

Settlement Agreement
between
The United States of America
and
Covington Independent Public Schools

I. BACKGROUND

On November 18, 2015, the U.S. Department of Justice, Civil Rights Division, Educational Opportunities Section (the "United States") notified the Covington Independent Public Schools (the "District") that it was initiating an investigation under Title IV of the Civil Rights Act of 1964 ("Title IV") and Title II of the Americans with Disabilities Act ("Title II") to determine whether the District's disciplinary policies and practices (including its use of exclusionary discipline, restraint, seclusion and the circumstances under which the District involves law enforcement in response to student conduct) discriminate on the basis of race, national origin, or disability.

In October 2016, having requested, obtained, and reviewed policies and procedures, incident reports, and other relevant documents regarding the District's administration of discipline, the United States conducted a site visit to the District. At the end of that visit, the United States discussed with the District concerns it had identified as the result of its investigatory activities to date.

Thereafter, the United States and the District (collectively the "Parties") agreed to negotiate a settlement agreement to work collaboratively to better serve the needs of the students in the District. The Parties agreed that negotiating a settlement agreement at this stage would be mutually beneficial because it would focus all of the Parties' resources on the District taking effective steps to ensure that the District's disciplinary policies and practices (including its use of exclusionary discipline, restraint, seclusion and the circumstances under which the District involves law enforcement in response to student conduct) do not discriminate on the basis of race, national origin, or disability.

This settlement agreement ("Agreement") is the product of those negotiations.

II. DEFINITIONS

“Attendance Days” refers to days in which District Instructional Staff are required to work. For deadlines that relate to a particular student it does not include days in which the student is absent from school.

“Behavior Improvement Plan” or **“BIP”** refers to a plan created by appropriately trained professionals for an individual student comprised of positive behavior interventions, strategies, and supports, which may include modifications to the nature of instruction, curriculum, or school routine. Such plans are typically developed based on the outcome of a Functional Behavior Assessment and reflect feedback from parents or guardians regarding the emotional, mental, and physical health of the student. While such plans are often prepared for students with a documented disability, they can be prepared for any student.

“Calm Room” refers to any space that is used to isolate or seclude a student during an episode of misbehavior including a “time out” room, an office, or any other space. It does not refer to an open area in a hallway or other location in the school where a student may go voluntarily to engage in calming or de-escalating behavior or incidental and temporary isolation that may occur while a student is awaiting an administrator’s attention during the course of an office referral. It does include any office or any other room if the student is placed in that office or room to be isolated from other students.

“Core Team” refers to District staff who receive specialized training in Physical Restraint pursuant to District Policy 9.2212 (Use of Physical Restraint and Seclusion).

“Crisis Plan” refers to a plan created by appropriately trained professionals to provide necessary supports, services, and procedures for students with behaviors that present a danger to the student or others to ensure the safety of that student and others.

“De-escalation Techniques” refers to a progression of non-verbal (including body language and allowing personal space), verbal, and environmental (e.g., clearing a room of all other students to reduce risk to the individual or to other students) interventions used to reduce aberrant behaviors of a student that might pose a danger to that student or others. The interventions are implemented in increasing levels of intensity based on the needs of the student to prevent the use of Physical Restraint or other physical contact.

“Detention” refers to a consequence for a violation of the Code of Conduct that does not remove the student from the classroom during instructional time but requires a student to spend some amount of time in a particular school location during lunchtime, after school, or on the weekend.

“Disciplinary Referral” refers to any notification to a school administrator that a student may have violated the Code of Conduct.

“Exclusionary Discipline” refers to any disciplinary consequence that removes a student from classroom instruction in his/her home school, including, but not limited to, In-School Suspension, Out-of-School Suspension, Expulsion, or transfer to an Alternative Education Program. It does not refer to positive interventions, corrective strategies, loss of privileges, or Detention.

“Expulsion” refers to a consequence for a violation of the Code of Conduct that removes a student from his/her home classroom and school for more than ten days.

“Functional Behavior Assessment” or **“FBA”** refers to a systematic set of strategies that is used to determine the underlying function or purpose of a behavior, so that an effective Behavior Improvement Plan can be developed. Such a plan identifies pupil-specific, socio-affective, cognitive, and/or environmental factors associated with the occurrence (and non-

occurrence) of specific behaviors, to understand the function or purpose behind the behavior. An FBA consists of describing the problem behavior, identifying preceding or subsequent events that control the behavior and developing and testing a theory of the behavior. It should be completed by qualified professionals after reviewing student records (including the student's disciplinary record and other relevant data), conducting interviews with the student and the student's parents or guardian, and direct observation. FBAs are most commonly conducted for Students with a Disability but can be conducted for any child.

"Infinite Campus" refers to the student information system maintained by the District or any successor or replacement system.

"In-School Suspension" refers to a consequence for a violation of the Code of Conduct that removes a student from the regular classroom to a different in-school setting during the course of the regular school day, a setting where the student has the opportunity to complete his/her schoolwork.

"Instructional Staff" refers to certified staff (e.g., teachers and counselors) and non-certified staff (e.g., teacher aides) who work directly with students.

"Law Enforcement Powers" refers to arrest, citation, search, seizure, handcuffing, or the Use of Force.

"Outliers" refers to any instances where (1) a student is receiving Disciplinary Referrals (including those involving particular offenses) or a particular form of Exclusionary Discipline at more than twice the rate of the average student at that student's school; or (2) teachers/staff are issuing Disciplinary Referrals (including those involving particular offenses or that lead to a particular form of exclusionary discipline), or are engaging in any other conduct or activity, at more than twice the rate of the average teacher/staff member at the same school.

“Out-of-School Suspension” refers to a consequence for a violation of the Code of Conduct that removes a student from his/her classroom and school for ten days or less.

“Physical Restraint” refers to a personal restriction that immobilizes or reduces the ability of a student to move the student’s torso, arms, legs, or head freely because of physical contact by another individual. The term includes holding or grabbing a student’s arm or wrist to escort, compel, or coerce the student to move to another location within the school. It does not include a temporary touching of the hand, wrist, arm, shoulder, or back without applying pressure or force for the purpose of guiding or directing a student.

“Student Services Team” refers to the personnel at each school primarily responsible for providing students with interventions and supports, including the school psychologist, school social worker(s), counselor(s), instructional coach(es), intervention specialist(s), or similar staff.

“Student(s) with a Disability” refers to a student who would qualify to receive accommodations, reasonable modifications of policy, or disability-related services under the Individuals with Disabilities Education Act (“IDEA”), the Americans with Disabilities Act (“ADA”), or Section 504 of the Rehabilitation Act of 1975 (“Section 504”).

“Use of Force” refers to any physical contact or coercion used to control or restrain a student by law enforcement officers or School Resource Officers. The term does not include a physical escort, which is a temporary touching of the hand, wrist, arm, shoulder, or back for the purpose of guiding or directing a student who is behaving in a manner inconsistent with school policies to walk to a safe location.

III. PURPOSE AND GENERAL PROVISIONS

1. The purpose of this Agreement is to obtain a resolution of an investigation of the District opened by the United States in November 2015 and to continually improve the delivery of services to students in the District.
2. This Agreement does not constitute an admission of any kind by either party, the United States had not made any finding that the District violated any law at the time this Agreement was reached, and the District makes no admission as to liability, wrongdoing, or the violation of any law with respect to the implementation of any of its services or programs.
3. The parties acknowledge that in completing FBAs, BIPs, or Crisis Plans as required in this Agreement, deadlines may have to be adjusted from time to time. This may be required to accommodate the individual needs of students and parents/guardians, or the District may encounter obstacles out of its control, including, but not limited to, having to confer with or obtain specific information from third party providers (e.g., doctors, therapists, counselors, or Court Designated Workers). So long as the process has been initiated within the relevant timeframe provided in the Agreement, and the District is proceeding in good faith towards completion and implementation in a timely manner, it will be in compliance with the Agreement.

IV. INTERVENTION COORDINATOR

4. Before the first day of the 2017-2018 school year, as defined by the District's regularly adopted school calendar, the District shall appoint an Intervention

Coordinator who is qualified to carry out all the responsibilities of that position (as set forth below).

5. The Intervention Coordinator shall:
 - a. Manage the development of the Intervention Procedure described in Section V (below) and oversee its implementation;
 - b. Develop policies, protocols, checklists, and/or model behavior assessment and intervention documents (including FBAs, BIPs, and Crisis Plans) to assist School Services Teams and Instructional Staff in appropriately and effectively managing student misbehavior;
 - c. Ensure that FBAs, BIPs, and Crisis Plans are completed when required by this Agreement; and
 - d. Carry out all other responsibilities provided for in this Agreement.

V. DISTRICT-WIDE INTERVENTION PROCEDURE

6. The District shall adopt and implement a Response to Intervention Procedure for Behavior (hereinafter referred to as "the Intervention Procedure") (a summary of the current draft of which is attached to this Agreement as Exhibit A), in order to identify and meet the needs of Students with a Disability who may need additional interventions and supports as a reasonable modification to the District's discipline policies.
7. The District shall add to the current draft of the Intervention Procedure a process to identify students who disproportionately are subject to Disciplinary Referrals (particularly students who receive Exclusionary Discipline as a consequence of

such referrals). The process shall set benchmarks for identifying students monthly based on a wide range of criteria including:

- a. The total number of Disciplinary Referrals;
 - b. The number of disciplinary consequences;
 - c. The number of total days of Exclusionary Discipline;
 - d. The frequency of Disciplinary Referrals as compared to the overall student population;
 - e. The number of referrals for particular Code of Conduct offenses that may be the result of unaddressed behavioral needs including "Disruptive Behavior," "Failure to Follow Staff Instructions," "Disruptive Behavior (aggression)," "Defiance," "Fighting" (including "Student to Student" "Student to Staff" and "Student to Other"), "Inciting Student Disorder," "Beyond Control," and "Abuse and/or Threat School Personnel"; and
 - f. The frequency of referrals (as compared to the overall student population) for particular Code of Conduct offenses that may be the result of unaddressed behavioral needs including "Disruptive Behavior," "Failure to Follow Staff Instructions," "Disruptive Behavior (aggression)," "Defiance," "Fighting (including "Student to Student" "Student to Staff" and "Student to Other"), "Inciting Student Disorder," "Beyond Control," and "Abuse and/or Threat School Personnel."
8. The District shall submit evidence to the United States verifying that the Intervention Procedure has been adopted within one hundred twenty (120) days of the effective date of this Agreement.

9. By the beginning of the 2017-2018 school year, the District shall submit evidence to the United States that the Intervention Procedure has been adopted and implemented at each school within the District.
10. The District may revise the process provided for in Paragraph 7 (above) or any school-specific such process if after implementation it can be improved to better identify students who may need additional interventions and supports.
11. The District Intervention Coordinator shall meet with the Student Services Team at each school each month to take appropriate action regarding any students identified by application of the Intervention Procedure benchmarks and follow-up on any actions during prior months' meetings. Such appropriate action shall include:
 - a. Reviewing and assessing the effectiveness of the current interventions and supports being provided to the student (if any) and determining whether different or additional interventions and supports would be beneficial;
 - b. Determining whether an FBA should be conducted and/or whether a BIP or Crisis Plan should be completed; and
 - c. Reviewing whether each student is identified as a Student with a Disability and if he or she is not, determining whether the student should be evaluated for a disability.
12. The meetings provided for in Paragraph 11 (above) should include those persons who have knowledge or special expertise related to the student or the services needed including relevant administrators and Instructional Staff. In the event that any identified administrators or staff are on leave, or otherwise unavailable,

except if the student or that student's parent/guardian objects,¹ the District may convene the meetings in their absence in order to complete and implement a FBA, BIP, or Crisis Plan as soon as possible.

13. The District shall after each meeting provided for in Paragraph 11 (above):
 - a. Provide all interventions and supports identified in Paragraph 11(a) (above); and
 - b. Within 14 Attendance Days, conduct and implement any FBAs and complete and implement any BIPs or Crisis Plans as provided for in Paragraph 11(b) (above). If the District is unable to meet the requirements of this paragraph within 14 Attendance Days, the Intervention Coordinator shall notify the parent/guardian, note the reason for the delay in the special education or other student records, and, taking into account the reason for the delay, shall set a deadline to complete and/or implement the FBA, BIP, or Crisis Plan as soon as possible after the 14 Attendance Days.

VI. LAW ENFORCEMENT

14. The District shall continue its current practice of not stationing School Resource Officers ("SROs") at District elementary schools or including within any SRO's duties the responsibility of responding to incidents at elementary schools.
15. The District shall only request that SROs or other law enforcement officers respond to student conduct when that conduct constitutes an imminent and substantial threat to physical safety or a serious crime. Therefore, the District shall not use SROS to:

¹ Any delay caused by such an objection shall not count towards the deadline for completing the FBA, BIP, or Crisis Plan.

- a. Escort students, including from classrooms to an administrator's office or to an In-School Suspension room;
 - b. Obtain compliance with directions given to a student by school officials;
or
 - c. Enforce disciplinary rules.
16. Any time a District employee requests that an SRO or other law enforcement officer respond to student conduct (whether or not an SRO or other law enforcement officer responds), that employee shall, in good faith and to the best of their knowledge and recollection, no later than the next school day, complete a report that lists the name, grade, school attended, race, and disability status of the student and describes (providing specific detail of the facts and circumstances):
- a. What interventions and De-escalation Techniques the employee used before contacting the SRO or other law enforcement officer;
 - b. Why the employee requested the SRO or other law enforcement officer become involved; and
 - c. The result of the SRO or other law enforcement officer becoming involved, including whether the student was restrained or taken into custody.
17. All reports completed as required by Paragraph 16 (above) shall be reviewed within two days of their completion by the principal and the Director of Pupil Personnel to evaluate compliance with the standards set forth in Paragraph 15 (above). Should a particular incident not comply with those standards, the

District shall take appropriate remedial action (including, but not limited to, providing counseling or additional training to District staff).

18. The District shall enter into a memorandum of agreement with any law enforcement agency that supplies SROs to the District that limits the use of Law Enforcement Powers in response to student misconduct to offenses that constitute a substantial and imminent threat to physical safety or a serious crime.
19. All reports completed pursuant to Paragraph 16 (above) shall be maintained as a school record, by an authorized employee entering them into Infinite Campus and keeping them in a central file at each school designated "SRO Interactions."

VII. ISOLATION, SECLUSION AND RESTRAINT

20. By the start of the 2017-2018 school year, the District shall discontinue the use of Calm Rooms.
21. The District shall prohibit the use of Physical Restraint unless necessary to address an imminent danger to the physical safety of a student or another person that cannot be reasonably addressed through the use of De-escalation Techniques.
22. Unless an FBA was completed for the affected student within the previous six months,² the District shall immediately begin the development of an FBA and an accompanying BIP which must be completed by an appropriately trained professional and implemented within 14 Attendance Days any time:
 - a. A District employee engages in the Physical Restraint of a student; or
 - b. A student is taken to a Calm Room during the 2016-2017 school year.

² If an FBA was completed within the previous sixth months, the District shall review and if necessary modify it.

23. The District must within 10 Attendance Days develop a preliminary Crisis Plan³ created by an appropriately trained professional to provide necessary supports, services, and procedures and ensure the safety of that student and others any time:
- a. A District employee engages in the Physical Restraint of a student; or
 - b. The behavior resulting in the placement in a Calm Room during the 2016-2017 school year presents a threat to the safety of the student or others.
24. Whenever a District employee engages in the Physical Restraint of a student, that employee shall no later than the next Attendance Day complete a report of the incident that:
- a. Lists the name, grade, school attended, race, and disability status of the student; and
 - b. Fully describes the facts and circumstances of the use of Physical Restraint including why it was necessary to address an imminent danger to the physical safety of the student or another person and the specific efforts that were made to de-escalate the situation to avoid the use of Physical Restraint.
25. All reports completed as required by Paragraph 24 (above) shall be entered in Infinite Campus and also included in a central school file (whether electronic or paper) containing all such incidents for that school.
26. All reports completed pursuant to Paragraph 24 (above) shall be reviewed by the Intervention Coordinator within two Attendance Days to determine whether the use of Physical Restraint:

³ The preliminary Crisis Plan may be adopted as a Crisis Plan or updated as such upon the school's completion of the FBA process.

- a. Was necessary to address an imminent danger to the physical safety of the student or another person; and
 - b. Could have been avoided through the use of De-escalation Techniques.
27. Should the Intervention Coordinator determine that the use of a Physical Restraint did not comply with the standards set forth in Paragraph 26 (above), the District shall take appropriate remedial action (including, but not limited to, providing counseling or additional training to District staff).
28. Whenever a District employee calls for a member of the Core Team to respond to an incident of misbehavior because the employee believes it may be necessary to restrain a student, the Core Team member shall document in a log:
- a. The name, grade, race, and disability status of the student;
 - b. The name of the District employee who called the Core Team;
 - c. The reason the District employee called the Core Team; and
 - d. The action taken by the Core Team.

VIII. CALLING PARENTS OR GUARDIANS TO SCHOOL

29. District schools may only request a parent or guardian of a Student with a Disability (or a student who exhibits behavior that may indicate that he/she is a Student with a Disability) come to the school to become involved in a still-ongoing instance of misbehavior when:
- a. The student poses a substantial threat to the safety of the student or others;
and
 - b. The school has reason to believe the parent or guardian's presence at the school will aid in de-escalating the student's behavior.

30. If a school requests that a parent or guardian of a Student with a Disability (or a student who exhibits behavior that may indicate that he/she is a Student with a Disability) come to the school to become involved in a still-ongoing instance of misbehavior, the District may not require the parent or guardian to take a student home from school (or encourage the parent or guardian to do so) unless the student has been assigned an Out-of-School Suspension or Expulsion.
31. The District shall supplement the current draft of the Intervention Protocol to fulfill the requirements of Paragraphs 32 and 33 (below).
32. Whenever a school requests that a parent or guardian of a Student with a Disability (or a student who exhibits behavior that may indicate that he/she is a Student with a Disability) come to the school to become involved in a still-ongoing instance of misbehavior, the District shall immediately begin to develop an FBA and an accompanying BIP, which must be completed by an appropriately trained professional and implemented within 14 Attendance Days. If the behavior resulting in calling a parent or guardian presents a threat to the safety of the student or others, the school must develop a Crisis Plan created by an appropriately trained professional to provide necessary supports, services, and procedures and ensure the safety of that student and others.
33. Whenever a school requests that a parent or guardian of a Student with a Disability (or a student who exhibits behavior that may indicate that he/she is a Student with a Disability) come to the school to become involved in a still-ongoing instance of misbehavior, the school shall no later than the next Attendance Day complete a report of the incident that lists the name, grade,

school attended, race, and disability status of the student and describes (providing specific detail of the facts and circumstances):

- a. Why the school believed the student posed an imminent and substantial threat to the student or others;
 - b. Why the school believed the parent or guardian's presence at the school would aid in de-escalating the student's behavior; and
 - c. The result, including whether the student left with the parent, and if so, why that occurred.
34. All reports completed pursuant to Paragraph 33 (above) shall be entered in Infinite Campus and also included in a central school file (whether electronic or paper) containing all such incidents for that school.
35. All reports completed as required by Paragraph 33 (above) shall be reviewed within two Attendance Days of their completion by the Intervention Coordinator to evaluate compliance with the standards set forth in Paragraph 29 (above). Should a particular incident not comply with those standards, the District shall take appropriate remedial action (including, but not limited to, providing counseling or additional training to District staff).

IX. CODE OF CONDUCT

36. Before the first day of the 2017-2018 school year, the District shall revise the Code of Conduct to:
- a. Emphasize Positive Behavioral Interventions and Supports ("PBIS") as the primary tool the District will use to address student misbehavior;

- b. Describe the range of interventions and supports a student should receive, to the extent practicable based on the student behavior at issue, prior to receiving Exclusionary Discipline; and
 - c. Require the use of alternatives to Exclusionary Discipline, including Detention and loss of privileges, when those consequences are likely to be effective to remedy student misbehavior.
37. Within sixty (60) days of the effective date of this Agreement, the District shall submit its revised Code of Conduct to the United States for review and approval. The United States shall either approve the revised Code of Conduct or provide written comments describing why the United States believes the revisions do not satisfy the requirements of Paragraph 36 (above).

X. DATA REVIEW AND ANALYSIS

38. Every month, each principal shall review discipline data from their school (disaggregated by type of infraction, discipline imposed, teacher involved, student's race, student's gender, and student's disability status and combinations of those variables):
- a. To identify and examine the cause of any disparities or Outliers in the data; and
 - b. If such disparities or Outliers exist, to take appropriate remedial action (including, but not limited to, counseling or additional training for District staff).
39. Every month, the Intervention Coordinator shall review the discipline data from each District school (disaggregated by type of infraction, discipline imposed,

teacher, student's race, student's gender, and student's disability status and combinations of those variables) to:

- a. Identify and examine the cause of any disparities or Outliers in the data;
- b. Discuss any such disparities or Outliers with the principal; and
- c. Ensure that the principal has taken all appropriate remedial measures as provided for in Paragraph 38 (above).

40. At least once an academic quarter, the Intervention Coordinator shall review each school's

- a. Reports of requests that an SRO or other law enforcement officer respond to student conduct created pursuant to Paragraph 16 (above);
- b. Reports of uses of Physical Restraint created pursuant to Paragraph 24 (above);
- c. Records documenting office referrals for disciplinary infractions;
- d. Logs documenting calls for the Core Team created pursuant to Paragraph 28 (above); and
- e. Reports of requests that a parent or guardian come to the school to become involved in a still ongoing instance of misbehavior created pursuant to Paragraph 33 (above).

41. The purpose of each review required by Paragraph 40 (above) is to:

- a. Identify Outliers; and
- b. If such Outliers exist, take appropriate remedial action (including, but not limited to, counseling or providing additional training for District staff).

XI. TRAINING

42. The District shall provide the Intervention Coordinator all training required to fulfill his or her responsibilities before the first day of the 2017-2018 school year, including training on:
- a. Providing students with interventions and supports, including by using PBIS and Responses to Interventions ("RTI");
 - b. Recognizing and appropriately responding to student behaviors that are, or could be, related to a disability;
 - c. Federal and state laws on how to serve Students with a Disability, including the ADA, Section 504, and the IDEA;
 - d. Conducting FBAs and developing BIPs and Crisis Plans;
 - e. The proper use of Physical Restraint, including the use of De-escalation Techniques to avoid the need to use Physical Restraint;
 - f. How to effectively train teachers on and monitor the implementation of each of the above; and
 - g. Conducting the data analysis provided for in Paragraphs 38-41 (above).
43. The Intervention Coordinator shall coordinate and implement a yearly professional development program for all members of the PBIS Team at each school covering:
- a. The District's prohibition of discrimination on the basis of race, color, religion, sex, national origin, and disability;
 - b. Behaviors that are, or tend to be, related to a disability;

- c. How to appropriately respond to such behaviors including through the use of PBIS and RTI;
 - d. Clear, concrete, and accessible strategies for classroom management and student discipline, including de-escalation and conflict resolution techniques;
 - e. When Instructional Personnel should request that members of the Core Team respond to an incident of student misbehavior;
 - f. Working with Students with a Disability, including youth mental health needs, as well as mental health and emotional disabilities;
 - g. The limited role that law enforcement should play in the discipline process, with a focus on when it is appropriate to refer a student to law enforcement, and the consequences of student involvement in the juvenile justice system; and
 - h. The requirements of this Agreement.
44. The Intervention Coordinator shall coordinate and implement a yearly professional development program for all Instructional Staff covering:
- a. The District's prohibition of discrimination on the basis of race, color, religion, sex, national origin, and disability;
 - b. How to appropriately respond to such behaviors including through the use of PBIS and RTI;
 - c. Clear, concrete, and accessible strategies for classroom management and student discipline, including de-escalation and conflict resolution techniques; and

- d. When Instructional Personnel should request that members of the Core Team respond to an incident of student misbehavior.
- 45. The Intervention Coordinator shall ensure that all members of all Student Services Teams receive yearly professional development on Conducting FBAs and developing BIPs and Crisis Plans.
- 46. The Intervention Coordinator shall ensure that all building principals receive training sufficient to carry out their data monitoring responsibilities under Paragraph 38 (above).

XII. REPORTING AND ENFORCEMENT

- 47. On or before July 1 of each year this Agreement is in effect, the District shall provide a status report to the United States that includes all information regarding the most recently completed school year.
- 48. Each District status report shall provide, for each paragraph in Sections IV-XI (above), a narrative describing the District's efforts to comply with that paragraph since the last status report (or since the effective date of the Agreement in the case of the first status report) and any documents that demonstrate the District's efforts to comply with that paragraph including:
 - a. Copies of all reports regarding requests that SROs or other law enforcement respond to student conduct completed pursuant to Paragraph 16 (above);
 - b. Copies of all reports regarding uses of Physical Restraint completed pursuant to Paragraph 24 (above);

- c. Copies of all reports regarding requests that a parent or guardian come to the school to become involved in a still ongoing instance of misbehavior completed pursuant to Paragraph 33 (above); and
 - d. A description of the benchmarks used to identify students under the Intervention Procedure, a list of the students, by school, who were identified by the Intervention Procedure, and the actions taken for each student as a result of being identified.
49. Each District status report shall include copies of any complaints, whether made by a student, a parent or guardian, or any other person, regarding the administration of discipline in the District, and any documents related to the investigation and resolution of that complaint.
50. Each District status report shall include an excel spreadsheet listing all referrals of students for discipline that includes the following fields from the District's Infinite Campus system for each referral: "SSID," "LAST," "FIRST," "MID," "GR," "GENDER," "RACE," "LUNCH CODE," "SPED," "DISABILITY," "RESOLUTION NAME," "RESOLUTION CODE," "EVENT NAME," "RES ST DATE," "RES END DATE," "RES ST TIME," "RES END TIME," "SCHOOL NAME," "ROLE COMMENT," "COMMENT," "RES COMMENT," "BEHAVIORDETAIL.POLICENOTIFIED," "BEHAVIORDETAIL.POLICEREPORT," "BEHAVIORDETAIL.SCHOOLRESOURCEOFFICER," "BEHAVIORDETAIL.REPORTERTYPE," "BEHAVIORDETAIL.MOSTSEVERE," "BEHAVIORDETAIL.VICTIM,"

"BEHAVIORDETAIL.VIOLENCEINDICATOR,"

"BEHAVIORDETAIL.WEAPONCODE." The first status report shall provide this information since August 17, 2016. Each District status report thereafter shall include this information for the period since the period covered by the prior status report.

51. Upon reasonable notice to the District, the United States may request additional documents or data, tour schools, monitor training for quality and substance, and conduct any other compliance activities that the United States determines are necessary to monitor the District's implementation of the Agreement.
52. The United States may enforce the terms of this Agreement, Title IV, and Title II. If the United States determines that the District has failed to comply with the terms of this Agreement or has failed to comply in a timely manner with any term of the Agreement it will so notify the District in writing. If the Parties are unable reach a satisfactory resolution of the issue(s) within 30 days of the United States providing notice to the District, the United States may initiate civil proceedings in federal court to enforce the Agreement and/or the District's underlying obligations under Title IV or Title II.
53. The Parties anticipate that the District will be in compliance with this Agreement by the end of the 2019-2020 school year. When the District provides the United States with the status report due July 1, 2020, the United States shall have 90 days to raise any remaining concerns regarding the District's compliance with the Agreement.

- a. If the United States does not raise any concerns regarding the District's compliance, the Agreement will terminate.
 - b. If the United States does raise any concerns regarding the District's compliance, the Parties will attempt to resolve those concerns cooperatively, including considering whether the Agreement should be extended. If the Parties are unable to reach a negotiated resolution, the enforcement mechanism in Paragraph 52 (above) shall apply.
54. If any part of this Agreement is held to be unlawful, or otherwise unenforceable for any reason by a court of competent jurisdiction, such decision shall not affect the validity of any other part of this Agreement.
55. This Agreement shall be enforceable only by the Parties and nothing in this Agreement shall be construed to give rise to an action by a third party to enforce its terms.
56. This Agreement constitutes the entire agreement by the Parties, and no other statement, promise, or agreement, whether written or oral, made by any party or agents of any party, that is not contained in this written Agreement shall be enforceable regarding the matters raised in this Agreement.
57. This Agreement is final and has binding effect on the Parties, including all principals, agents, employees, and successors thereof.
58. The undersigned representatives of the Parties certify that they are authorized to enter into and consent to the terms and conditions of this Agreement and to execute and legally bind the Parties to it.
59. This Agreement is effective on the date by which both parties have signed it.

For the United States:



Date: 1-18-2017

SHAHEENA SIMONS, Section Chief
RENEE M. WOHLNHAUS, Deputy Chief

JAMES A. EICHNER
ARIA S. VAUGHAN
Trial Attorneys
Educational Opportunities Section
Civil Rights Division
U.S. Department of Justice

For the District:

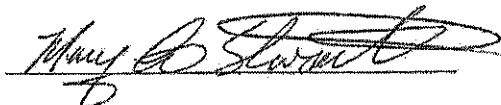


Date:

1/18/17

ALVIN GARRISON
Superintendent of Schools

Approved as to Form:



Date:

1/18/17

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Response to Intervention – Behavior

DRAFT Guidelines Updated 1-03-17

Tier 1

All Covington schools will identify, plan for, and implement a Positive Behavior Supports (PBS) process that includes school wide behavioral expectations, common area procedures, a model for classroom management, and a system for collecting, reviewing, and analyzing behavioral data. In order to ensure that practices are consistently implemented with fidelity, the following must occur:

Designated School Committee

The school principal designates or creates a school committee to lead PBS work at each school. The committee should include at least one school administrator.

Common Area Procedures

- Yearly review/revision of all common area expectations by school leadership team or designated school committee.
- Beginning of the year overview of common area expectations with all school staff members.
- Implementation of school-specific lesson plans during the first week(s) of school.
- Monthly observation of common area procedures documented by PBS team member. These may be done with a partner school.
- Reteach common area procedures after extended school recesses such as winter and spring breaks.
- School administrators ensure that common area supervisors effectively manage their areas of responsibility.

Classroom Management

- PBS team identifies and School-Based Decision-Making Council endorses a positive behavior supports (PBS) classroom management process (CHAMPs, schoolwide expectations with classroom management matrix, etc.).
- Train all new staff members in the classroom management process prior to the beginning of the school year. School level training will be held with staff members hired during the school year. Central office will provide support with this as requested.
- Review administrative expectations regarding classroom management with all school staff members at the beginning of the year.

- Implement school-specific classroom management lesson plans during the first weeks of school.
- Ensure that teachers are involved in and informed about student behavior plans, with particular attention to any changes needed in the classroom management plan.
- Monthly observation of classroom management procedures documented by PBS team member or school administrator.
- Reteach classroom management expectations and procedures after extended school recesses such as winter and spring breaks.
- Follow up with school staff members needing additional training and/or support, based on data review and classroom observations.

Additional Tier 1 Supports

Schools identify additional Tier 1 supports such as *Olweus Bullying Prevention, Second Step, Student Success Skills* that the school or Council has agreed to implement.

Encouragement Procedures

Each school identifies schoolwide and/or classroom encouragement procedures to celebrate students' success in meeting behavioral expectations. Such activities provide support and recognition for students as they develop prosocial skills and demonstrate proficiency or improvement in meeting behavioral expectations.

Family Communications/Connections

All school families are informed about the district and schools' Positive Behavior approach through the district Code of Conduct and website. Schools will inform parents through various means such as beginning of school information packets, school website, and newsletters.

School staff members contact parents when students experience significant difficulties meeting school behavioral expectations. School staff members will engage parents as partners in the behavior improvement process including any plans for behavior tracking sheets, behavior monitoring processes or behavior improvement plans.

Office Discipline Referrals

- School PBS team defines classroom-managed and office-managed behaviors. This is provided to all school staff members both verbally and in writing.
- Both encouragement and correction procedures are defined so that students are recognized for appropriate behavior and receive reteaching/corrective consequences for inappropriate behavior.

- School administrators ensure that the office referral system paperwork and/or web-based system supports the school's agreed-upon definitions of office discipline referrals.
- School administrators determine a protocol for responding to and processing office discipline referrals. This written process is shared with all school staff at the beginning of the school year.
- PBS team reviews and agrees upon how behavioral infractions will be categorized (e.g., what is a fight vs. bullying?)

Data Collection, Management, and Analysis

- Schools are strongly encouraged to use a behavioral data management system such as SWIS (School-wide Information System) for better accessibility to needed data.
- School administrators will ensure that behavioral data (time-outs, office discipline referrals, in-school suspension, out-of-school suspension, and CATS, plus any other school-specific data selected by the PBS team) are collected accurately.
- School PBS team reviews all behavioral data monthly and reports findings to school administrators, School Council, and the Superintendent. PBS team analyzes data to look at trends and determine next steps such as conducting additional common area or classroom walkthroughs, additional staff training, or referring students for additional intervention.

Tier 2

Identifying Students for Additional Supports (Tier 2)

PBS team develops written criteria to identify students (decision rules) for Tier 2 intervention. These criteria will include specific numbers of *time-outs*, office discipline referrals, and any other criteria to be considered.

Tier 2 Interventions

- School leadership teams compile a list of Tier 2 interventions available for their students. These may include individual and small group interventions such as *Check-In/Check-Out*, *Check & Connect*, targeted social skills, etc.
- Data are collected for a pre-specified time period (minimum of 6 data points needed), graphed, and discussed during problem-solving meetings to determine impact.
- As with RTI-Reading, behavioral interventions will be implemented with fidelity and monitored by a member of the school team.

Tier 3

Identifying Students for Intensive Supports (Tier 3)

PBS team develops written criteria to identify students (decision rules) for Tier 3 intervention. These criteria include specific length of time and success rate with Tier 2 interventions as well as specific behavioral data such as numbers of *time-outs*, office discipline referrals, and any other criteria to be considered.

Tier 3 Interventions

All students identified for Tier 3 intervention have a functional behavior assessment (FBA) and a Behavior Intervention Plan (BIP), based on the assessment.

If the data review includes physical restraint or seclusion, a Crisis Plan is developed.

Data are collected for a pre-specified time period (minimum of 6 data points needed), graphed, and discussed during problem-solving meetings to determine impact.

As with RTI-Reading, behavioral interventions are implemented with fidelity and monitored by a member of the school team.

Students meeting criteria for Tier 3 intervention will be considered for referral to school-based (or community-based if more appropriate) mental health services.

The PBS team provides a written rationale regarding whether or not any student identified for Tier 3 intervention is referred for evaluation to determine eligibility for special education services.