLMS in obtaining appropriate materials for its ELLs, including a list of newly obtained ELL-related materials;
- m. a copy of the longitudinal cohort analysis required by paragraph 36; and
- n. any other information that the District believes will be helpful.

### **ENFORCEMENT**

- 39. The District shall maintain records of all information pertinent to compliance with the terms of the Settlement Agreement and shall provide such information to the United States upon request. This information includes but is not limited to records of all ESOL services that FLMS provides to each ELL, including the subjects, teachers, and duration (*e.g.*, Monday to Friday, 1 hour) of his/her services, as well as his/her name, ELP level, grade level, and special education status, if any.
- 40. The District acknowledges that the United States, through its representatives and any consultant or expert it may retain, has the right to conduct an on-site review of FLMS to evaluate compliance with the terms of this Agreement upon giving reasonable notice and



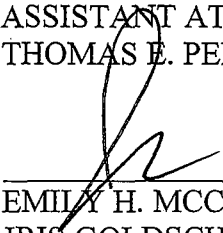
consultation with the District to minimize any disruption to the education process at FLMS. The District acknowledges that the United States, through its representatives and any consultant or expert it may retain, has a right to conduct an onsite review of the District's schools to assess compliance of the ELL services with federal law. This right includes speaking directly with FLMS and District employees who are not administrators and have questions, concerns, or other information to raise with the United States.

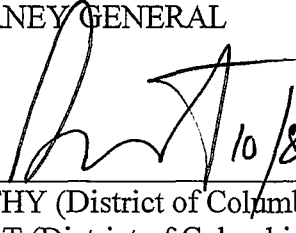
41. The District acknowledges and understands that, in the event of a breach by the District of this Settlement Agreement, the United States may initiate judicial proceedings to enforce the EEOA and the specific terms, commitments and obligations of the District under this Settlement Agreement. The District acknowledges and understands that the United States, consistent with its responsibility to enforce the EEOA, retains the right to investigate and, where appropriate, initiate judicial proceedings concerning any existing or future violations of the EEOA by the District.

42. The following signatures indicate the consent of the parties to the terms of this Settlement Agreement.

**For the United States of America:**

ASSISTANT ATTORNEY GENERAL  
THOMAS E. PEREZ

  
EMILY H. MCCARTHY (District of Columbia Bar # 463447)

  
IRIS GOLDSCHMIDT (District of Columbia Bar # 435491)

U.S. Department of Justice

Civil Rights Division

Educational Opportunities Section

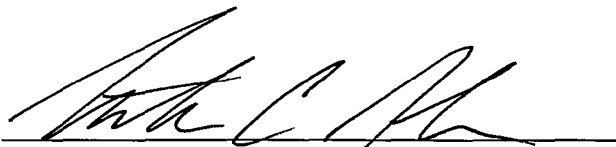
601 D Street, N.W., Suite 4300

Washington, DC 20530

Phone: (202) 514-4092

Fax: (202) 514-8337

**For the Prince William County School District:**

A handwritten signature in black ink, appearing to read 'Milton Johns', written over a horizontal line.

MILTON JOHNS, ESQ., School Board Chairman  
Prince William County School Board  
Edward L. Kelly Leadership Center  
14715 Bristow Road  
Manassas, VA 20112