

**Settlement Agreement**  
**between**  
**The United States of America**  
**and**  
**The Burlington School District**

The Burlington School District (the “District”), the United States Department of Justice, Civil Rights Division, Educational Opportunities Section and the Office of the United States Attorney for the District of Vermont (the “United States”) (collectively “the Parties”) voluntarily enter into this Settlement Agreement (“Agreement”) to improve the District’s ability to prevent and appropriately respond to peer-on-peer harassment based on sex consistent with the District’s obligations under Title IV of the Civil Rights Act of 1964, 42 U.S.C. §2000c *et seq.* (“Title IV”), which authorizes the Department to address certain complaints of discrimination in public schools. Under this Agreement, the District will receive technical assistance from the Mid-Atlantic Equity Center (“Equity Center”)<sup>1</sup> to support a review of its sex-based harassment policies, practices, and procedures to make them consistent with one another and with Federal law. In addition, the District, with assistance from the Equity Center, will review and revise its training on and implementation protocols for such policies to ensure consistent procedures for reporting, investigating, and responding to sex-based harassment and will assist schools in building the capacity to comply with those policies and procedures. Such capacity-building will include training and professional development at the District-level as well as at the school-level for students, families, and staff at Sustainability Academy.

**Terms of the Agreement**

**I. THIRD PARTY SERVICE PROVIDERS**

- A. Pursuant to the District’s separately executed Memorandum of Understanding (“MOU”) with the Mid-Atlantic Equity Center, the District will use the free services of the Equity Center to implement the provisions of this Agreement. If the MOU terminates during the term of this Agreement for any reason, the District will remain

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<sup>1</sup> The U.S. Department of Education funds four Equity Assistance Centers under Title IV that provide technical assistance and training, upon request, in the areas of race, sex, national origin, and religion to public school districts and other responsible governmental agencies. *See* U.S. Department of Education, <https://www2.ed.gov/programs/equitycenters/index.html> (last visited June 6, 2019). When school districts enter into agreements with these Centers, the Centers provide—at no cost to the district (other than travel expenses, where applicable)—training for teachers, supervisors, counselors, and other school personnel, and develop materials, strategies, and professional development activities to prevent and counter discrimination and harassment.

obligated to the terms of this Agreement and may retain another third-party consultant pursuant to paragraph I.B.

- B. During the term of this Agreement, the District may retain one or more additional or alternative third-party consultants or services providers, mutually agreed upon by the Parties, to assist in the implementation of this Agreement. The District will promptly notify the United States of its intent to retain additional or alternative consultants.

## II. PRACTICES & PROCEDURES

- A. In consultation with the District, the Equity Center<sup>2</sup> will conduct a review of all District-wide and school-level practices and procedures related to sex-based discrimination, harassment, bullying, and student discipline, as well as all related materials (e.g., student and employee handbooks, codes of conduct, complaint forms) (“materials”), to ensure they are consistent with the District’s written Policies<sup>3</sup> and obligations under Federal law to prevent, investigate, and address sex-based harassment of students, and to eliminate any hostile environment arising from or related to such harassment. The Equity Center will provide the District an assessment report that includes recommended changes to practices and procedures at the school- and District-level.
- B. The District will notify all employees responsible for implementing its Policies that while Federal privacy law generally prevents disclosure of a student’s disciplinary records, *see* Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, Federal civil rights laws provide that where a sanction directly relates to the person who was harassed (e.g., an order that the harasser stay away from the harassed student), disclosure of this information is not prohibited by FERPA and may be required to assure the harassed student (and, when appropriate, the student’s parent(s) or guardian(s)) that the school has taken steps to eliminate the hostile environment and prevent the harassment from recurring.<sup>4</sup>

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<sup>2</sup> This Agreement contemplates that the Mid-Atlantic Equity Center will operate as the District’s third party consultant, notwithstanding that the District may opt for alternative or additional consultants to assist in the implementation of these provisions pursuant to paragraph I.B. Under such circumstances, the term “Equity Center” refers to such mutually agreed-upon third party consultant(s).

<sup>3</sup> “Policies” refers to all policies adopted by the Burlington School District to address sex-based discrimination, harassment, bullying, and student discipline.

<sup>4</sup> *See* General Education Provisions Act (GEPA), 20 U.S.C. § 1221(d) (stating that nothing in GEPA, of which FERPA is a part, shall be construed to affect the applicability of statutes prohibiting discrimination to any applicable program).

- C. With the support and direction of the Equity Center, the District will conduct a comprehensive assessment of its District- and school-level resources to determine what, if any, additional resources are necessary to ensure that all schools have the capacity to implement fully the District's Policies and the terms of this Agreement. At a minimum, the District will conduct listening sessions with employees at Sustainability Academy to assess resource needs at that school. Such resources may include employee training, classroom materials, handouts and presentations, and other necessary provisions. To the extent the District determines that it lacks the resources necessary to implement those Policies and the terms of this Agreement with fidelity, it will identify what resources it needs and work with the Equity Center to develop a written plan to obtain those resources ("Resource Plan").
- D. By December 2, 2019, the District will submit to the United States a copy of the Equity Center's assessment report and the District's Resource Plan.
- E. By January 13, 2020, the District will submit to the United States all proposed revisions to its school- and District-level practices and procedures, including all related materials. If the District does not adopt an Equity Center recommendation, the District will notify the United States of the specific recommendation, the reason for rejecting it, and the District's proposed alternative course of action.
- F. By March 2, 2020, the United States will notify the District of its approval or comments on the proposed revisions and Resource Plan.
- G. By April 13, 2020, the District will submit its final proposed revisions to the United States, incorporating the United States' comments. If the Parties do not agree to any proposed revision, they will work in good faith to resolve any disagreements within 30 days.
- H. Upon receipt of the United States' approval of the final proposed revisions and Resource Plan, the District will promptly seek School Board approval of the Plan.

### **III. TRACKING AND MONITORING OF BULLYING AND HARASSMENT INCIDENTS AND COMPLAINTS**

- A. The District will implement a system and procedures through which all harassment and bullying incidents (including any written or verbal report, discipline referral, or complaint involving possible harassment or bullying) will be tracked electronically, even where no separate disciplinary infraction has been recorded. The information that will be tracked regarding such incidents is set forth in Appendix A.

#### **IV. DISTRICT OVERSIGHT**

- A. Within 90 days of the execution of this Agreement, the District, through the Superintendent, will appoint a District-wide nondiscrimination officer (the “District Nondiscrimination Coordinator”) whose responsibilities will include ensuring the District’s compliance with this Agreement and applicable Federal civil rights laws. The District Nondiscrimination Coordinator will monitor compliance with this Agreement; coordinate the District’s submission of reports to the United States; ensure consistency of all District-wide and school-level policies, trainings, and related materials regarding nondiscrimination, harassment, and bullying; provide and publicize updated information on a periodic basis to all administrators, faculty, staff, students and parents/guardians on the District’s policies and related materials; and ensure that all public materials are up-to-date.
- B. At each school in the District, a designated employee (the “School Nondiscrimination Coordinator”) will serve as the primary point of contact for, and coordinate the school-level investigation and response to, all incidents and/or complaints of bullying, harassment, and discrimination. The School Nondiscrimination Coordinator will be responsible for ensuring a prompt, effective, and appropriate response to all such incidents or complaints.
- C. The School Nondiscrimination Coordinator at Sustainability Academy will provide quarterly written reports to the District Nondiscrimination Coordinator describing all incidents of and/or complaints received by the school regarding bullying and harassment, and a description of the school’s response to each such incident or complaint.
- D. The District Nondiscrimination Coordinator will conduct reviews of all quarterly reports and all school-level investigations and resolutions of student conduct that may constitute harassment to ensure Sustainability Academy’s compliance with the District’s policies and tracking and monitoring procedures and to ensure that the school has responded in a prompt, effective, and appropriate manner to all incidents and/or complaints of bullying, harassment, or discrimination. In its annual report to the United States, *see* paragraph VII.A, the District will provide a summary of its findings from these reviews, including a description of all follow-up actions taken by the District to address problems or concerns identified during the review process.

#### **V. TRAINING AND PROFESSIONAL DEVELOPMENT**

- A. In consultation with the Equity Center, the District will revise all training programs and materials related to nondiscrimination, harassment, and bullying to incorporate all revisions to the District’s policies that are made pursuant to this Agreement.

- B. The Equity Center will evaluate the existing practices and training needs of the District Nondiscrimination Coordinator and work with the District to provide separate and particularized training to ensure that the District Nondiscrimination Coordinator has the knowledge and skill necessary to fulfill all training and oversight duties related to the implementation of the District's policies and the terms of this Agreement.
- C. The District's Nondiscrimination Coordinator will conduct or arrange annual training for new hires and periodic training for current staff to ensure that all District employees are kept current on the District's policies and applicable laws. Training will include clarification that failure by school employees to respond in a prompt, effective, and appropriate manner to incidents and/or complaints of bullying, harassment, or discrimination violates District policy and the terms of this Agreement, as well as Federal and/or state laws. Training for current staff will include an opportunity for staff to ask questions and share concerns and challenges in implementing District policies. The District's Nondiscrimination Coordinator will report to the Superintendent common concerns and challenges, and the District will work to address such issues through additional guidance and training, as appropriate.
- D. The District will continue to conduct separate training for all employees designated by the District to receive bullying and harassment complaints (*i.e.*, "Designated Employees"), and will include in that training School Nondiscrimination Coordinators designated pursuant to this Agreement, to ensure their knowledge and skill regarding the receipt of complaints and appropriate investigation procedures.
- E. The District will develop and provide an additional training for all administrators, faculty, certified staff, school resources officers, and all other staff who regularly interact with students at Sustainability Academy, on their obligations under District policy to respond to peer-on-peer harassment. The training will be tailored to the responsibilities of each group of employees and the attributes of the student population at Sustainability Academy. This training will include an opportunity for Sustainability Academy employees to share feedback on current challenges in implementing District bullying and nondiscrimination policies.
- F. In consultation with the Equity Center, the District will provide separate and particularized training for the principal of Sustainability Academy that addresses the concerns raised by the United States about the school's response to incidents of sex-based bullying and harassment. The United States will participate in meetings with the Equity Center and the District as needed to discuss the concerns identified during the United States' investigation.
- G. The District will provide age-appropriate instruction on harassment to all students at Sustainability Academy that covers the type of conduct prohibited by District policy

and the processes for notifying school employees of incidents of harassment and bullying.

- H. Beginning in the 2020-21 school year, all trainings required by this section shall be conducted annually, prior to December 30th of each school year for the term of this Agreement, and will be led by sufficiently qualified individuals as determined by the Equity Center.

## **VI. CLIMATE SURVEYS & EFFECTIVENESS ASSESSMENT REPORT**

- A. For Sustainability Academy, the District will work with the Equity Center to develop and administer annually two school climate surveys to assess the presence and effects of harassment and bullying, the inclusiveness and safety of the educational environment, and the effectiveness of the measures taken pursuant to this Agreement. One survey will be administered to students at Sustainability Academy, and the second will be administered to parents/guardians of students at Sustainability Academy. The surveys may be completed anonymously.
- B. Beginning in the 2019-20 school year, both the student and parent surveys will be administered prior to December 30th for each school year throughout the term of this Agreement. The survey must be approved by the Equity Center. The District will submit draft surveys to the United States for review and additional input at least 30 days prior to their administration. The District Nondiscrimination Coordinator and the School Nondiscrimination Coordinator at Sustainability Academy will analyze the results of the surveys and incorporate this analysis into the District's annual effectiveness assessment report, described in paragraph VI.C. If training is needed on how to analyze survey results, the District will provide such training to relevant employees.
- C. At the conclusion of each school year (beginning with the 2019-20 school year), the District will conduct an assessment of the effectiveness of its anti-harassment efforts. The assessment will be conducted by the District Nondiscrimination Coordinator. A final written report will include the items in Appendix B, and will be included in the District's annual report to the United States, *see* paragraph VII.A and Appendix C.

## **VII. MONITORING AND REPORTING**

- A. During the term of this Agreement, the District will submit an annual report to the United States by July 15 that contains the information contained in Appendix C, with the first report due on July 15, 2020. The District will, for the duration of this Agreement, preserve and maintain all records and documents, including all electronically stored information, used to compile the annual report, and all other

documents pertinent to its compliance with the Agreement, and will provide such information to the United States upon request.

- B.** The United States will promptly notify the District in writing of any issues or concerns related to compliance with this Agreement that may arise during the term of this Agreement. The Parties will act in good faith to resolve any such issues or concerns. In the event of a breach by the District of this Agreement that cannot be resolved through good faith negotiation, the United States may initiate judicial proceedings to enforce Title IV and the specific commitments and obligations of the District under this Agreement. This Agreement does not relieve the District from its other obligations under other Federal civil rights laws. The United States retains the right to investigate and, where appropriate, initiate enforcement proceedings concerning any future alleged violations of Federal law by the District.
- C.** In monitoring the District's efforts to fulfill its obligations under this Agreement, the United States may conduct site visits, observe trainings, interview District staff and students (with parent permission), confer with the Equity Center, and request any additional information or data necessary for the United States to determine whether the District has fulfilled the terms of this Agreement.

#### **VIII. TERM AND TERMINATION**

- A.** This Agreement will remain in effect until 60 days after the District submits its complete report due on July 15, 2022. The parties may, upon mutual written agreement, amend this Settlement Agreement to address changed circumstances.

Date: 11 / 13 / 19

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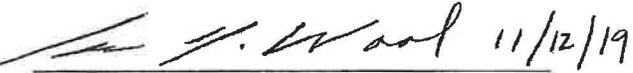
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## **APPENDIX A**

### **HARASSMENT AND BULLYING COMPLAINTS AND INCIDENTS – INFORMATION TO BE TRACKED**

1. The name, grade, school, race, national origin, sex, religion, and/or disability, and other relevant information about the targeted student(s);
2. The person(s) reporting the incident (if different than the targeted student);
3. The student(s) involved or alleged to be involved in the harassing or bullying conduct;
4. All known witnesses to the alleged incident;
5. Indication of whether the targeted student(s) have been targeted on previous occasions;
6. Indication of whether the offending student is alleged to have bullied or harassed the targeted student(s) or any other student(s) on previous occasions;
7. The date the report was made or the date when the District first learned of the incident;
8. Specific details on the date, time, nature, content and location of the incident, including all supporting documentation;
9. The date(s) the students involved in or witnessing the incident were interviewed and the name(s) of the employee(s) conducting the interview(s);
10. A summary of the investigating official's findings and the basis for those findings; and
11. A summary of the District's response to the incident, including any interim safety measures taken pending resolution of the report.

## **APPENDIX B**

### **ITEMS IN ANNUAL EFFECTIVENESS ASSESSMENT REPORT**

1. A review of school climate survey data and findings and the actions taken by the District in response to those findings;
2. A review of all reports of harassment and District- and school-level responses;
3. A determination of whether reported incidents of harassment have increased or decreased in number and severity, overall and by protected class;
4. An assessment of the frequency and extent to which incidents of harassment have been investigated and addressed in accordance with District policy;
5. A description of areas in need of corrective action and/or additional resources; and
6. Recommendations for improving the District's anti-harassment practices and timelines for the implementation of such recommendations.

## APPENDIX C

### ITEMS TO BE INCLUDED IN ANNUAL REPORT

1. Copies of all incident reports, discipline referrals, and complaints at Sustainability Academy that relate to bullying or harassment, and all documentation related to such incidents (e.g., interview notes, correspondence with parents/guardians, statements of findings and remedial action, records relating to prior incidents of harassment involving the same student(s));
2. As described in paragraph IV.C, a summary of the District's findings of its reviews of Sustainability Academy's quarterly reports, including a description of all follow-up actions taken by the District to address any problems or concerns identified during the review process;
3. The District's annual Effectiveness Assessment Report per paragraph VI.C and Appendix B;
4. A summary of each training session conducted pursuant to Section V, including the date and duration of each training session, the agenda and any materials distributed or used during the training, the name and position of each attendee, and the name and position of each individual required to attend the training, but who did not (include the date on which each such individual completed or is expected to complete the training);
5. Certification by the District Nondiscrimination Coordinator that, in accordance with paragraph IV.C, he or she has reviewed all school-level investigations and resolutions of student conduct that may constitute bullying, harassment, or discrimination to ensure compliance with District policy, this Agreement, and Federal law; and
6. Updates or revisions to any documents or information previously provided in connection with this Agreement.