

# Agreement

between

The United States of America

and

The School District of Palm Beach County

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The School District of Palm Beach County (“District”) and the United States of America (“United States”) (collectively, “the Parties”) enter into this agreement (“Agreement”) to resolve the United States’ investigation into complaints regarding the District’s policies and practices for registering and enrolling students in District schools and for administering student discipline. This Agreement reflects the Parties’ shared goal that all students in the District have an equal opportunity to enroll in and attend District schools, and to learn in environments that are safe, supportive, and accessible to students of all backgrounds.

## **I. INTRODUCTION**

1. In September 2011 and November 2011, the Civil Rights Division of the United States Department of Justice (the “Division” or the “United States”) notified the School District of Palm Beach County that it had received complaints regarding the District’s enrollment and registration practices, as well as its practices of administering school discipline, that implicated the statutes enforced by the Division, including Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c-6 (“Title IV”) and the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1701 et seq. (“EEOA”).

2. As part of its investigation, the Division reviewed documents and data provided by the District; conducted a site visit to the District that included tours of schools and interviews with Principals, Area Superintendents, Assistant Superintendents, District Office staff, the School District of Palm Beach County Police Department, and the Superintendent; met with community members and local stakeholders; and reviewed and provided comments regarding the District’s enrollment and discipline policies. The United States conducted its investigation with the full cooperation of the District.

3. The Parties acknowledge that the District has already made revisions to its student enrollment and student discipline policies in response to concerns that the United States raised during its investigation. Under this Agreement, the District shall implement these revisions to (a) ensure that students do not face barriers to enrolling in or attending District schools on the basis of national origin, immigration status, or language status; and (b) administer discipline in a fair and non-discriminatory manner that does not lead to the exclusion of students from the classroom on the basis of race, national origin, language status, or other impermissible ground.

## **II. DEFINITIONS**

4. “Code of Student Conduct” and “Code” refer to the District’s collected student behavior and discipline policies. The Code describes the rights and responsibilities of students, parents, and District staff, identifies behavior management and prevention strategies, classifies and describes incidents and responsive corrective strategies, and standardizes procedures for administering consequences.

5. “Discipline Dashboard” refers to the output from the District-wide academic and behavioral data system, provided as part of the Educational Data Warehouse (“EDW”).

6. “District Office” refers to the District’s central office, located at 3300 Forest Hill Boulevard, West Palm Beach, Florida, 33406, or at any successor locations.

7. “District SwPBS Coordinator” refers to the person in the District Office assigned to track and assist with implementation of School-wide Positive Behavior Supports (“SwPBS”).

8. “Education Data Warehouse” and “EDW” refer to the District-wide data system used for the District’s academic and behavioral data.

9. “ELLs” refers to students who have been determined to be English Language Learners, Limited English Proficient, or Non-English Proficient and thus require assistance to

overcome language barriers that impede their equal and meaningful participation in the District's instructional programs.

10. "Exclusionary discipline" refers to any disciplinary consequence that removes a student from classroom instruction in his or her home school, including, but not limited to, in-school suspension, out-of-school suspension, placement in an alternative setting or program, and expulsion. Exclusionary discipline does not refer to positive interventions or corrective strategies or to voluntary placement in an alternative setting.

11. "Expulsion" refers to a long-term out-of-school consequence imposed by the School Board for violations of certain provisions of the Code of Student Conduct.

12. "In-School Suspension" and "ISS" refer to a consequence for violations of the Code of Student Conduct that removes a student from the regular classroom to a different in-school setting during the course of the regular school day.

13. "Florida Positive Behavior Support Project" refers to the state-wide, multidisciplinary project designed to increase the capacity of Florida schools to implement the SwPBS model, which is part of the Department of Child and Family Studies of the Louis de la Parte Institute at the University of South Florida.

14. "LEP" refers to Limited English Proficient individuals, or individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English, and may therefore require assistance to communicate or access services.

15. "Major Language" refers to Spanish, Haitian Creole, Portuguese, Q'anjob'al and Mam.<sup>1</sup>

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<sup>1</sup> This enumerated list of five languages shall constitute the District's Major Languages for the 2012-2013 and 2013-2014 school years. During the 2014-2015 school year, the District shall phase into its Major Languages the next two most common non-English languages. During the 2015-2016 school year, the District shall phase into its Major Languages at least one additional,

16. “Out-of-School Suspension” and “OSS” refer to a short-term out-of-school consequence imposed for violations of certain provisions of the Code of Student Conduct.

17. “Parent” refers to either or both biological or adoptive parents of the student, the student’s legal guardian, a person in a parental relationship to the student, or a person exercising supervisory authority over the student in place of the parent under Fla. Stat. § 1000.21(5).

18. “Qualified Interpreter” and “Qualified Translator” refer to a person determined competent<sup>2</sup> by the District to provide interpretation or translation services in a particular language or languages.

19. “Response to Intervention” and “RTI” refer to methods by which School Discipline Administrative Teams and other relevant personnel at schools identify students at risk for poor learning outcomes, monitor student progress, teach social-emotional skills, provide evidence-based interventions, and adjust the intensity and nature of those interventions depending on a student’s individual needs.

20. “School District of Palm Beach County” and the “District” refer to the School District of Palm Beach County’s Board (“Board”) and its public schools, including the public charters it sponsors under Fla. Stat. § 1002.33.

21. “School District of Palm Beach County Police Department” and “SDPBCPD” refer to the School District of Palm Beach County’s police department and all of its employees.

22. “School Discipline Administrative Team” refers to the identified staff at each school who collaborate with the school principal to administer or assign disciplinary consequences at that school.

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and two if appropriate, most common non-English languages.

<sup>2</sup> Not all such persons need be certified through a formal postsecondary educational program, but the District shall ensure that all persons identified as qualified interpreters are tested in a manner generally accepted in this field.

23. "SwPBS" refers to "School-wide Positive Behavior Supports," a system of evidence-based strategies to assist schools in establishing a positive school culture through constructive and affirmative methods of teaching school rules; positive reinforcement of appropriate student behavior; effective classroom management strategies to provide early intervention for misbehavior; and a continuum of graduated and appropriate consequences for more serious and continuous misbehavior, incorporating strategies in the RTI model.

24. "SwPBS Internal Coach" refers to the person(s) at each school assigned to track and assist with fidelity to the SwPBS model.

25. "SwPBS Team" refers to a group of faculty, staff, and/or administrators at each school, designated by the school principal, who are responsible for implementation of and fidelity to SwPBS.

26. "TERMS Student Information System" refers to the District-wide data system which includes individual student academic and behavioral data in the District.

27. "Universal Guidelines" refers to documents developed at each school and reviewed by the District that explain the expectations for positive behavior in all settings.

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### **III. REGISTRATION AND ENROLLMENT<sup>3</sup>**

28. As required by Title IV, the EEOA, and applicable Constitutional law, the District shall ensure that all students are able to access its educational programs, regardless of race, ethnicity, national origin, or immigration status; shall ensure that its student enrollment practices do not chill or discourage the participation, or lead to the exclusion, of students based on their or their parents' actual or perceived citizenship and/or immigration status; and shall not request

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<sup>3</sup> Note that wherever this Agreement references "translation . . . into every Major Language," such provisions do not include written translation into Q'anjob'al or Mam. Similarly, wherever this agreement describes forms and documents being made available in the District's Major Languages, such provisions do not include written translation into Q'anjob'al or Mam. In all such circumstances, the District shall provide oral interpretation in Q'anjob'al or Mam.

information from parents or students with the purpose or result of denying or limiting access to the public schools on the basis of race, color, or national origin.

29. As required by the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11301 *et seq.*, the District shall immediately enroll a homeless child or youth,<sup>4</sup> even if the child or youth lacks records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

30. The District shall fully implement its new enrollment and registration policy, Policy 5.011. Following review and comment by the United States, Policy 5.011 was adopted on June 6, 2012. Policy 5.011: (1) prohibits barriers to enrollment on the basis of race, color, religion, national origin, language status, immigration status, or homeless status; (2) requires the District to provide timely translation and/or interpretation services, as appropriate, during registration, enrollment, and any registration- or enrollment-related appeals process to ensure meaningful access to educational opportunities; and (3) requires that all employees responsible for implementation of Policy 5.011 receive training on its requirements.

31. To make enrollment and registration accessible to all families and provide LEP parents with meaningful access to the same information provided to non-LEP parents, the District shall provide translation and interpretation services as follows:

- a. The District shall ensure that copies of all documents, forms, and communications provided to parents relating to, or containing pertinent information on, registration and enrollment are translated into every Major Language in the District and made available at all schools sites, at the District Office, and on the District website.

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<sup>4</sup> “Homelessness” shall be defined pursuant to the definition in federal law, which includes, *inter alia*, when a child’s family is sharing an apartment, trailer, or housing with other families due to economic hardship; when a child is living in a motel or campground; or when a child’s parents are migratory agricultural workers.

b. The District shall promptly provide parents who speak languages other than one of the Major Languages with accurate written translations or oral interpretation of the registration and enrollment documents in a language they understand, either upon the parents' request or if the need for such translation or interpretation becomes apparent. The District shall document all such requests and may choose the service provider to fulfill such requests.

c. When a District employee communicates with an LEP parent orally regarding registration or enrollment, the communication shall be in a language the parent understands by means of a qualified interpreter or service provider who (i) has oral fluency in English and the language in which he or she is communicating, (ii) has a demonstrated ability to employ the mode of interpretation appropriate to the given situation (*e.g.*, simultaneous interpretation for large-group parent meetings), and (iii) has received training in specialized issues such as confidentiality and technical vocabulary.

d. When a District employee communicates with an LEP parent in writing regarding registration or enrollment, the communication shall be in a language the parent understands by means of a qualified translator or service provider who (i) has written fluency in English and the language in which he or she is communicating and (ii) has received training in specialized issues such as confidentiality and technical vocabulary.

e. Starting May 1, 2013, the District shall maintain an accurate and current list of all available personnel in each building who speak a language other than English and can serve as qualified interpreters and/or translators, with their current office phone numbers, room/office location, and email addresses. The District shall maintain this list, and each principal and registrar shall make the relevant parts of this list available to all



school personnel at each school. The District shall update and distribute this information at least annually, by September 1 of each year.

f. The District shall instruct employees at each school to contact the principal, registrar, or designee to obtain translation or interpretation services for registration or enrollment. The District shall advise all principals, registrars, and designees that a school may request the assistance of employees at other schools and District-level staff to meet the translation and interpretation needs of ELL students and LEP parents as necessary. Except in an emergency, the District shall not rely on students to provide interpretation services. The District shall not rely on students for translations of documents to fulfill the District's translation obligations.

32. Once the District becomes aware of parents' communication needs, either through the enrollment and registration process (*e.g.*, the Home Language Survey) or through a separate interaction, the District shall record such information in TERMS. The District shall provide LEP parents with meaningful access to the same information it provides to other parents in all subsequent communications. The District shall also use the data on LEP parents to identify the languages for which qualified translators and interpreters are needed by September 1, 2013.

33. The District shall train all school personnel involved in registration and enrollment on the requirements of this Agreement on an annual basis, including comprehensive trainings for new personnel and yearly updates for returning personnel. The training shall include, among other things, the requirement to timely enroll and register all students, and to provide translation and interpretation services for ELL students and LEP parents.

#### **IV. ADMINISTRATION OF STUDENT DISCIPLINE**

##### **A. Language Accessibility**

34. This Agreement reflects the District's obligations under Title IV and the EEOA to administer discipline without discrimination on the basis of race, color, sex, religion, national origin, or language status. Further, the District must meet its obligation under the EEOA to ensure that ELL students overcome language barriers that impede their equal and meaningful participation in the District's instructional programs. To that end, the District shall not administer discipline in a manner which prevents ELL students from overcoming those language barriers or excludes students from the classroom or school based on their language status.

35. The District shall make all student behavior intervention and discipline processes accessible to ELL students and LEP parents.

36. The District shall make all District-level discipline forms and documents that are provided to parents available at each school and on the District's website in the District's Major Languages. The District shall translate notices or documents containing behavior or discipline information (including any narratives written by school personnel about an individual student) for LEP parents or provide the information orally, in the appropriate language. For LEP parents who speak languages other than the Major Languages, the District shall provide written translations or oral interpretation of such documents in a language the LEP parent understands upon request or as soon as the need for such translation or interpretation becomes apparent.

37. When a District employee needs to communicate orally with an ELL student or LEP parent about any part of the student behavior intervention or discipline process, it shall do so in a language the student and parent understand, if necessary by means of a District interpreter or an interpretation service. These communications include, but are not limited to, phone calls,

student conferences, parent conferences, School Based Team Meetings, and any part of the discipline appeals process.

38. The District shall allocate and coordinate a budget for translation and interpretation services, including for services related to student behavior and discipline. The District shall instruct schools to contact the appropriate District office as needed to request written translations and/or oral interpretations of any behavior or discipline-related documents or services. The District shall retain adequate translators and interpreters in Major Languages and shall promptly address the need for translation or interpretation in other languages on a case-by-case basis.

**B. Positive School Climate**

39. The District shall ensure that its discipline practices support and reinforce positive behavior and character development; incorporate culturally responsive techniques; employ constructive interventions to keep students in the classroom; and resort to exclusionary discipline only in limited circumstances. The Parties acknowledge that the unnecessary use of exclusionary discipline can have serious, long-term, detrimental effects on students' academic, social, and economic engagement and success.

40. The District has taken steps to adopt comprehensive, school-wide approaches to classroom management and student behavior that are grounded in evidence-based educational practices, including School-wide Positive Behavior Supports ("SwPBS"). The District shall provide sufficient resources and training to fully and effectively implement SwPBS, with fidelity and in accordance with this Agreement. To support this effort, the United States shall assist the District in identifying any technical assistance resources available from the United States Department of Justice, the United States Department of Education, and other sources.

41. The District shall work with the Florida Positive Behavior Support Project and any other consultant that the District engages to monitor the quality and consistency of its SwPBS program.

42. The District shall hire or designate an individual within the District Office to serve as the SwPBS Coordinator. The SwPBS Coordinator shall work with the Area Superintendents and school internal coaches to assist in the implementation of SwPBS by:

- a. developing model behavioral assessments and interventions;
- b. coordinating professional development that incorporates culturally and linguistically responsive practices;
- c. ensuring that all SwPBS and discipline-related documents and practices are available and conducted in a manner that ELL students and LEP parents understand;
- d. helping schools adopt and approve behavior and discipline data reporting mechanisms and self-monitoring practices;
- e. reviewing and analyzing the District's behavior and discipline data to identify areas of concern District-wide or at particular schools, including concerns regarding disparities on the basis of race, national origin, or language status;
- f. developing and coordinating targeted assistance, training, and other corrective action in response to any concerns identified.

The District shall incorporate the above duties into the SwPBS Coordinator's responsibilities, and shall regularly evaluate the performance of these responsibilities.

43. Each District school shall designate an administrative team (the "School Discipline Administrative Team") to be responsible for all major student discipline decisions. Each team shall inform faculty and staff at each school of the role of the School Discipline

Administrative Team, including their responsibility for administering discipline, and shall be responsible for coordinating with relevant District offices and personnel, including their Area Superintendent and the District SwPBS Coordinator.

44. Each District school shall designate an SwPBS internal coach. Each school's SwPBS internal coach shall work with school staff, District administrators, and the District SwPBS Office to, among other duties, assist instructional faculty and staff to effectively communicate school rules, reinforce appropriate student behavior, use constructive classroom management and positive behavior support strategies, provide early intervention for misbehavior before the use of disciplinary consequences, and determine fair and consistent disciplinary consequences when appropriate. The SwPBS internal coaches shall also assist the School Discipline Administrative Team with evaluating their school's behavior and discipline practices to ensure that they are language-accessible, and working with school staff and the District SwPBS Coordinator to develop and implement "step into action plans" where necessary. The District shall monitor and support the SwPBS internal coaches in meeting their responsibilities.

45. Principals shall communicate to teachers their responsibilities in creating and supporting positive classroom environments and schools, and provide them with sufficient training and support to carry out those responsibilities. These responsibilities shall include:

(a) defining, teaching, modeling, and consistently applying positive behavior approaches inside and outside the classroom, and in a language-accessible manner;

(b) providing constructive feedback, corrective measures, and skill-building to students when behavior concerns arise, and using such related tools for all minor misbehaviors;

(c) communicating with students about behavior concerns and how to address such concerns, prior to contemplating any disciplinary consequence;

(d) attempting and documenting all appropriate intervention techniques before referring a student to the School Discipline Administrative Team;

(e) attending required SwPBS trainings and team meetings;

(f) utilizing data in collaboration with school and District administrators to consistently monitor student behavior, inform intervention practices, and perform regular (*i.e.*, at least quarterly) self-checks regarding intervention and referral patterns; and

(g) responding appropriately to data, including where data show disparities in the administration of consequences on the basis of race, national origin, language status, or other protected characteristics.

46. The District shall provide teachers with formal professional development that communicates the expectations and requirements of Paragraph 45, and reinforce this professional development through informal training and mentoring, and regular school meetings. Principals shall monitor and support teachers in meeting their responsibilities, and take prompt and appropriate remedial action to address a teacher's failure to follow the Code of Student Conduct.

47. The District shall communicate to administrators their responsibilities in creating and supporting positive classroom environments and schools, and provide them with sufficient training and support to carry out those responsibilities. These responsibilities shall include:

(a) ensuring that faculty and staff communicate and model positive behavior approaches and adherence to the Code of Student Conduct to the entire school community in a language-accessible manner;

- (b) ensuring that faculty and staff receive sufficient training and support on SwPBS to build and maintain a positive, supportive, and inclusive school climate;
- (c) regularly evaluating classroom- and school-level discipline data;
- (d) responding appropriately to data, including where data show disparities in the administration of consequences on the basis of race, national origin, language status, or other protected characteristics;
- (e) working with instructional staff and the school's SwPBS internal coach to evaluate and recommend solutions to student behavior and discipline problems;
- (f) assembling culturally and linguistically responsive teams with appropriate faculty, staff, and parent(s) to respond to a student's ongoing and escalating misbehavior in spite of appropriate interventions;
- (g) consistently and fairly applying the Code of Student Conduct to ongoing and escalating student misbehavior after all appropriate interventions have been attempted; and
- (h) including parent(s) in all major decisions related to student behavior interventions and discipline.

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48. The District shall provide administrators with formal professional development that communicates the expectations and requirements of Paragraph 47, and reinforce this formal professional development through informal training and mentoring, and regular meetings with the District SwPBS Coordinator. Principals and/or Area Superintendents shall monitor and support administrators in meeting their responsibilities, and take prompt and appropriate remedial action to address an administrator's failure to follow the Code of Student Conduct.

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49. The District shall develop and implement an informational program to assist students and parents in understanding their rights and responsibilities under SwPBS, the District's disciplinary policies and procedures, and school and classroom rules.

50. As part of its informational program, the District shall ensure that each school holds classroom, grade, or school-wide student assemblies at least twice per school year to communicate positive core values and behavioral expectations and to explain in an age-appropriate and language-accessible manner the District's Code of Student Conduct.

51. The District shall ensure that each school holds language-accessible informational sessions for parents at least twice per school year, including providing information regarding SwPBS and the District's Code of Student Conduct. The District may incorporate these informational sessions into venues or events such as Open Houses, Back to School nights, and Parent Leadership Council meetings. These sessions shall include a clear explanation of the District's Code of Student Conduct, due process and appeal procedures, and the District's efforts to reduce exclusionary discipline. The District shall provide an opportunity at these sessions for parents to raise any concerns about the fairness, equity, or accessibility of the District's administration of discipline, and provide clear guidance on how parents can make complaints and express concerns about student discipline.

**C. Discipline Policies and Code of Student Conduct**

52. The District shall fully implement its amended Code of Student Conduct ("Code"), and, consistent with the Code, administer consequences that are non-discriminatory, consistent, fair, age-appropriate, and that correspond to the severity of the student's misbehavior.

The District adopted the Code on September 19, 2012,<sup>5</sup> following review and comment by the

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<sup>5</sup> This Agreement encompasses both this version of the Code and any similar subsequent version(s) of the Code.



United States. The Code: (a) requires the District to assist ELL students in overcoming language barriers so that they can meaningfully participate in school, including by ensuring that ELLs understand classroom and school rules to prevent their exclusion from learning as a result of language barriers; (b) requires the District to provide and administer all rules regarding student behavior described in the Code in a language that the student and parents understand, and to provide translation and interpretation services as appropriate; (c) prohibits the use of exclusionary discipline for Level 1 misbehaviors and requires the use of appropriate interventions prior to the imposition of any type of exclusionary discipline, except in an emergency situation involving a serious and immediate threat to student, school personnel, or public safety; and (d) requires the District to improve its methods of recording, analyzing, and monitoring student discipline data to ensure that school-based discipline is administered in a fair and non-discriminatory manner.

53. The District's Code shall apply at each District school to ensure consistency of practices. District schools shall continue to have flexibility to tailor positive practices to the needs of their student populations, including through school-specific Universal Guidelines. The Universal Guidelines and the Code of Student Conduct shall include a continuum of positive behavior supports for students, and the District shall train school faculty, staff, and administrators in implementing these supports throughout the school day in all areas, including in classroom and non-classroom settings (such as hallways, restrooms, and outdoor spaces).

54. The District shall work with the United States to develop a set of guidelines for District schools enacting school-level dress code policies. The District guidelines shall require that such policies: (a) prohibit any exclusionary discipline consequences for dress or uniform code violations; (b) provide that students who cannot afford to comply with the dress or uniform

code will receive assistance; (c) be submitted to the Area Office for review; and (d) be made available in that school's Major Languages.

55. The District shall work with the United States to develop a set of guidelines for schools enacting school-level tardy policies. The District guidelines shall require that such policies: (a) prohibit, except in limited circumstances, any exclusionary discipline consequences for tardy violations; (b) be submitted to the Area Office for review; and (c) be made available in that school's Major Languages.

56. The District shall select a group of schools at which to pilot a procedure for tracking student discipline incidents. Under the procedure, the schools will restart the tracking of discipline incidents for each student at more frequent intervals (*e.g.*, every trimester). The District shall analyze the results of this pilot program as described in Paragraph 73.

57. The District shall make the Student Handbook, the Code, and all related documents available in all of the District's Major Languages at all schools, at the District Office, and on the District's website. The District shall provide timely translation and/or interpretation of these documents for families who speak lower-incidence languages.

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58. By August 15, 2013, the District shall ensure that all policies and/or guidelines identified in this section are in place, subject to Board approval, and that school staff at all levels are aware of these policies. The District shall provide the United States with evidence of policy implementation and compliance by August 15, 2013, the date of its first annual compliance report.

**D. Relationship with Law Enforcement**

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59. The Parties acknowledge that involvement in the juvenile and criminal justice systems may have profound negative effects on students' engagement and success.

60. The District shall include procedures in its Code of Student Conduct regarding notifications and referrals of students to law enforcement agencies for school-based conduct. Under these procedures, the District shall permit school personnel to involve law enforcement agencies, including the School District of Palm Beach County Police Department (“SDPBCPD”), when required by state statute, when necessary to protect the physical safety of students or school personnel, or when appropriate to address the criminal conduct of persons other than students. The District shall not request SDPBCPD involvement to respond to any situation that can be safely and appropriately handled by the District’s internal disciplinary procedures. Incidents involving public order offenses committed by students, including, but not limited to, disorderly conduct, disturbance/disruption of schools or public assembly, loitering, trespass,<sup>6</sup> profanity, dress code violations, and fighting that does not involve physical injury or a weapon, shall be considered school discipline issues to be handled by school officials, rather than criminal law issues warranting SDPBCPD involvement, unless SDPBCPD involvement is necessary to protect the physical safety of students or school personnel. This provision is not intended to prevent victims from exercising their rights.

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61. SDPBCPD personnel shall continue to contribute positively to their school communities by serving as educators in addition to their responsibilities to protect the safety of students and school personnel. Nothing in this Agreement limits or is intended to limit SDPBCPD’s role in providing mentoring, counseling, education, and support to District students, or the exercise of their professional judgment and discretion.

62. SDPBCPD personnel shall communicate with students in a language the student understands; if the SDPBCPD representative does not speak the same language as the student, SDPBCPD shall provide an appropriate interpreter designated for such purposes. A classroom

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<sup>6</sup> As defined in Fla. Stat. 810.097(1).

teacher or student shall not be considered an appropriate interpreter. If the SDPBCPD representative wishes to speak to a student's parent, the representative shall conduct that communication in a language the parent understands.

63. The District shall ensure that all members of the SDPBCPD receive training on culturally and linguistically responsive policing in the 2012-2013 school year to the extent practicable, and fully in the 2013-2014 school year, to include, at a minimum, training on: (a) bias-free policing, including implicit racial bias and cultural competence; (b) working with youth, including de-escalation techniques, conflict resolution, and child/adolescent development; (c) mentoring and counseling; (d) the consequences of student involvement in the criminal and juvenile justice systems; and (e) working collaboratively with school administrators.

Additionally, the District shall require SDPBCPD personnel to attend training on the District's system of SwPBS and Code of Student Conduct. To support these efforts, the United States shall assist the District in identifying any technical assistance resources available from the United States Department of Justice, the Equity Network, and other sources.

**E. Due Process**

64. The District shall provide students with due process before excluding them from school for any length of time, including through suspension, expulsion, or alternative placement. This shall include providing all necessary documents and forms in a language the students and parents understand and providing translation and/or interpretation services as appropriate. The District shall provide a fair, impartial, and language-accessible proceeding before imposing exclusionary discipline, and a fair, impartial, and language-accessible opportunity to appeal.

65. The District shall ensure that students assigned to in-school suspension or out-of-school suspension receive an opportunity to complete their regular or subject-related academic

assignments during the suspension, including by taking all necessary steps to make school work accessible (e.g., by providing it over the Internet for students who have Internet access). The District shall also ensure that schools provide students with the opportunity to earn equivalent grades and credits as other students during the course of any in-school or out-of-school suspension, and the opportunity to make up tests and complete homework assignments without penalty while on suspension or within a reasonable time following the completion of the suspension. This shall include taking any necessary steps to make school work language-accessible.

66. The District shall provide students who are suspended during the administration of local, state, or national assessments with an opportunity to take the test and to receive related test preparation materials, as arranged by the School Discipline Administrative Team.

**F. Professional Development**

67. The District shall designate, hire, or contract to provide training on SwPBS. SwPBS trainers shall work with all faculty, staff, and administrators to develop the requisite skills, including skills related to data input and use, to effectively implement SwPBS in a language-accessible manner in all District schools. The training shall communicate that a primary goal of SwPBS is to prevent the use of discipline practices that discriminate on the basis of race, ethnicity, national origin, or language status. This professional development is ongoing, and all newly-hired or promoted staff in the District, or staff who did not attend the initial Program, shall do so before the beginning of the next school year. The District may designate school principals to provide the required professional development to newly-hired or promoted staff, as necessary. In addition to training on SwPBS, all faculty, staff, and administrators shall

receive ongoing professional development appropriate to each person's job responsibilities that includes the following elements:

- a. The District's prohibitions on discrimination on the basis of race, color, sex, sexual orientation, national origin, religion, language status, disability, or homeless status;
- b. Practical and detailed descriptions of the District's Code of Student Conduct, including explanations of the types and levels of misbehavior in the Code, explanations of the requirement to use interventions and corrective practices before assigning exclusionary discipline, explanations of the discipline forms that must be used by school personnel to make disciplinary referrals as well as any other documents used by each school in its discipline referral process (*e.g.*, intervention forms), and training on entering and using related discipline data;
- c. Discussion of the limited role that law enforcement is to 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;
- d. Strategies for implementing classroom management and student discipline tools, and corrective intervention strategies;
- e. Training, including interactive examples, on the importance of, and relationship between, cultural and linguistic awareness and classroom management and student discipline; and
- f. An explanation of the requirements of this Agreement.

68. The District shall facilitate opportunities for teachers who consistently demonstrate best practices, including in culturally and linguistically responsive classroom management, to mentor and collaborate with their peers and to be observed by other teachers.

**G. Data Collection, Data Review, and Self-Assessment**

69. By April 1, 2013, the District shall identify any changes in TERMS, the Discipline Dashboard, and/or in EDW that are necessary to meet all of the reporting and evaluation requirements of this Agreement, including tracking school-based discipline by specific incident and any changes necessary to the input codes and consequences, and shall work with the relevant contractor(s) to make such changes by June 30, 2013.

70. The District shall collect disaggregated discipline data for each school on at least a quarterly basis on the imposition of exclusionary discipline consequences (in-school suspensions, out-of-school suspensions, referrals to alternative placement, recommendations for expulsion), PR codes, notification of law enforcement, and arrest. The District's data collection and review shall capture, at a minimum, the following information: the student's name (or unique student identifier), race, ethnicity, sex, school, grade level, language status, disability status, name of the referring staff member, infraction, date the incident occurred, description of the incident, location of the incident, time of the incident, student's prior disciplinary history, consequence, date the consequence was imposed, description of interventions that were attempted prior to imposing the consequence, and whether the parent appealed any aspect of the disciplinary decision in a manner which includes an allegation of discrimination on the basis of a protected status.

71. The District SwPBS Office shall analyze and evaluate school-level discipline data to identify disparities or disproportionality in the use of any of the above consequences or the

severity of these consequences. School Discipline Administrative Teams shall analyze and evaluate classroom-level discipline data to identify disparities or disproportionality in the use of the above consequences or the severity of these consequences. The District SwPBS Office, the Area Superintendents, and/or the School Discipline Administrative Teams shall, as part of the District's continuous improvement model and data-driven decision-making, develop action plan(s) based on its data review as necessary, including setting measurable objectives for reductions in identified disparities and disproportionality.

72. As part of its initial data collection and analysis, the District shall use data from the 2010-2011 and 2011-2012 school years, as available, to specifically review: (a) the use of the level 1 offense "inappropriate activity," (b) the use of the level 2 offense "Repetitive Disobedience/Open Defiance/Insubordination," and (c) any other offense determined by the District and the United States to require additional study. The District shall, as part of its continuous improvement model and data-driven decision-making, develop action plan(s) based on its data review as necessary, including setting measurable objectives for reductions in identified disparities and disproportionality.

73. The District shall review data from the schools operating under the pilot program described in Paragraph 56 to determine whether restarting the tracking of discipline incidents for each student would significantly reduce exclusionary discipline, and if so, what durational intervals (*e.g.*, every trimester) would accomplish this objective. Based on this analysis, the District shall, as appropriate, propose a plan to revise its system of tracking incidents and provide this proposal with the United States for review and comment.

74. The District SwPBS Coordinator or his/her designee shall meet at least quarterly with Area Superintendents to review their school sites' discipline data. The Area



Superintendents or designees shall subsequently meet with each school principal under their supervision to review this information at least once each semester, but more frequently if a school's data indicates the existence of disparities. The District SwPBS Office and/or Area Offices, as appropriate, shall provide particularized assistance to those principals and to schools whose data indicate that SwPBS is not being implemented effectively. This assistance may include revision of systems and practices, retraining, and making personnel changes as necessary.

75. The District shall annually review the practices of the SDPBCPD, including reviews of any instances in which SDPBCPD personnel requested translation or interpretation assistance and any instances in which SDPBCPD personnel were involved in the disposition of a school discipline matter. The District shall use this review to determine whether: (a) the SDPBCPD has adequate access to language services on school campuses and (b) particularized training is needed for personnel regarding the involvement of law enforcement in school discipline. The District shall respond to these staffing and/or professional development needs before the subsequent school year.

76. By May 1, 2013, and by each May thereafter for the duration of this Agreement, the District shall conduct a school discipline survey of a representative sample of District families, either as part of another survey or as a standalone survey, to determine whether its discipline policies and procedures are: (a) being effectively communicated, (b) responsive to the particular concerns of ELL students, their parents, and LEP parents, and (c) being appropriately implemented by faculty, staff, and administrators. Such surveys shall be provided confidentially to ensure that ELL students and their parents and LEP parents are able to meaningfully participate in such surveys, including facilitating access via the District website, email, or paper

copies as appropriate. The District shall incorporate the feedback from such surveys in action plans required by this Agreement. The United States shall assist the District in obtaining any resources available through federal sources to assist in the survey's design and implementation.

## V. REPORTING AND ENFORCEMENT

77. The District shall submit annual reports to the United States demonstrating its efforts to comply with the provisions of this Agreement. The District shall provide the annual reports by August 15 of each year. 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 No Child Left Behind Act (20 U.S.C. § 6301, et seq.) or other federal law, state law, or regulation, the District may include that document in its annual report and indicate the section of the annual report to which the document applies. The annual reports shall include the following information about the preceding school year:<sup>7</sup>

a. Copies of all registration and enrollment materials, including, but not limited to: registration forms, templates for follow-up letters pursuant to Section 10 of Policy 5.011 or any other Section of the foregoing policy, and relevant pages in student and/or parent handbooks;

b. Copies of all documents listed in subparagraph (a) above translated into all Major Languages in the District, with an accompanying list of the school(s) at which each translated version is available;

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<sup>7</sup> In providing the information detailed below, if any of the District- or school-level policies or documents requested herein have not changed except for conforming annual edits (*e.g.*, changing the date on an enrollment form to the following year), the District does not have to re-provide this information, but may instead provide a list of documents which have not changed in the past year. As additional language(s) are added to the District's Major Languages, the District's reporting shall include copies of those translated documents.

- c. A chart showing the number of ELL students and the number of students with LEP parents, by school the students attend and primary language spoken by the student and his or her parent(s);
- d. The total number of requests to the District Office for translation and interpretation services, the number of such requests that were denied, and the basis for the denial (*e.g.*, unable to identify a qualified interpreter for a low incidence language);
- e. A copy of the District's employee translator and interpreter list required by Paragraph 30(e);
- f. A chart listing each training held over the preceding year on enrollment and registration of students, including on effective communication with LEP parents, and including the date(s), brief descriptions of content, number of attendees, and provider(s)/instructor(s);
- g. Copies of all written complaints concerning barriers to enrollment on the basis of a protected status received by any school or the District at large;
- h. Copies of all District policies and procedures related to student discipline implemented since the previous annual report, including a description of all revisions made to the policies and procedures since the date of the previous report and the reasons for each revision;
- i. Copies of all behavior and discipline documents, forms, handbooks, and other related materials in all of the languages in which they are available, including any school-level policies (*e.g.*, Honor Codes or dress code policies) in the languages in which they are available;

j. A chart listing all formal trainings conducted or provided by or for school or District personnel regarding student discipline, including the date(s), brief descriptions of content, number of attendees, and provider(s)/instructor(s);

k. Data collected reviewed, and analyzed under Paragraphs 70-74 of this Agreement,<sup>8</sup> and copies of narratives of any data-driven decision-making action plans developed and implemented as a result of that review and analysis;

l. Copies of all parent surveys and a random sample of results conducted pursuant to Paragraph 76 of this Agreement; and

m. A chart listing each student assembly and parent informational session held over the preceding year, including certification by the school site principal of the date(s), location, and times of these sessions;

n. Copies of all written complaints alleging discriminatory discipline, whether reported by a student, parent, or concerned member of the community;

o. Any other information that the District believes will be helpful.

78. The District shall maintain records of all information pertinent to compliance with the terms of this Agreement and shall provide such information to the United States upon request. Nothing in this paragraph relieves any party of any other obligations imposed by this Agreement.

79. The District recognizes that all charter schools it sponsors must meet their obligations under Federal law, including in their registration and enrollment of students and in their administration of student discipline. The District shall revise its model charter agreement to

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<sup>8</sup> For the data described in Paragraph 71, the District may provide to the United States the data analyzed by the SwPBS Coordinator. Upon request, the District shall provide the United States with the information that the School Discipline Administrative Teams analyze for individuals schools.

ensure that new and renewing charters implement the District's enrollment and discipline policies consistent with this Agreement. To the extent a charter school fails to meet its legal obligations, the District shall make efforts to work collaboratively with the charter school to remedy such deficiencies.

80. 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 Agreement upon giving reasonable notice and consultation with the District to minimize any disruption to the educational process in the schools.

81. This Agreement shall become effective on the date of its entry and shall remain in effect until such time as the United States determines the District has complied with its obligations under the law. The date that counsel for the United States signs the agreement shall be considered the date of entry.

82. The undersigned representatives of the Parties certify that they are authorized to enter into and consent to the terms and conditions of the Agreement and to execute and legally bind the Parties to it. This Agreement is final and has binding effect on the Parties, including all principals, agents, executors, administrators, representatives, employees, successors in interest, beneficiaries, assigns, and legal representatives thereof.

83. If any part of this Agreement is for any reason 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 District and the United States 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.

84. 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 the EEOA, Title IV, and the specific commitments and obligations of the District under this Agreement; provided that, the United States agrees that it shall not initiate or pursue any enforcement action without first attempting to resolve issues by negotiating in good faith for thirty 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.

85. The signatories undertake this Agreement as a means of alternative dispute resolution to avoid litigation and for the purposes of judicial and governmental economy. This commitment does not relieve the District from fulfilling any other obligations of federal or Constitutional law. In consideration of, and consistent with, all the terms of this Agreement, the United States agrees to refrain from undertaking further investigation into, or pursuing legal proceedings regarding, all matters contained within the Agreement, except those rights and remedies identified in the Agreement.

86. This Agreement resolves pending complaints regarding registration, enrollment, or student discipline, but does not cover future complaints or investigations by the United States.

87. As of the date of entry of this Agreement, litigation is not "reasonably foreseeable" concerning the matters described in the Agreement. To the extent that any party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in this Agreement, the party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any party of any other obligations imposed by this Agreement.

88. This Agreement shall remain in effect at least through the 2015-2016 school year. Prior to the Agreement's dissolution, the United States shall have 60 days from the receipt of the 2015-16 annual report to raise concerns or objections regarding the District's compliance with this Agreement, and the enforcement mechanism in Paragraph 84 shall apply.


89. After conferring with the District, the United States, in its good faith discretion, will determine whether the District has maintained substantial compliance for the requisite school years, and a conclusion of substantial compliance may not be unreasonably withheld.

Dated this 26<sup>th</sup> day of February, 2013.

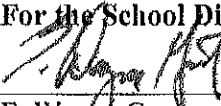
For the United States:

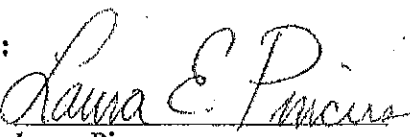
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