

Settlement Agreement

between

The United States of America

and

Wicomico County Public Schools

I. PURPOSE

1. The Board of Education of Wicomico County, operating the Wicomico County Public Schools (collectively referred to as “Wicomico” or “the District”) and the United States Department of Justice (“United States” or “the Department”) (collectively, “the Parties”) enter into this settlement agreement (“Agreement”) to resolve the United States’ investigation into complaints of alleged discrimination on the basis of race, ethnicity and disability in its disciplinary policies, practices, and procedures (collectively, “practices”).

2. By entering into this Agreement, the District does not admit liability and this Agreement is not to be construed as an admission of liability by the District of any state or federal law, or violation of the rights of any student in the District.

3. This Agreement reflects the Parties’ shared goal that all students in the District have an equal opportunity to learn in environments that are safe, supportive, free of discrimination and accessible to students of all backgrounds. The fair and appropriate implementation of evidence-based student discipline policies and procedures is one means of advancing this objective.

4. Wicomico agrees to comply with the terms of this Agreement to address and resolve the issues raised by the United States. This Agreement shall be binding upon successor District school boards. The Parties undertake this Agreement as a means of alternative dispute resolution to avoid litigation and to preserve judicial and governmental resources. The United States agrees to forego litigation over the issues resolved by this Agreement in exchange for the agreement by the District to comply with its terms. Nothing in the Agreement shall limit the rights of the United States to enforce compliance with the Agreement, in federal court at some later date, should the District fail to satisfy the requirements of the Agreement.

5. This Agreement shall become effective as of the date it has been executed by both parties and shall remain in effect until the conclusion of the 2018-2019 school year, provided that the parties may, upon mutual written agreement, amend this Agreement to address changed circumstances.

II. JURISDICTION

6. The Department's Civil Rights Division enforces Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c *et seq.*, which prohibits discrimination based on race, color, national origin, sex, or religion in public schools and institutions of higher education.

7. The Department's Civil Rights Division is also responsible for enforcing Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132, and its implementing regulations, 28 C.F.R. Part 35, which prohibits discrimination based on disability in services, programs and activities provided by State and local government entities.

III. DEFINITIONS

For purposes of this Agreement, the following definitions apply:

8. "Alternative Placement" refers to the placement of a student in an alternative school setting for reasons related to discipline. This definition does not limit the ability of the District to place students in the Alternative Placement in learning pathways not covered by this Agreement.

9. "Behavior Support Plan" refers to a plan created by appropriately trained professionals for an individual student comprised of positive behavioral interventions, strategies, and supports, which may include modifications to the nature of instruction, curriculum, or school routine. Behavior Support Plans are preventative tools designed to keep all students, regardless

of whether they are students with disabilities, in the classroom while maintaining or improving the classroom climate. Behavior Support Plans should be based on multiple direct observations collected systematically in typical school settings and should reflect feedback from staff and Parents regarding the behaviors exhibited and the emotional, mental, and physical characteristics of the student. Observation, information collection, and feedback collection shall occur during the school year in which the Behavior Support Plan is being developed. While Behavior Support Plans are often prepared for students with a documented disability and identified as Behavior Intervention Plans, they can be prepared for any child. For students with documented disabilities, the Behavior Support Plan (Behavior Intervention Plan) may be part of the student's Individualized Education Plan or Section 504 Plan. *See* 20 U.S.C. § 1414(d); 29 U.S.C. § 794.

10. "Central Office" refers to the central administrative office for the District, located at, 2424 Northgate Drive, P.O. BOX 1538, Salisbury, MD 21802-1538, or such office at any successor locations.

11. "Code of Conduct" and "Code" refer to the District's collective student behavior and discipline documents. The Code describes the rights and responsibilities of students, Parents, and District administrators, faculty, and staff; identifies behavior management and prevention strategies to be used by administrators, faculty, and staff; classifies and describes incidents and responsive Corrective Strategies; and standardizes procedures for administering consequences.

12. "Corrective Action Plan" refers to a plan of action to be taken by the District and or an individual school, including steps intended to respond to an identified need for improvement and corresponding outcome goals.

13. “Corrective Strategies” refer to teacher and administrator behavior management techniques designed to prevent the occurrence of student infractions, teach alternative or replacement behaviors, or motivate students to demonstrate compliance with established school expectations outlined in the Code of Conduct. These may include, but are not limited to, Behavior Support Plans, conflict resolution, and other de-escalation strategies.

14. “District PBIS Director” refers to the individual responsible for tracking and facilitating implementation of the PBIS model district wide, including analyzing classroom, grade, and school-level discipline data; developing and overseeing implementation of reforms; coordinating professional development on PBIS; and serving as a contact for Parent and student complaints regarding discipline. The District PBIS Director may have a different employment title.

15. “Exclusionary Discipline” refers to any consequences administered for an infraction under the Code of Conduct or otherwise, that removes a student from classroom instruction in his or her home school, including but not limited to In-School Suspension, Short-Term Suspension, Long-Term Suspension, Extended Suspension, and Expulsion.

16. “Expulsion” refers to the exclusion of the student from the student’s regular school program for 45 school days or longer for violations of the Code of Conduct.

17. “Functional Behavior Assessment” (FBA) is a systematic set of strategies that is used to determine the underlying function or purpose of a behavior, so that an effective Behavior Support Plan can be developed. 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. Data collection is an important part of the FBA process and FBAs should be completed by qualified professionals (*e.g.* psychologists, behavior analysts, special

education instructors, school counselors). Functional Behavior Assessments shall include review of student records and other relevant data, teacher and staff feedback, interviews with the student and the student's Parents, and direct observation. Functional Behavior Assessments are most commonly conducted for students with a documented disability, but can be conducted for any child.

18. "Instructional Staff" refers to certificated staff and/or licensed staff (*e.g.*, teachers, counselors) and non-certificated staff (*e.g.*, teacher aides) who work directly with students.

19. "Parent" refers to either or both biological or adoptive parent(s) of the student, the student's legal guardian, or other person legally responsible for a student under state law. An emancipated minor is a student that can make educational decisions without parent approval, and for purposes of this Agreement, is encompassed under the term, "Parent."

20. "Physical Interventions" refer to restrictions that immobilize or reduce a student's physical movement. Physical interventions do not include temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is engaged in problematic behavior to move to a safe location.

21. "Positive Behavior Interventions and Supports" and "PBIS" refer to a system of evidence-based strategies and structures which assist schools and school personnel in establishing a positive school culture by constructively teaching school rules and social-emotional skills; positively reinforcing appropriate student behavior; using effective classroom management strategies to provide early intervention for problematic behavior; and developing a continuum of graduated and appropriate consequences for more serious or continuous engagement in problematic behavior.

22. “Restorative Practices” refers to an approach to student discipline that focuses on resolving conflict, repairing relationships, and assisting students to redress harms caused by their conduct, and may include positive interventions and processes such as mediation, family group counseling, and peer mentoring.

23. “School Crisis Intervention” refers to a system of procedures and techniques designed to permit the District to prevent and de-escalate behavior crises, and to respond safely and effectively to incidents of acute behavior crisis that place the student or others at imminent and substantial risk of serious physical injury. School Crisis Intervention is most commonly employed to address acute behavior crises of students with a documented disability, but can be employed to respond to any child exhibiting an acute behavior crisis.

24. “School Crisis Intervention Teams” refers to the group of school staff in place at each school who receive specific training in School Crisis Intervention and who are available to respond in the event of an acute behavior crisis.

25. “Student Services Team” refers to the individual or group of faculty, staff, and administrators at each school, designated by the school principal and approved by the District PBIS Director, who are authorized to administer appropriate behavioral interventions at the school, including implementation of PBIS and Restorative Practices and enforcement of the disciplinary rules..

26. “Suspension” refers to In-School Suspension, Short-Term Suspension, Long-Term Suspension, or Extended Suspension:

- a. “In-School Suspension” refers to the removal within the school building of a student from the student’s regular classes for violations of the Code of Conduct for up to but not more than 10 school days in a school year;

b. “Short-Term Suspension” refers to the removal of a student from the student’s regular school for up to but not more than 3 school days for violations of the Code of Conduct;

c. “Long-Term Suspension” refers to the removal of a student from the student’s regular school for a time period between 4 and 10 school days for violations of the Code of Conduct by the school principal;

d. “Extended Suspension” refers to the exclusion of a student from a student’s regular school for a time period between 11 and 45 school days for violations of the Code of Conduct.

27. “Wicomico County Public Schools” and “the District” refer to the Wicomico County Public School District, the Board of Education, and the public schools it operates.

IV. Terms of the Agreement

The parties have conferred in good faith and negotiated the terms of the Agreement as follows:

A. Consultant

28. The District has hired a qualified consultant to provide ongoing assistance, as requested by the District Superintendent, in classroom management and the redress of discipline practices that discriminate against African-American and/or Latino students and/or students with disabilities. The consultant(s) shall assist the District in developing and implementing an effective district wide classroom management and behavioral supports system that ensures proportionality of response to the offense, reduced disparities in the administration of disciplinary consequences, and the use of PBIS and Restorative Practices. The District reserves the right to change consultants for good cause during the term of this Agreement. If the District

does change the consultant, the District will provide the United States notice of the change and an opportunity to approve or object to any replacement consultant(s) selected by the District.

The District and the United States shall work together in good faith to resolve any disagreements regarding the selection of qualified consultant(s).

B. Compliance with the Americans with Disabilities Act¹

29. The District will comply with the Americans with Disabilities Act with regard to all aspects of its disciplinary policies, practices, and procedures, and their implementation and enforcement, unless the District demonstrates that the requested modifications are not reasonable or fundamentally alter the nature of the service, program, or activity. This includes, for example, providing notice in the Code of Conduct that the District will timely respond to requests for reasonable modifications on the basis of a disability related to District disciplinary policies, practices, or procedures. When denying a request for reasonable modification on the basis of a disability, a school administrator will notify the student or family member in writing of the decision to deny the request.

C. Positive School Climate

30. The District, with the assistance of the consultant(s), shall review its current PBIS measures and practices, determine necessary revisions, and develop a District-wide program to implement a PBIS and Restorative Practices approach to classroom management and student

¹ The United States recognizes that the District provides special education and related services to students with disabilities under the Individuals With Disabilities Education Act (“IDEA”), and Section 504 of the Rehabilitation Act of 1973 (“Section 504”). The Department of Education administers the IDEA, 20 U.S.C. §§ 1400 *et seq.*, and Section 504, and promulgates, interprets and enforces the regulations implementing these statutes. 34 C.F.R. Part 300. The Department of Justice makes no findings or inferences in this agreement regarding the District’s compliance with IDEA or Section 504 obligations, nor does this agreement affect the District’s obligations with the IDEA, Section 504 or federal regulations thereunder. This agreement only addresses the District’s obligations under Title II of the ADA.

behavior in each school and in each classroom.² The District shall provide sufficient resources and training to implement the PBIS and Restorative Practices approach at each District school in accordance with this Agreement.

31. The District shall employ a full-time District PBIS Director responsible for the revision of disciplinary practices, and the implementation of PBIS and Restorative Practices. The official employment title of this individual, presently, is the Assistant Superintendent for Student and Family Services.

32. The District PBIS Director shall report to the Superintendent and shall perform the following duties:

- a. shall serve as the Superintendent's designee in District-level disciplinary hearings;
- b. assist all District schools to improve behavior and discipline data reporting mechanisms and self-monitoring practices;
- c. as described in Section IV.K, below, review and analyze the District's behavior and discipline data to identify areas of concern, including concerns regarding disparities in the discipline of students by race/ethnicity or disability status;
- d. in consultation and collaboration with the Director of Special Education, review and analyze discipline involving students with disabilities and identify

² The Department understands that the District has some familiarity with PBIS through its introduction at Bennett Middle School, and its usage of PBIS at other District schools. For this reason, the Department refers to PBIS throughout the Agreement. While the District may wish to continue using PBIS, they may use any data-driven, evidence-based non-exclusionary behavior framework in lieu of or in addition to PBIS.

areas of concern, including concerns regarding the use of Physical Interventions and Exclusionary Discipline;

e. work with Central Office administrators, school administrators, and Student Services Teams to develop Corrective Action Plans (to include district wide, school wide, and/or classroom focused actions) in response to concerns raised by incident and data reviews described in (c) and (d);

f. coordinate and implement a comprehensive professional development program that is focused on PBIS and Restorative Practices, prior to August 25, 2017 for all Instructional Staff; all school administrators; and other employees with responsibility or authority to address student behavior appropriate to each person's job responsibilities; and provide annual supplemental training;

g. together with the Director of Special Education, coordinate and implement a professional development program prior to August 25, 2017 for all Instructional Staff and administrators covering behaviors that are, or tend to be, related to a disability; proper responses to such behavior; discuss the availability and role of School Crisis Intervention Teams; and provide annual supplemental training; and

h. serve as a direct contact for student and Parent complaints and concerns regarding the administration of discipline, and work with District- and school-level administrative staff to resolve complaints and concerns.

33. Each District school shall, within 90 days of signing this Agreement, designate a Student Services Team. Each District school shall, within 90 days of the signing of this

Agreement, hire or designate a school PBIS facilitator, who shall coordinate with the District PBIS Director.

34. Within 180 Days of the signing of this Agreement, the District, with the assistance of the consultant(s), shall identify action steps the District should undertake to ensure that the District and each of its schools can recognize and respond appropriately to behaviors that are or may be related to a disability, and to address and deescalate behaviors of students with disabilities in order to avoid the use of physical interventions and/or exclusionary discipline whenever possible.

35. The District and each of its schools shall provide adequate services, including psychological, social work, nursing, counseling, academic support, teacher support, home student support, and other support services. These support services may be provided by a variety of qualified District staff, including, but not limited to, psychologists, social workers, nurses, guidance counselors, student advisors, home-school liaisons, deans of students, pupil personnel workers, ISS assistants, job coaches, special education teachers, behavioral intervention teachers, crisis prevention teams, and with the support of county/ community mentors, who will work together at the direction of the PBIS Director.

C. Roles and Responsibilities of Instructional Staff and Administrators

36. The responsibilities of Instructional Staff, with regards to and as further described in the terms of this Agreement, shall include:

- a. attending required trainings developed under the terms of this Agreement;
- b. teaching, modeling, and consistently applying positive behavior approaches inside and outside the classroom, including explaining the Code of Conduct and behavioral expectations for all students and staff;

- c. providing constructive feedback, reminders, and skill-building to students when behavior concerns arise;
- d. appropriately implementing Behavior Support Plans;
- e. learning accepted successful teaching strategies to prevent and respond appropriately to acute behavioral crises, including through early intervention to redirect students, de-escalation techniques, and implementation of School Crisis Intervention protocols (*e.g.*, when and how to call for the assistance of the School Crisis Intervention Team); and
- f. using alternative methods of behavioral intervention before referring a student to the Student Services Team, and
- g. documenting those attempts in any discipline referral to the school administrator.

37. The responsibilities of Student Services Teams, as further described in the terms of this Agreement, shall include:

- a. coordinating with faculty and staff at the school and at the Central Office, including the District PBIS Office, to implement the PBIS and Restorative Practices reforms described in this Agreement;
- b. ensuring that Instructional Staff communicate the Code of Conduct and model positive behavior approaches to students;
- c. consulting with school administrators regarding disciplinary actions that will result in Exclusionary Discipline for greater than three days, to ensure the fair application and enforcement of the Code of Conduct;

- d. working with Instructional Staff to evaluate and recommend solutions to student behavior problems taking account of any relevant considerations related to the student's disabilities;
- e. working with District staff, including IEP teams, school counselors, school nurses, social workers, and psychologists, as well as outside consultants Parents have chosen to hire, and community service providers, to implement effective FBAs and Behavior Support Plans that identify resources and supportive supplemental services that will help students, particularly students with disabilities, identify and thereby decrease potential or particular triggers for behavior that might otherwise violate the Code of Conduct;
- f. reviewing, in consultation with relevant staff, including any school staff involved, all incidents involving the use of Physical Intervention; and
- g. utilizing data to consistently monitor student behavior and perform quarterly assessments of classroom and school-level intervention and referral patterns.

D. Discipline Practices

(i) Code of Conduct

38. No later than May 1, 2017, the District shall submit a revised draft Code of Conduct to the United States for review, comment, and approval prior to submission to the School Board for approval. In making revisions to the Code of Conduct, the District shall solicit and consider input from its consultant(s). The United States' approval of the District's revised Code of Conduct shall not be unreasonably withheld, and the United States shall complete its review within sixty calendar days of receipt of the proposed revisions. The District and the

United States shall work together in good faith to resolve any disagreements regarding the revised Code of Conduct.

39. The Code of Conduct shall apply at each District school and shall: (a) clearly communicate expected positive behaviors for each age group and for particular areas within schools (e.g., the gym, cafeteria), (b) communicate expected positive behaviors, prohibited conduct and consequences in a manner designed to be understood by all students, including students with disabilities and students who are English Language Learners, (c) objectively define behavioral infractions at every level as defined in Paragraph 40 (including whether the behavior should be handled in the classroom or through referral), (d) incorporate developmentally appropriate prevention and intervention strategies for each disciplinary tier, (e) include guidelines for communication with Parents to address infractions and assist with transition back to the school and/or classroom environment after Exclusionary Discipline; (f) limit the involvement of SROs and other law enforcement to responding to behaviors that present an imminent and substantial risk of serious physical injury and cannot safely be handled by school staff; (g) incorporate a continuum of alternatives to Exclusionary Discipline (including Behavior Support Plans, reflective writing assignments, conflict resolution, and Restorative Practices), (h) limit the use of Exclusionary Discipline to the most severe, safety related behaviors, or behaviors that violate the legal rights of others, and (i) be made accessible to all students.

40. The revised Code of Conduct shall include a system of graduated infractions, appropriate and proportional Corrective Strategies, and consequences as follows:

- a. problematic behaviors that are low in intensity, passive, and/or non-threatening in nature (e.g., academic dishonesty, dress code violations and disruption involving minor behavior) shall be classified as Level 1 infractions.

Teachers shall manage Level 1 infractions by using a range of Corrective Strategies, and students will not receive Exclusionary Discipline for a Level 1 infraction only, but can be subject to nonexclusionary measures and have school incentives or privileges progressively withheld to modify behavior. If the District has exhausted and documented all appropriate interventions, including those delineated in the Code of Conduct, FBA, and/or BSP, and the persisting behaviors continue after interventions, then the District can treat the behavior as a Level 2 infraction;

b. problematic behaviors that are moderate in intensity and do not result in physical injury (*e.g.*, possession of tobacco, intentional bumping, verbal altercation, disrespect and insubordination) shall be classified as Level 2 infractions. Teachers, in collaboration with the Student Services Team, shall manage Level 2 infractions by using a range of Corrective Strategies and students will not receive Exclusionary Discipline for a Level 2 infraction only, but can be subject to nonexclusionary measures and have school incentives or privileges progressively withheld to modify behavior. If the District has exhausted and documented all appropriate interventions, including those delineated in the Code of Conduct, FBA, and/or BSP, and the persisting behaviors continue after interventions, and the Student Services Team agrees these criteria have been met, then the District can treat the behavior as a Level 3 infraction.

c. problematic behaviors that are more serious in intensity but do not result in major injury (*e.g.* intentional moderate property damage; fights or physical altercations resulting in only minor injuries such as minor cuts, scrapes, or

bruises; shall be classified as Level 3 infractions. Teachers, in collaboration with the Student Services Team shall manage Level 3 infractions by using a range of intensive in-school Corrective Strategies, such as direct instruction, re-teaching, reinforcing feedback, and development or revision of a Behavior Support Plan. The District may assign In-School Suspension for a Level 3 infraction, but may not assign a Short-Term Suspension, Long- Term Suspension, or Extended Suspension for only a Level 3 infraction. Students can also have school incentives or privileges progressively withheld to modify behavior. If the District has exhausted and documented all appropriate interventions, including those delineated in the Code of Conduct, FBA, and/or BSP, and the persisting behaviors continue after interventions, then the District can treat the behavior as a Level 4 infraction.

d. problematic behaviors that significantly interfere with safety³ (e.g., intentionally engaging in a fight which is large, preplanned, or extended in duration and/or resulting in major injuries like a broken limb or otherwise; intentionally striking an employee of the District or other adult or engaging in disruption that directly affects the safety of others (e.g., throwing harmful items or disrupting a fire drill)) shall be classified as Level 4 infractions. The District may, but is not required to, assign a Short-Term Suspension, Long-Term Suspension, or Extended Suspension for a Level 4 infraction. The Student Services Team shall utilize other Corrective Strategies as appropriate;

³ Behaviors that interfere with safety do not include attempted or actual self harm.

e. the most serious problematic behaviors that require immediate response from a member of the Student Services Team who is a school administrator, the Central Office, and/or law enforcement (*e.g.*, serious bodily injury, possession of guns or other weapons, possession of illegal drugs with intent to sell, bomb threats, gang violence) shall be classified as Level 5 infractions. The District may, but is not required to, assign a Short-Term Suspension, Long-Term Suspension, Extended Suspension or Expulsion for a Level 5 infraction;

g. law enforcement may only be contacted in the event of substantial harm (or the threat of substantial harm) to the physical safety of students, staff, or other persons that cannot be safely and appropriately handled through school procedures including PBIS/Restorative Practices and School Crisis Intervention, or when appropriate to respond to criminal conduct of persons other than students. Only a school administrator shall contact law enforcement, except in an emergency situation involving a serious threat to students, school personnel, or public safety.

41. No later than four weeks after the end of each semester, the District PBIS Director shall review the discipline data from each District school (disaggregated by type of infraction, teacher, race of student, student disability status, and the combination of those variables) to identify and examine the cause of, any disparities or outliers in the data and if such disparities or outliers exist, take appropriate remedial measures.

42. The District will consider it an incident of Exclusionary Discipline if a student is sent home before the normal close of the school day for reasons related to misbehavior.

43. The District shall develop and clearly communicate policies on student dress code within the Code of Conduct. A student must be allowed to remain at school and demonstrate compliance with the dress code by allowing Parents to bring clothes to school or by offering the student the choice of wearing appropriate alternative clothes, as available at the school.

44. The Code of Conduct shall require the District to assign tardies or truancies flexibly, including by taking into account reasonable explanations of why the student was late or absent. After six unexcused absences or six unexcused late arrivals in a semester, or earlier at the request of a Parent, the District shall make two documented attempts to meet with the student's Parent and review whether supports may be appropriate to assist the student in improving attendance and if so, will implement and monitor a support plan for the student. A member of the Student Services Team may conduct such an attendance support review sooner based upon the request of Instructional Staff or other indication of need.

45. The Code of Conduct shall prohibit Exclusionary Discipline consequences for tardiness, class cutting or truancy. The Code of Conduct shall prohibit students who are tardy from being locked out or otherwise excluded from the classroom upon arrival.

46. A student who has an unexcused absence or is tardy shall be required to make up the work missed within a reasonable time and no student shall be automatically failed in any subject based solely on absences or tardies. Before- or after-school office detention or Saturday detention may be assigned to provide time to make up missed assignments.

(ii) Restitution

47. The District shall not require a student to pay financial restitution, in full or in part, as a condition of re-admittance or continued school attendance.

(iii) In-School Suspension, Short-Term Suspension, Long-Term Suspension, Extended Suspension, and Expulsion Practices

48. The District shall continue to provide students assigned to In-School Suspension Short-Term Suspension, Long-Term Suspension, Extended Suspension, or Expulsion with the opportunity to earn equivalent grades and credits as other students, and with the ability to make up tests and final examinations, and to complete class and homework assignments without penalty while on suspension or within a reasonable period of time following the completion of the suspension.

49. The District shall continue to provide students assigned to In-School Suspension with regularly assigned coursework to be completed while serving the suspension. For course work that cannot be completed in the In-School Suspension room (i.e. science labs, art projects), the District shall either permit the student a limited release from In-School Suspension for the purpose of completing the assignment, or provide the student a reasonable time and appropriate resources to complete the assignment following the completion of the suspension.

50. The District shall promptly provide students assigned to Short-Term Suspension, Long-Term Suspension, Extended Suspension, or Expulsion with their regularly assigned coursework, (including prior to the start of the suspension or daily during the suspension, if practicable). Prior to or upon return from Short-Term Suspension, Long-Term Suspension, Extended Suspension, or Expulsion, the student will meet with the student's home room teacher or guidance counselor or other assigned academic advisor, to review progress on coursework received while assigned to Short-Term Suspension, Long-Term Suspension, Extended Suspension, or Expulsion and to develop a plan for completion of all outstanding assignments within a reasonable period of time thereafter.

51. Short-Term Suspension, Long-Term Suspension, or Extended Suspension consequences shall not be imposed until the District has made contact, or documented two attempts to make contact, with a Parent.

(iv) Behavior Support Plans

52. Instructional staff may recommend and/or Student Services Teams may consider creating a Behavior Support Plan for an individual student when prior interventions have been attempted and the student behavior has not improved. Based upon a review of an individual student's circumstances, engaging in continued student behaviors that reach Level 3 classification may, but do not always, warrant conducting a Functional Behavioral Assessment and/or developing a Behavior Support Plan. When a student has received a cumulative 5 days of Exclusionary Discipline during a school year, the Student Services Team must develop or review a Behavior Support Plan. When a student has engaged in a Level 4 or 5 infraction, or been subject to School Crisis Intervention, Petition for Emergency Evaluation, or law enforcement referral, as discussed in Section IV.H below, a Functional Behavioral Assessment must also be conducted, unless the Student Services Team determines, after consultation with the student's Parent, that it is not appropriate, and a Behavior Support Plan shall be developed or reviewed for the student.

53. When the Student Services Team determines that a Behavior Support Plan is required or may be beneficial for a student, the Student Services Team shall consider the need for a Functional Behavioral Assessment and, if needed, arrange for it to be completed. The student record shall reflect this consideration.

54. Functional Behavioral Assessments and Behavioral Support Plans should be reviewed annually by a qualified staff member with training in conducting FBAs. Behavioral

Support Plans may be implemented for shorter periods of time depending upon student need as identified through the Functional Behavioral Assessment, student behavioral performance, and/or staff and Parent feedback.

(vi) Alternative Placement

55. The District shall not assign a student to an Alternative Placement who is returning to school from a juvenile detention facility unless required by the student's Department of Juvenile Services case manager, or pursuant to the Maryland Code; who is returning from a special education placement outside of the District; or who is a newly enrolled student who has not been removed from his or her previous school system for disciplinary reasons.

56. Before the District considers the Alternative Placement for students recommended for Extended Suspension or Expulsion, the Student Services Team must verify and document evidence that the student failed to respond successfully to formal behavioral interventions and supports that were implemented with adequate fidelity. All Alternative Placements in lieu of Extended Suspension or Expulsion shall be reviewed by the District PBIS Office and approved by the District PBIS Director.

57. The District shall develop a policy for the Alternative Placement that covers: (a) availability of tiered behavioral supports including Restorative Practices; (b) availability of mental health or rehabilitation services that are delivered in the alternative school or the nearby community; (c) ensuring continued access to courses and academic programs, including programs and activities required for graduation as well as advanced placement and other specialized courses; (d) review of student behavior progress; and (e) provisions for transition back to the home school environment and generalization of intervention strategies within the home school environment.

58. The goal of the Alternative Placement shall be to improve the student's behavior so that he/she can return to his/her home school in a timely fashion. The District PBIS Director shall make a determination as to the length of the initial placement (e.g., 10 days; one marking period) for each Alternative Placement. The District PBIS Director, in consultation with the Alternative Placement principal, shall establish criteria for exiting the Alternative Placement and returning to the home school, and shall communicate criteria clearly to each student and the student's Parent at the time the student begins the Alternative Placement.

59. Not less than once per academic quarter, the principal of the Alternative Placement, representatives from the home school Student Services Team, the student, the student's Parent, and a representative chosen by the Parent, as requested, shall confer to review and assess the student's progress. If the student has performed successfully in the Alternative Placement, the District shall return the student to the home school with appropriate supports and services, based upon consultation with the student and the family, to aid the student in transition and to meet expectations for behavior and learning.

E. Due Process

60. When considering exclusionary discipline, the District shall continue to provide students all procedural protections and substantive rights required by applicable federal and state law.

61. Any reasonable accommodations requested on the basis of disability or limited English language proficiency shall be provided so that a student with a disability, an English Language Learner, or family member or designated representative who requests assistance, may participate fully in any disciplinary proceeding (e.g. interpreters, including sign language interpreters, Braille documents, service animals, etc.).

62. Parents will be provided reasonable and appropriate information in order to effectively participate in any due process proceeding involving their children.

63. Procedure for In-School Suspension: Prior to imposing an in-school suspension, the District shall provide students with an informal conference to determine whether discipline is warranted and if exclusionary discipline is the last resort option for addressing the student's conduct. Whenever possible, a school administrator who is a member of the Student Services Team, who is not involved in the underlying incident and who has reviewed the individual student's intervention log and/or Behavior Support Plan shall conduct the informal conference.

- a. At the informal conference, the school administrator shall:
 1. inform the student of the allegations and evidence against him or her;
 2. provide the student with an opportunity to respond to the allegations, verbally or in writing, and to present his or her version of events; and
 3. provide the student with an opportunity to present evidence in his or her defense, including the right to have a reasonable number of witnesses interviewed by the school administrator.
- b. If, after the informal conference with the student is held, the school administrator determines that , pursuant to the Code of Conduct, exclusionary discipline is appropriate the school administrator shall provide the student's Parent with written notice of the In-School Suspension action taken by the school.
The written notice shall include:

1. a statement that the student has received a particular consequence;
2. the grounds for the consequence;
3. the period or duration of the consequence;
4. an offer to discuss the consequence and prior interventions and supports with the principal or the principal's designee and the availability of the student's records with confidential school and personally identifiable student information redacted; and
5. a statement that school work shall be provided during the period of the consequence.

64. Procedure for Out of School Suspensions for Not More Than 10 Days: Prior to imposing an out of school suspension (Short-Term Suspension or Long-Term Suspension) for not more than 10 days, the District shall provide students with an informal conference to determine whether exclusionary discipline is warranted and if exclusionary discipline is the last resort option for addressing the student's conduct. Whenever possible, a school administrator who is a member of the Student Services Team, who is not involved in the underlying incident, and who has reviewed the individual student's intervention log and/or Behavior Support Plan shall conduct the informal conference.

- a. At the informal conference, the school administrator shall:
 1. inform the student of the allegations and evidence against him or her;
 2. provide the student with an opportunity to respond to the allegations, verbally or in writing, and to present his or her version of events; and

3. provide the student with an opportunity to present evidence in his or her defense, including the right to have a reasonable number of witnesses interviewed by the school administrator.

b. If, after the informal conference with the student is held, the school administrator determines that, pursuant to the Code of Conduct, exclusionary discipline is appropriate, the school administrator shall provide the student's Parent with written notice of the out-of-school (Short-Term or Long-Term) suspension action taken by the school. The written notice shall include:

1. a statement that the student has received a particular consequence;
2. the grounds for the consequence;
3. the period or duration of the consequence;
4. an offer to discuss the consequence and prior interventions and supports with the principal or the principal's designee and the availability of the student's records with confidential school information and personally identifiable information regarding other students redacted;
5. a statement that the student has the right to appeal the consequence;
6. the process for an appeal as described in paragraph 66; and
7. a statement that school work shall be provided during the period of the consequence.

65. If an emergency requires immediate removal of the student from school because a student's presence in school poses a danger to persons or property or an ongoing threat of disrupting the academic process, the student may be removed immediately from school, and all

required proceedings described in Paragraphs 64 and 67 shall follow as soon after the student's removal as practicable. If such removal is necessary, the school shall immediately notify the Parent.

66. The District shall afford students who are suspended from school for not more than ten days the opportunity to appeal the suspension before the Superintendent's designee, not involved in the underlying incident. The District shall schedule the appeal within a reasonable time from the date of the suspension. If a student intends to appeal a suspension, he or she shall notify the District PBIS Director in writing or by telephone. Upon receipt of a notice of intent to appeal, the Director shall schedule an appeal before the Superintendent's designee to review the suspension decision. The student shall have the right to be represented at the appeal by anyone that the student or Parent chooses.

- a. At the appeal, the Superintendent's designee shall consider the following:
 1. whether the school complied with the procedural requirements regarding notice;
 2. whether the school provided a meaningful opportunity for an informal conference as set out in Paragraph 64(a);
 3. whether the evidence was fully and fairly considered;
 4. whether the school complied with the requirements in the Code of Conduct; and
 5. whether the school exhausted non-exclusionary interventions before imposing the suspension.
- b. The Superintendent's designee shall provide a written decision on the appeal within three school days. If the Superintendent's designee determines that

no violation occurred, the District shall expunge all school records pertaining to the suspension from the student's file. If the Superintendent's designee determines that the penalty was not appropriate to the violation, all school records shall be revised to reflect the decision of the Superintendent's designee.

67. Procedures for Suspensions for More Than 10 Days (Extended Suspension), and
Expulsion:

a. Before the school principal recommends Extended Suspension, or Expulsion to the Superintendent or designee, the principal shall provide students with an informal conference to determine whether discipline is warranted, and if exclusionary discipline is the last resort option for addressing the student's conduct. At the informal conference, the school administrator shall:

1. inform the student of the allegations and evidence against him or her;
2. provide the student with an opportunity to respond to the allegations, verbally or in writing, and to present his or her version of events; and
3. provide the student with an opportunity to present evidence in his or her defense, including the right have a reasonable number of witnesses interviewed by the schools administrator.

b. After the informal conference, the principal shall consult with a member of the Student Services Team to determine if Extended Suspension, or Expulsion, is appropriate. If, after this consultation, the principal determines it appropriate to recommend the student for Extended Suspension, or Expulsion, the principal shall

submit the recommendation to the Superintendent or designee, with written confirmation of the consultation with a member of the Student Services Team; a list of the non-exclusionary interventions that were implemented prior to the decision to impose exclusionary discipline; and explicit findings as to the circumstances described in MD CODE REGS. 13A.08.01.11B(2) and (3). A copy of this report and the record of the consultation shall be provided to the student and the student's Parent within two school days after it is submitted to the Superintendent.

c. Upon receiving a recommendation for Extended Suspension, or Expulsion, the Superintendent or designee shall conduct a thorough investigation. If, after the investigation and consultation with the school principal or designee and a member of the Student Services Team, the Superintendent or designee finds that extended suspension or expulsion is appropriate, the Superintendent or designee shall arrange a conference with the District PBIS Director, the student, and the Parent.

d. The Superintendent or designee shall provide the student and his or her Parent with notice of the conference within 24 hours of scheduling the conference. The notice shall be in writing (e.g. letter or email) whenever possible. If written notice cannot be provided within a reasonable period of time, the Superintendent or designee may provide notice in an alternative format, such as by telephone or in-person communication; all information communicated to the student and Parent shall be documented. The notice shall contain:

1. a statement of the reasons for the recommended action;

2. a notice that the student will receive a conference on the question of extended suspension or expulsion;
 3. the date, time, and location of the conference;
 4. information regarding whom the student and/or his or her Parent should contact if they need to reschedule the conference to a mutually agreeable date and time; and
 5. a statement that the student may be present at the due process conference.
- e. At the conference, the Superintendent or designee shall:
1. inform the student and Parent of the allegations and evidence against the student;
 2. provide the student and Parent with an opportunity to respond to the allegations, verbally or in writing, and to present the student's version of events;
 3. provide the student and Parent with an opportunity to present evidence in the student's defense, including the right have a reasonable number of witnesses interviewed by the Superintendent or designee; and
 4. permit the student to be accompanied by counsel and/or an appropriate representative of the student or Parent's choice.
- f. At the conference, the Superintendent or designee shall consider:
1. whether the District complied with the procedural requirements regarding notice;

2. whether the Extended Suspension or Expulsion complies with the Code of Conduct;
3. the school's efforts to utilize non-exclusionary alternatives prior to recommending Extended Suspension, Expulsion, or Alternative Placement; and
4. additional facts or mitigating factors that were not reviewed during the school investigation.

g. The Superintendent or designee shall provide a written decision no later than the tenth school day of suspension. If the Superintendent or designee does not hold a conference and issue a written decision within ten school days of the initial suspension, the student shall be allowed to return to school, unless the Superintendent or designee makes a determination pursuant to MD CODE REGS. 13A.08.01.11C(3)(d). The written decision shall include:

1. a statement that the student has received a particular consequence;
2. the grounds for the consequence;
3. the period or duration of the consequence;
4. explicit findings as to the circumstances described in MD CODE REGS. 13A.08.01.11B(3)(a-b);
5. notice that Parents may request the student's records that are made regarding the incident, redacted of confidential school information and personally identifiable information regarding other students;
6. a statement that the student and the student's Parent have the right to appeal to the Board;

7. the process for filing an appeal; and
8. that school work shall be provided during the period of the consequence, as required by MD CODE REGS. 13A.08.01.11F and G.
- h. If the Superintendent or designee determines no violation occurred, the District shall expunge all school records pertaining to the recommendation for Extended Suspension, or Expulsion from the student's file. If the Superintendent or designee determines that the penalty was not appropriate to the violation, all school records shall be revised to reflect the Superintendent or designee's determination.

68. If the student or the Parent chooses to appeal an Extended Suspension, or Expulsion, the student or Parent shall notify, in writing, the Board of Education within ten days of receiving the Superintendent or designee's written decision. The appeal need only include a statement that the student is appealing the Superintendent or designee's written decision and provide contact information for the student and/or the student's Parent. Upon receipt of an appeal, the Board of Education shall schedule an appeal hearing to review the suspension decision. This hearing may be held by the Board of Education, or a hearing officer appointed by the Board of Education. The Board of Education or its appointed hearing officer shall have 45 days from the date the appeal was received to hear the appeal and issue a written decision unless the Parent requests additional time. The Board of Education will issue the written decision within ten school days of the Board meeting at which the appeal is considered. The student and the student's Parent shall have the right to be represented at the hearing by an appropriate representative the student or Parent chooses. At least five days before the hearing, the student or the student's Parent or representative shall be provided a witness list and a copy of the

documents that the school system will present at the hearing. The student or the student's Parent or representative shall have the right to bring witnesses to the hearing. At the hearing, the Board of Education or its appointed hearing officer shall consider the following:

- a. whether the school complied with the procedural requirements regarding notice;
- b. whether the school provided a meaningful opportunity for an informal conference as set out in Paragraph 67(a);
- c. whether the evidence was fully and fairly considered;
- d. whether the school complied with the requirements in the Code of Conduct;
- e. the school's efforts to utilize non-exclusionary alternatives prior to recommending extended suspension, expulsion or alternative placement; and
- f. whether all of the requirements for extended suspension and expulsion delineated in MD. CODE REGS. 13A.08.01.11 § B(3) have been met.

69. If the Board of Education appoints a hearing officer to hear the appeal, the Board of Education will consider the recommendation of the hearing officer, prior to making its decision. The decision of the Board of Education is final.

70. If the Board of Education determines not to uphold the Superintendent or designee's recommendation, the District shall expunge all school records pertaining to the suspension from the student's file. If the Board of Education determines that the penalty was not appropriate to the violation, all school records shall be revised to reflect the Superintendent or designee's determination.

71. If the Board of Education determines that it will modify the recommendation of the Superintendent or designee, then all school records will be revised to reflect the Board's final decision.

72. Prior to or concurrent with reinstatement from any exclusionary consequence, the school principal or designee shall confer with the student, members of the Student Services Team, and the teacher who referred the student to the principal (if the student was referred by a teacher) to discuss the student's behavior and methods for appropriate intervention in an effort to prevent further disciplinary action upon the student's return. The principal or designee shall request the participation of the student's Parent in person or by phone. The failure of the Parent to participate in the conference shall not affect the ability of the student to return to classes, and the scheduling of the conference shall not cause a delay in the reinstatement of the student.

73. If the student or Parent chooses to appeal assignment to the Alternative Placement for reasons related to behavior, the student or Parent shall notify, in writing, the Superintendent's designee. The appeal shall include a statement that the student or Parent is appealing the assignment to the Alternative Placement and provide the contact information for the student and/or the Parent. Upon receipt of the appeal, the Superintendent's designee will schedule an appeal meeting with the student and the Parent within a reasonable time from the date of the assignment to Alternative Placement to review the assignment decision.

- a. At this appeal meeting, the Superintendent's designee will consider:
 1. whether the school complied with the procedural requirement regarding notice;
 2. whether the school provided a meaningful opportunity for an informal conference with the school principal or designee;

3. whether the reasons for assignment were fully and fairly considered;
 4. whether the school complied with the requirements in the Code of Conduct; and
 5. whether the school utilized appropriate interventions and disciplinary actions before requesting consideration of Alternative Placement.
- b. The Superintendent's designee shall provide a written decision on the appeal within three school days. If the Superintendent's designee determines that the assignment to Alternative Placement be reversed, all school records for the student shall be revised to reflect the decision of the Superintendent's designee.

F. Emergency Response Measures

(i) School Crisis Intervention

74. The District shall continue to require each school to have a School Crisis Intervention Team of at least three staff members trained in School Crisis Intervention. Members of School Crisis Intervention Teams shall receive initial or refresher training at least annually.

75. No later than 120 days from the signing of this Agreement, the District shall review and revise its current School Crisis Intervention Protocol at each school including:

- a. identifying a school leader and District point of contact for School Crisis Intervention Teams;
- b. response procedures for members of School Crisis Intervention Teams;

- c. measures to ensure all school staff are aware of the members of the School Crisis Intervention Team, the appropriate circumstances in which to request the assistance, and the role of School Crisis Intervention;
- d. procedures for staff to request assistance from the School Crisis Intervention Team;
- e. procedures for notifying the Parent in a timely manner; and
- f. procedures for formal documentation of each instance in which the School Crisis Intervention protocols are invoked, and for the School Crisis Intervention Team and any staff involved to review incidents within two school days.

76. If the District chooses to permit the use of Physical Interventions by District staff, within 120 days of the signing of this Agreement, the District will review and revise its current policy governing the use of Physical Interventions by District Staff to include the following terms:

- a. the District shall limit the use of Physical Interventions to situations of acute behavior crisis posing an imminent and substantial risk of serious physical injury;
- b. Physical Interventions shall only be conducted by trained staff of the School Crisis Intervention Team;
- c. Physical Interventions shall only be used after all reasonable less intrusive interventions have been attempted (e.g. behavior diversions or verbal interventions) and proved unsuccessful in addressing the immediate behavior crisis;

d. Physical Interventions shall be employed for the minimum time necessary and shall cease when a student is judged to be safe by a member of the School Crisis Intervention Team; and

e. Physical Interventions shall not be used as punishment or to enforce compliance with rules or directions.

77. The District shall attempt to notify a student's Parent of the use of any Physical Intervention by District staff involving the student no later than the time the student is dismissed from school on that day. If the District does not make contact with the Parent before the student is dismissed from school, the District shall notify the Parent as soon as possible, and no later than twenty-four hours after the Physical Intervention. The District shall continue to require all uses of Physical Interventions by District staff to be documented and will track use of Physical Interventions in a centralized data management system.

(ii) Petitions for Emergency Mental Health Evaluation

78. Petitions for Emergency Evaluations of students shall be made in accordance with Maryland law and regulations and only in circumstances in which the student is believed to be exhibiting a clear "mental disorder" which "presents a danger to the life or safety of the individual or others," as defined in Md. Code Ann., Health-Gen. § 10-622. Petitions for Emergency Evaluation shall not be used where less intrusive interventions, including School Crisis Intervention, can be implemented to address the behavioral concern. Petitions for Emergency Evaluation shall not be used to discipline or punish or to address lack of compliance with directions.

79. Petitions for Emergency Evaluations of students shall only be made by a certified school psychologist, a certified school social worker, a certified school nurse, a certified school

counselor, or health officer or designee of the health officer, as designated by Md. Code Ann., Health-Gen., §10-620, et seq.

80. In evaluating whether a Petition for Emergency Evaluation is necessary, staff shall take into account the age and developmental capabilities of the student; events or circumstances that triggered the crisis and whether those were identified as triggers based upon the student's disability and could be eliminated or mitigated; existing documentation of the student's disability, where applicable, including the student's IEP or Section 504 Plan; and all less-intrusive measures attempted.

(iii) Law Enforcement

81. The District shall review and amend, as necessary, the Memorandum of Understanding ("MOU") with the WCSO that delineates authority and specifies procedures for law enforcement interaction with students while on school grounds, consistent with the terms of this Agreement and federal law. Incidents involving public order offenses committed by students, including disorderly conduct or disruption, such as failing to follow instructions or leaving class, and fighting that does not involve a weapon or physical injury requiring medical attention outside of the school health room, shall be considered under the school Code of Conduct.

82. The District shall require as part of its MOU that all WCSO officers assigned to the District schools as School Resource Officers obtain pre-service and in-service training in the role and responsibilities of School Resource Officers. The training shall cover:

- a. bias-free policing, including implicit racial bias, disability awareness and understanding of behaviors related to a disability, effective communication with persons with disabilities or students who are English Language Learners,

interactions with youth with mental illness, Crisis Intervention, and cultural competence for all groups;

- b. working with youth, including de-escalation techniques, conflict resolution, child and adolescent development, and age-appropriate responses;
- c. practices to improve school climate;
- d. mentoring, counseling, and classroom presentation skills;
- e. the consequences of student involvement in the criminal and juvenile justice systems;
- f. working collaboratively with school administrators; and
- g. familiarity with school protocols for Crisis Intervention and Petitions for Emergency Evaluation.

83. As part of its MOU, the District shall require a provision that the WCSO shall join the District in meeting with the qualified consultants to devise and implement a training program consistent with the requirements of this Paragraph. No later than August 15, 2016, and in accordance with the provisions of this Paragraph, all SROs assigned to the District shall have begun the course of training developed pursuant to this Paragraph. Additionally, the District shall require as part of its MOU that SROs attend the training provided to Instructional Staff on the District's system of PBIS and Restorative Practices and the Code of Conduct and related practices.

84. In the event that an SRO or other WCSO officer becomes involved in an incident involving a student on school grounds, on any mode of school transportation, or at a school sponsored event or activity, school personnel shall notify the District of the incident. School personnel should also notify the student's Parent as soon as practicable and inform the Parent of

the nature of the SRO or WCSO involvement, and if the student was removed from school grounds, provide the location of the student and the contact information for the SRO or the WCSO.

85. The District shall require as part of its MOU that SROs who witness a student or students engaged in behavior that causes physical injury or presents an imminent and substantial risk of serious physical injury shall employ age-appropriate conflict resolution techniques to de-escalate the situation whenever possible, and shall use physical force or restraints on a student only as a last resort. SROs who witness a student or students engaging in behaviors that violate the Code of Conduct but that do not create an imminent and substantial risk of serious physical injury shall refer the incident to school administrators. As part of its MOU, the District shall require all uses of force be reported in writing and reviewed by the District PBIS Director. This review should identify any departures from approved policy and practice and identify areas for improvement in future police interventions. The review and any corrective actions taken in response must be documented in writing.

86. The District shall comply with Maryland Regs. 13A.08.01.12, 13A.08.01.13, and 13A.08.01.14 when addressing arrests, searches, or questioning of students by law enforcement officers during school hours, on school grounds, or at school-sponsored activities and events. In the event that the District or law enforcement officers conducts a search of a student during school hours, on school grounds, or at school-sponsored activities and events, the District shall make efforts to notify the Parent as soon as possible, but no later than the end of the school day. With respect to questioning of a student by law enforcement, the District shall make efforts to contact the student's Parent, notify them of the incident and offer the Parent or their legal representative an opportunity to be present during any questioning of a student by law

enforcement officers unless the District can demonstrate that immediate questioning of the student is required to prevent imminent and substantial risk of serious physical injury to students, staff, or the public.

(iv) Use of Emergency Measures

87. The District shall invoke response measures including Physical Interventions, Petitions for Emergency Evaluation, and Law Enforcement referrals only when necessary to address an emergency situation. The District shall ensure that these resources are used appropriately and are not used to address student behavior that can be addressed appropriately through the District's PBIS and Restorative Practices framework as embodied in the Code of Conduct.

88. For any student subject to an emergency response measure identified in this section, the District will refer the student to the Student Services Team for support and intervention, and as necessary, request a meeting with the Parent to obtain written consent to conduct an FBA, and/or revise or create a Behavior Support Plan.

I. Professional Development

89. The District shall coordinate the training of all staff on PBIS and Restorative Practices with its Consultant. Trainers will work with all faculty, staff, and administrators to develop the requisite skills necessary to effectively implement PBIS and Restorative Practices in all District schools. The training shall be conducted at least annually beginning prior to the 2016-2017 school year, and shall cover the following elements:

- a. creating safe and inclusive learning environments and addressing student behavior in a supportive and nondiscriminatory way;

- b. an explanation of the terms of this Agreement and of the Code of Conduct, including explanations of each prohibited behavior and level, descriptions of the alternatives to Exclusionary Discipline available at every level, explanations of the requirement to use interventions and corrective practices before assigning Exclusionary Discipline; and training on entering and using discipline data;
- c. discussion of the limited role that SROs or other law enforcement play in schools, highlighting when it is inappropriate to refer a student to law enforcement, and informing all staff about the negative educational impact on students when they are involved in the juvenile justice system;
- d. clear and concrete strategies for applying tools gained in professional development to classroom management and student discipline;
- e. in coordination with the School Crisis Intervention Teams, discussion of the role and process for School Crisis Intervention; and
- f. training on cultural responsiveness.

90. The District shall provide qualified staff with ongoing professional development in the area of conducting and reviewing Functional Behavioral Assessments and developing, implementing, and monitoring Behavior Support Plans.

J. Student, Parent, and Community Engagement

91. The District PBIS office shall develop and deliver an informational program to assist students and Parents in understanding the District's Code of Conduct and related procedures.

92. As part of its informational program, the District shall host student assemblies at each school twice per school year to communicate positive core values and behavioral expectations and to explain the Code of Conduct in an age-appropriate manner. The District shall begin hosting these student assemblies during the fall of the 2016-2017 school year, after the United States' approval of the Code of Conduct, as provided by this Agreement.

93. The District shall hold informational sessions for Parents twice per school year at each school regarding the District's Code of Conduct and PBIS/Restorative Practices. These informational sessions shall include a clear explanation of the Code of Conduct, PBIS/Restorative Practices, including classroom Corrective Strategies and consequences, due process and appeal procedures, and discussion of the District's efforts to reduce Exclusionary Discipline and discrimination on the basis of race/ethnicity and disability in discipline referrals and consequences. The District shall provide an opportunity at these sessions for Parents to raise any questions or concerns about the District's administration of the Code of Conduct and discipline that is not student specific and so not to violate the privacy rights of other students, and provide guidance on how Parents may make inquiries or file complaints.

94. The District shall develop and implement a process by which students and Parents can submit complaints and concerns to the PBIS Office regarding the administration of the Code of Conduct. This complaint process shall include: guidelines for investigation of complaints, including conducting interviews and consideration of relevant evidence and procedures for responding to the person making the complaint, including the methods of possible response, reasonable time frames for response, and possible outcomes of an investigation. The District shall include information on how to make a complaint about discipline and provide contact information for the PBIS Office on its website, in its student handbooks, and in the Code of

Conduct. The District will also continue to permit Parents to raise complaints and concerns regarding discipline with teachers and school-level administrators.

K. Data Collection, Data Review, and Self-Assessment By The District

95. Paragraphs in Section IV.K of this Agreement are intended to provide the District an internal monitoring mechanism to analyze and evaluate implementation of the Code of Conduct and other terms of this Agreement.

96. The District's data collection shall capture, at a minimum, the following information: the student's name (or unique student identifier), race/ethnicity, disability status, including identification of the specific disability where available, sex, school and grade, as recorded for state and federal reporting purposes; and infraction, school discipline type (e.g. detention, suspension) and length (e.g. 1 day, 1 hour); if the student was transferred to an Alternative Placement, in lieu of suspension or Expulsion; description of the incident, name of the referring staff member, name of the law enforcement agency and officer involved if any, whether the student was arrested or referred to the Department of Juvenile Services, and on what charge(s), whether School Crisis Intervention protocol was implemented, whether Physical Intervention was used, and whether the student was subject to a Petition for an Emergency Evaluation, and on what basis.

97. On at least a quarterly basis, the District PBIS Office shall analyze and evaluate disaggregated data from each school, including alternative placements, to assess progress in reducing rates of office referrals and use of Exclusionary Discipline, reducing disparities on the basis of race/ethnicity and/or disability, and to monitor appropriate implementation of the Code of Conduct and other terms of this Agreement. The District PBIS Director or his/her designee shall meet quarterly with each school principal or designee to review the school's discipline data.

The District PBIS office shall provide particularized assistance to those principals and schools whose data indicate the existence of racial disparities, improper discipline of students with disabilities, or that PBIS is not being implemented effectively. This assistance may include implementation of additional evidence-based practices, retraining, and making personnel changes, as necessary. If disparities or other deficiencies are identified over two quarters, the District PBIS Office and the school shall develop a Corrective Action Plan, which shall include measurable objectives for reductions in identified disparities and disproportionality.

98. On at least a quarterly basis, the District PBIS Office shall review each instance in which an officer of the WCSO or any other law enforcement agency intervened to address student behavior. The District's PBIS Office shall determine whether the District's involvement of law enforcement was appropriate based on District Policy, and whether the law enforcement officer acted in a manner consistent with District policy and law enforcement standards. If the District PBIS Office determines that the actions of either school personnel or the law enforcement officer were not consistent with the Code of Conduct or the terms of this Agreement, the District shall take remedial measures. The District PBIS Director and the WCSO Chief or designee will meet with SROs to review incidents, evaluate the effective use of skills learned through professional development, and identify areas for continuous improvement.

99. On at least a quarterly basis, the District PBIS Office will review emergency responses in which School Crisis Intervention was employed, Physical Interventions were used, or a Petition for Emergency Evaluation was made to assess progress in reducing the use of Physical Interventions and Petitions for Emergency Evaluation and on compliance with the terms of this Agreement. If the District PBIS Office determines that any emergency response was not consistent with the terms of this Agreement, the District will take remedial measures.

100. By November 1, 2016, and by each March thereafter for the duration of this Agreement, the District shall conduct a survey of a representative sample of District families to determine whether its Code of Conduct and procedures are (a) being effectively communicated, and (b) being appropriately implemented by Instructional Staff and administrators. The District shall provide the surveys confidentially to families, and shall incorporate the feedback from the surveys into any responsive action plans developed under this Agreement.

V. MONITORING AND ENFORCEMENT BY THE UNITED STATES

101. The District shall submit semi-annual reports to the United States demonstrating its efforts to comply with the provisions of this Agreement. The District shall provide the first semi-annual report by February 1 of each year, and the second semi-annual report by July 15 of each year, with the first report due July 1, 2017. If any of the information required for the annual report in a particular year is available in a document that the District has already prepared to comply with the Elementary and Secondary Education Act (20 U.S.C. § 6301, *et seq.*) or other federal law, state law, or regulation, the District may include that document in its semi-annual report and indicate the section of the annual report to which the document applies. The semi-annual reports shall include the following information about the preceding school semester:

- a. documentation of all trainings conducted or provided by or for school or District personnel regarding the Code of Conduct, classroom management, and student interventions and supports, including, for each such training, the date the training was conducted, the title of the training, the length of each training, the identity of the individual(s) or entity that conducted the training, the number of individuals, disaggregated by position (e.g. teacher, counselor, principal) required to attend, in attendance, and who did not attend;

- b. data collected, reviewed, and analyzed under Section IV.K of this Agreement (provided in Microsoft Excel or comparable format), and copies of any responsive action plans developed and implemented as a result of that review and analysis;
- c. copies of all complaints made to the Superintendent or the School Board whether reported by a student, Parent, or concerned member of the community regarding discriminatory discipline for the preceding school year and a brief description of the resolution of each complaint;
- d. copies of all Parent surveys conducted pursuant to Section IV.K of this Agreement;
- e. documentation of the District's plan to develop an information program for students and Parents as required by Section IV.J of this Agreement, and information about each student assembly and Parent informational session held over the preceding semester, including the date(s), location, length, general description of content, number of attendees, school personnel present, agenda, and any handouts;
- f. School Crisis Intervention Protocols developed pursuant to Paragraph 75;
- g. the District policy on Physical Interventions;
- h. a list, by school, of all school psychologists, nurses, and social workers, including their date and type of certification, and all members of the School Crisis Intervention Team, including the date and format of most recent training.

102. Compliance by the District with any policies, regulations, and/or guidelines regarding the reduction and/or elimination of disproportionate or discrepant impact of discipline

on minority or disabled students promulgated by the Maryland State Department of Education, Maryland State Board of Education, or Maryland State legislature, collectively “the State,” during the term of this Agreement shall satisfy the requirements of Section IV.K of this Agreement. If the United States determines that said compliance does not satisfy the requirements of Section IV.K, it shall explain why in writing and shall confer in good faith with the District to amend the Agreement with the goal of ensuring satisfaction of Section IV.K as efficiently as possible.

103. The District acknowledges that the United States, through its representatives and/or any consultant or expert it may retain, may conduct on-site reviews of the District’s schools to evaluate compliance with the terms of this Agreement upon giving reasonable notice and consultation with the District.

104. The District (and any agents, strategic partners, other entities, and/or individuals acting on the District’s behalf with respect to the implementation of this Agreement) will preserve all records concerning the implementation of this Agreement for the duration of the Agreement. Upon request by the United States, the District will promptly produce to the United States—or make available for inspection and copying—records requested in connection with the implementation of this Agreement.

105. If any part of this Agreement for any reason is held to be invalid, unlawful, or otherwise unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of any other part of the Agreement. Furthermore, the Parties shall meet within 15 days of any such decision to determine whether the Agreement should be revised or supplemented in response to the court’s decision.

106. The District understands and acknowledges that in the event of a breach by the District of this Agreement, the United States may initiate judicial proceedings to enforce Title IV or Title II of the ADA, and the United States may initiate judicial proceedings to enforce the specific commitments and obligations of the District under this Agreement; provided that, the United States agrees that it will not initiate or pursue any enforcement action without first attempting to resolve issues by negotiating in good faith for 90 days, or until the Parties reach an impasse, whichever comes sooner, over adequate measures to correct any alleged shortcomings in the District's compliance with this Agreement. The Attorney General is authorized to seek damages against the District in the event of a violation of law pursuant to 42 U.S.C. 12133.

107. This Agreement shall become effective on the date it is signed by the parties and shall remain in effect until June 30, 2019.

For the United States of America:

VANITA GUPTA

Principal Deputy Assistant Attorney General

EVE L. HILL

Deputy Assistant Attorney General



SHAHEENA SIMONS, Section Chief

RENEE M. WOHLLENHAUS, Deputy Chief

VICTORIA LILL, Trial Attorney

JAMES A. EICHNER, Trial Attorney

ANDREW JONDAHL, Trial Attorney

Civil Rights Division

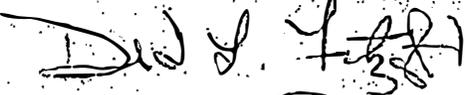
Educational Opportunities Section

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For the Wicomico County Public Schools:



WCBSE - PRES.

DONALD L. FITZGERALD, Board President

DATE: JANUARY 19, 2017.