

## **AGREEMENT TO RESOLVE**

### **Oakland Unified School District OCR Case Number 09125001**

The U.S. Department of Education, Office for Civil Rights (OCR) initiated a compliance review of the Oakland Unified School District (District) in order to investigate whether the District has subjected African American students to discrimination on the basis of race by disciplining them more frequently and more harshly than similarly situated White students. The District is subject to Title VI because it receives Federal financial assistance from the Department of Education. Title VI of the Civil Rights Act of 1964, 42, U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. pt. 100 provide, in relevant part, that no program or activity receiving Federal financial assistance from the Department of Education may discriminate on the basis of race or national origin. Pursuant to OCR's Case Processing Manual, OCR has the authority to resolve this compliance review by means of a resolution agreement before the conclusion of the investigation when the recipient expresses an interest in such a resolution. Prior to the completion of OCR's investigation the District expressed its desire to resolve this case.

Without admitting to any violation of law, the District voluntarily agrees to the terms of this Agreement and agrees to comply fully with its provisions. In consideration for the commitments made herein by the District, OCR agrees to refrain from further pursuing the investigation of this compliance review. This commitment does not relieve the District from fulfilling its other obligations under Title VI or resolve any other individual or class complaint against the District under Title VI.

### **GENERAL PRINCIPLES**

The goal of the District is to ensure that all District students are provided schools that are safe and that create an environment that is conducive to learning. The fair and appropriate implementation of student discipline policies grounded in research-based evidence is one means of attaining this objective. In addition, it is critical that students learn and are reinforced in appropriate behavior so that they are engaged in the District's education program, rather than its disciplinary system. Upon execution of this Agreement and throughout the term of this Agreement, the District will ensure to the maximum extent possible that misbehavior is addressed in a manner that does not require removal from the educational program. Furthermore, the District is committed to applying school discipline policies and practices in a manner that is in compliance with Title VI, and its implementing regulation.

The District is committed to a phased implementation of this Agreement. Phase I will be implemented during the 2012-2013 school year, and Phase II will span the 2013-2014 through 2016-2017 school years, and the District must implement the terms of the Agreement beyond the 2016-2017 school year until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and with Title VI. Phase I (2012-2013) will focus immediate attention and resources on those schools with the highest disproportionality in the overall use

of suspensions and in suspensions by race. The District will implement this Agreement during Phase I in all District middle and high schools, and District elementary schools that have begun implementation of programs and/or initiatives, within a Response To Intervention, framework, to address disproportionality with respect to school discipline. Such programs and initiatives currently in use in the District include, but are not limited to, Positive Behavioral Interventions and Supports Restorative Justice, Caring School Community, and/or African American Male Achievement Manhood Development program. For the purposes of this Agreement, these initially identified elementary, middle, and high schools, listed in Addendum I, will make up the “VRP Cohort” of schools for immediate and ongoing implementation under this Agreement. During Phase I of this Agreement, the District will implement these programs or initiatives at the VRP Cohort schools and will develop its plan for systemic implementation of the ten provisions of this Agreement during Phase II at the VRP Cohort schools. Throughout the implementation of Phase II of this Agreement, OCR and the District may agree to add additional schools to the VRP Cohort based upon an evaluation of the school’s rates of suspensions or expulsions, and data, feedback from the Community Schools Strategic Site Plan (CSSSP) and/or School Quality Review (SQR), and/or other indicators demonstrating cause for concern in disproportionate discipline.

The District will immediately notify OCR when schools are added to the VRP Cohort and will not remove any schools from the VRP Cohort without prior notice to and approval from OCR. The District will not change this plan provision without prior notice to and approval by OCR. Throughout the implementation of this Agreement, the District will provide the funding necessary for the successful implementation of this Agreement, and establish and approve a line item budget necessary for implementation.

## **SUBSTANTIVE PROVISIONS**

### **I. Collaboration with Experts**

- a. The District will continue to consult with experts in data analysis and research-based strategies to prevent the discrimination against African American students with respect to the use of school discipline. The experts will provide counsel to the District on strategies for meeting the District’s goals for ensuring that discipline is appropriately and equitably applied to African American students, implementing this Agreement, monitoring and evaluating practices, and stakeholder involvement. In addition to the Haas Diversity Research Center, the California Endowment, Urban Strategies Council and West Ed, the District will partner with or retain other experts, as necessary, to meet its goal.
- b. During Phase I of the Agreement, the District will identify and retain a Lead Project Manager who will have day-to-day responsibility for supporting the VRP Team and implementation of the Agreement.
- c. During Phase I of the Agreement, the District will identify Subject Matter Expert Consultant who will be responsible for supporting the VRP Team, managing internal

and external communications about the VRP and establishing systems to evaluate successful of implementation of the Agreement.

- d. The District will utilize technical assistance from OCR in the area of Title VI and its implementing regulations to further assist in the implementation of the terms of this Agreement.
- e. No later than November 30, 2012, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will identify to OCR its experts and provide documentation showing their retention by the District for the duration of OCR's monitoring of this agreement.

II. Preventative Strategies, Early Identification of At-Risk Students and Early Intervention

- a. During Phase I and for the duration of this Agreement, all District schools will continue to require and ensure that school staff employ a range of corrective measures before referring a student to disciplinary authorities and/or law enforcement unless it can be documented that the safety of students and/or staff is threatened or the behavior in question is such that the disruption to the educational environment can only be remedied by such a referral.
- b. The District will continue to implement programs and/or initiatives, within an RTI framework, to address disproportionality in all VRP Cohort schools. Such programs and/or initiatives include, but are not limited to Behavioral Interventions and Supports, Restorative Justice, Caring School Community, and the AAMA Manhood Development program. No later than June 30, 2013, the VRP Cohort schools, using data and feedback from the CSSSP, SQR process and/or consultation with the VRP Team, shall determine and select for full implementation at the school the RTI program or programs which align with the school culture, values and goals and creates equitable, appropriate, and restorative discipline practices that will achieve the overarching goal of this Agreement. The RTI program or programs selected by each VRP Cohort school shall be reviewed and concurred in by the District VRP Team before implementation. No later than September 30, 2013, OCR shall receive a list of the RTI programs selected by each VRP Cohort school. Within 90 days of the addition of a school to the list of VRP Cohort schools, the school, with the concurrence of the District VRP Team, shall select the RTI program or programs that align with the school culture, values and goals and create equitable, appropriate, and restorative discipline practices that will achieve the overarching goal of this Agreement. The District will also provide annual training to staff at VRP Cohort schools on classroom management strategies. In addition, the District will ensure that VRP Cohort school staffs have available to them appropriate resources and support in order to provide effective classroom management. The District will ensure that RTI programs, as provided in this Item II(b), are fully implemented with fidelity in every VRP Cohort school.

- c. VRP Cohort Schools will utilize a school-wide RTI framework that aligns with the school culture, values and goals and creates equitable, appropriate, and restorative discipline practices that will achieve the overarching goal of this Agreement.
  - i. Item II(a) of this Agreement will be fully implemented in all District schools upon execution of this Agreement.
  - ii. The District will provide the resources necessary to support VRP Cohort Schools implementation of RTI including:
    - 1. Mandatory professional development and training for all site staff, including administrators, and certificated and classified staff, and training for students, parents and community members; and
    - 2. Identification and/or allocation of resources for additional District and site staffing.
  - iii. The District will develop a plan for monitoring the fidelity with which VRP Cohort Schools adhere to selected program or programs.
  - iv. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will submit its professional development agenda and schedule, and monitoring plan to OCR pursuant to Item II(c)(ii)-(iii).
  - v. The District will evaluate the effectiveness of the restorative justice practices at VRP Cohort Schools that select restorative justice programming as provided in Item II(b).
    - 1. The District will determine the efficacy of restorative justice practices in ensuring that discipline is appropriately and equitably applied to African American students.
    - 2. The District will identify and secure resources to fund the implementation of evaluation tools that have been developed in partnership with West Ed.
    - 3. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will submit reports to OCR of its implementation of Item II(c)(v) of this Agreement.
  - vi. The District will evaluate the effectiveness of PBIS at VRP Cohort Schools that select PBIS programming as provided in Item II(b).

1. The District will determine the efficacy of PBIS in ensuring that discipline is appropriately and equitably applied to African American students.
  2. The District will identify and secure resources to fund the implementation of evaluation tools.
  3. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will submit reports to OCR of its implementation of Item II(c)(vi) of this Agreement.
- vii. If with the concurrence of the District VRP Team, a VRP Cohort school selects a program other than Restorative Justice or PBIS, the District will evaluate the effectiveness of the program or programs selected by the VRP Cohort Schools.
1. The District will determine the efficacy of such program(s) in ensuring that discipline is appropriately and equitably applied to African American students.
  2. The District will identify and secure resources to fund the implementation of evaluation tools.
  3. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will submit reports to OCR of its implementation of Item II(c)(vii) of this Agreement.
- d. During Phase I, the District will develop a plan for implementation at VRP Cohort Schools, which builds upon and supports existing structures such as the Coordination of Service Team, to effectively tailor school-based services that are trauma-sensitive and supportive of the needs of students in order to decrease trauma-related behavioral difficulties that manifest in school and to increase affected students' ability to benefit from the learning environment.
- i. The plan will describe the following:
    1. The process for identifying students who have been exposed or who are at risk for exposure to community and family violence.
    2. School-based, trauma-informed interventions for students who are having post-trauma difficulties.

3. Skill-building for at-risk youth.
  4. Classroom presentations on coping with trauma and violence.
  5. Mandatory training on complex trauma and trauma-sensitive practices for teachers, administrators, paraprofessionals, and school mental health staff.
  6. Support for school staff around stress, burnout, and vicarious traumatization.
- ii. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will submit reports to OCR of its implementation of Item II(d) of this Agreement.
- e. AAMA Task Force Recommendations
- i. During Phase I, the District will create a plan for implementing the following non-exhaustive lists of recommendations in the June 2011 African-American Male Achievement Task Force Summary Report at VRP Cohort Schools:
    1. On site mentoring programs.
    2. Teacher-student relationships.
    3. Review of administrator and teacher discipline practices.
    4. Implementation of in school and out of school support services.
  - ii. During Phase I, the District will identify and establish on site mentoring programs at all Phase I VRP Cohort schools as provided in the AAMA Task Force Recommendations.
  - iii. The plan will include a system and timeframe for monitoring and evaluating the implementation of these recommendations for effectiveness and allow for stakeholder collaboration and input. Monitoring and evaluation data will be used to improve and revise strategies. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will submit reports to OCR of its implementation of Item II(e) of this Agreement.

### III. Revision of Disciplinary Policies

- a. At all schools, the District will continue its current discipline policies that require that disciplinary authorities consider alternatives to expulsion, suspension (including classroom suspensions, in-school suspensions and out of school suspensions) or other sanctions that result in removal from the education setting in all cases except those where it can be documented that the safety of students and/or staff is threatened or the behavior in question is such that the disruption to the educational environment can only be remedied by such a referral, or the referral is mandatory under state law.
- b. At all schools, the District will continue its current discipline policies that ensure that students who are removed from any school receive academic services during the period of their suspension or expulsion.
- c. During Phase I, the District will review its 2010-2011 and 2011-2012 discipline data. Based on this analysis, the District will identify any possible improvements or revisions to its Board Policies, and corresponding Administrative Regulations, and District Agreements, including Collective Bargaining Agreements, in the following non-exhaustive list of subject areas:
  - i. Referrals for discipline;
  - ii. In-school suspension;
  - iii. Out-of-school suspension;
  - iv. Expulsion;
  - v. Alternatives to out of school suspension;
  - vi. Interventions, preventative strategies, and early identification of struggling students;
  - vii. California Education Code Sec. 48910 teacher suspensions and Section 17.3 and 22.4.3 of the Collective Bargaining Agreement with the Oakland Educators Association;
  - viii. Teacher initiate suspensions;
  - ix. Definition and/or use of California Education Code Sec. 48900(k) [disruption and defiance] as suspendable misconduct, and providing clarity about what behaviors constitute rule infractions in an urban school environment;
  - x. Record and report keeping systems for discipline; and
  - xi. Alignment of Board Policy 5144 site level policies with District initiatives, Board resolutions, and Board Policies relating to the use of school discipline.

- d. During Phase I of this Agreement, the District will create a District-wide Student Discipline Handbook.
- e. No later than 90 days after the conclusion of Phase I, the District will submit to OCR for review its revised student discipline, and related, policies. Prior to doing so, the District will take into account recommendations from its experts, students, certificated and classified staff, site and District level administrators, parents and community stakeholders.
- f. No later than 60 days after the end of Phase I, the District, in collaboration with its stakeholders, will develop a system for District and site level discipline policy evaluation. The system will include regular outcome monitoring and an opportunity to improve and revise policies when the data shows them to be ineffective.

#### IV. Outreach to and Input from Stakeholders

- a. During Phase I, the District will review surveys the District currently administers to students, staff and parents, including the district-wide annual California Healthy Kids Survey (students), California School Parent Survey (parents), California School Climate Survey (staff), student and staff surveys on social and emotional learning, including the Conditions for Learning survey, and the Health & Wellness Survey to identify survey questions that assess school climate. If the District and OCR agree during Phase I that the current surveys are adequate, the District shall compile relevant questions and responses from these surveys and report the results to OCR as provided in Section IV "Outreach and Input From Stakeholders" of this Agreement. If OCR and the District determine that the current surveys do not adequately measure perceptions of school safety, and fairness and clarity of rules and behavioral expectations, the District shall develop, in collaboration with an expert, an annual school climate survey that it will administer to students at all District schools, certificated and classified staff, parents and community stakeholders. The survey will be administered separately to each of these groups and measure perceptions of relationships among the school community members (teacher-student, teacher-parent, and student relationships), such as school safety, and fairness and clarity of rules and behavioral expectations.
- b. Commencing on September 30, 2014 and annually each year thereafter no later than September 30, the District will provide a summary report of the substance of the responses and the response rate of each group to OCR. The District will also determine a method for sharing the report publicly, particularly with the participating groups. For the purposes of this Agreement, all schools will be requested to participate in the climate survey.
- c. During Phase I of this Agreement, the District will plan and develop a school-based student/staff discipline discussion forum in all VRP Cohort schools. The District will

actively involve All City Council student leaders in the development of the annual forum.

- d. During Phase II, in order to raise awareness of discipline issues, each VRP Cohort school in the District will conduct an annual forum during regular school hours which specifically provides the opportunity for students to discuss with faculty and administrators any matters relating to discipline, including non-discrimination, and provide their input for any improvements in the District's discipline policies. At least one site administrator with school-wide responsibility for discipline will attend each forum session. The District will select an appropriate format for each session based on the age and grade levels of students and the particular needs of each school, e.g. classroom discussion, student focus groups, as long as each student is given the opportunity to participate in such a session at least annually (e.g., if a student body assembly format is used, it shall include time for small group breakout discussions that allow individual students a realistic opportunity to participate).
- e. Within 60 days of the end of the semester in which the forum is initially conducted, and annually thereafter until the monitoring of this Agreement is closed, the District will submit to OCR a report of each student forum session conducted pursuant to Item IV(c)-(d) of this Agreement, including the date, time, length and location of each session, the number of students attending, a list of the faculty and staff attending, a summary of the concerns and suggestions expressed by students at each such session, and the District's responses to the same.

## V. Training

- a. VRP Cohort School Staff Training
  - i. The District will develop training programs to be delivered annually to VRP Cohort School staffs. The District agrees to provide the same training to any employee hired mid-year within 60 days of employment by the District, as practicable.
  - ii. The training will emphasize the District's commitment to using the policies referenced in this Agreement to ensure a safe and orderly educational environment and to ensure the fair treatment of all students when making disciplinary referrals and imposing disciplinary sanctions.
  - iii. The training will emphasize the approaches and strategies for referenced in Item II of this Agreement.
  - iv. The training will include but not be limited to detailed explanations of the discipline code, the definitions of offense categories, the specific manner in which progressive disciplinary consequences will be employed, if applicable, the circumstances under which deviations from established policies may be

justified, the documentation that must be used by District staff who make disciplinary referrals or impose disciplinary sanctions, evidence-based techniques on classroom management and de-escalation approaches, information on how to administer discipline fairly and equitably, resources that are available to staff who are having difficulty with classroom management, resources that are available to students to assist them in developing self-management skills, the value of recognizing and reinforcing positive student behavior, and the importance of ensuring to the maximum extent possible that misbehavior is addressed in a manner that does not require removal from the educational program.

- v. The training will provide District employees with information concerning the role that SSOs are expected to play in the discipline process, focusing in particular on guidelines for when it is appropriate and when it is not appropriate to refer a student to an SSO.
  - vi. The training will provide employees the opportunity to raise concerns or suggestions regarding the improvement of the District's disciplinary policies, including any issues in connection with fairness and non-discrimination on the basis of race or ethnicity.
- b. During Phase I of this Agreement, the District will plan and develop initial VRP Cohort School staff training module for all VRP Cohort Schools. No later than 90 days after the conclusion of Phase I, the District will submit to OCR for review a description with supporting documentation of the training programs developed by the District in accordance with Item V(a) of this Agreement.
- c. VRP Cohort Schools Student Training
- i. The District will develop a training program to be delivered annually to all VRP Cohort Schools' students that will explain the policies referenced in this Agreement and what is expected of the students under those policies in an age-appropriate, easily understood manner.
  - ii. The training will emphasize the District's commitment to using the policies referenced in this Agreement to ensure a safe and orderly educational environment and to ensure the fair and equitable treatment of all students when making disciplinary referrals and imposing disciplinary sanctions. The training will advise students of their right to appropriate due process protections in connection with any disciplinary action taken or proposed by the District.
  - iii. The training will include but not be limited to detailed explanations of the discipline code, the definitions of offense categories, the specific manner in which progressive disciplinary consequences will be employed, if applicable,

the circumstances under which deviations from established policies may be justified, and the District's commitment to ensuring to the maximum extent possible that misbehavior is addressed in a manner that does not require removal from the educational program.

- iv. The training will emphasize not only the consequences and procedures associated with non-compliance with the disciplinary code, but also provide guidance and positive reinforcement regarding appropriate behavioral standards, including resources to assist in developing self-management skills.
  - v. The training will be distinct from, and not offered simultaneously with, the student forums described in Item IV(d) of this Agreement
- d. During Phase I of this Agreement, the District will plan and develop initial student training module for all VRP Cohort Schools with active involvement of All City Student Council student leaders. No later than 90 days after the conclusion of Phase I, the District will submit to OCR for review a description with supporting documentation of the training programs developed by the District in accordance with Item V(c) of this Agreement.
- e. No later than 90 days after the conclusion of Phase I and annually thereafter no later than September 30 of each year until the monitoring of this Agreement is closed, the District will provide OCR with the dates and locations that training programs were held pursuant to Item V of this Agreement.
- f. Once all VRP Cohort schools are conducting staff and student training, the District will expand this training to all schools and students regardless of whether or not they are in the list of VRP Cohort schools.

#### VI. Informational Programs for Parents

- a. During Phase I, the District will develop an informational program to be offered to the parents or guardians of all District students, with emphasis on parents and guardians of students attending VRP Cohort Schools, that will explain the policies referenced in this Agreement in an easily understood manner and what is expected of students under those policies and the District's efforts in achieving fair discipline of all students. The program will provide parents the opportunity to raise concerns or suggestions regarding the improvement of the District's disciplinary policies, including any issues in connection with fairness and non-discrimination. The parent programs may be incorporated into other planned parent meetings, conferences or parent outreach programs. The District will also identify other parent education necessary (e.g., how to support student's success) for the successful implementation of Agreement. The District will ensure that the informational program is offered in such a manner as to ensure the maximum possible participation by parents or guardians. This may include offering the program at multiple times in various

- locations and will include providing access to parents or guardians who are unable to attend the program to the materials developed by the District in association with the program. This will also include offering the program and the program materials in languages other than English as necessary for English language learners and their parents.
- b. The program will include District officials involved in the administration of discipline (e.g., administrators, teachers, behavior interventionists, guidance counselors); information about the District's recent actions under this Agreement; and a record of the meeting in order that the information collected can be considered by the District when assessing and modifying its policies and under this Agreement.
  - c. The program will emphasize the District's commitment to using the policies referenced in this Agreement to ensure a safe and orderly educational environment and to ensure the fair and equitable treatment of all students when making disciplinary referrals and imposing disciplinary sanctions.
  - d. The program will advise the parents or guardians of the right of students to appropriate due process in connection with any disciplinary action taken or proposed by the District.
  - e. The program will include but not be limited to detailed explanations of the discipline code, the definitions of offense categories, the specific manner in which progressive disciplinary consequences will be employed, if applicable, the circumstances under which deviations from established policies may be justified, resources that are available to students to assist them in developing self-management skills and the District's commitment to recognizing and reinforcing positive student behavior and to ensuring to the maximum extent possible that misbehavior is addressed in a manner that does not require removal from the educational program.
  - f. The program will advise the parents or guardians whom they may contact if they have any concerns about the manner in which the District's discipline policies are being implemented or if they need assistance in addressing student behavioral problems.
  - g. No later than 90 days after the conclusion of Phase I, the District will submit to OCR for review a description with informational programs developed by the District in accordance with Item VI of this Agreement, including any translated materials.
  - h. No later than 90 days after the conclusion of Phase I and annually thereafter no later than September 30 of each year until the monitoring of this Agreement is closed, the District will provide OCR with the dates and locations that informational programs were held pursuant to Item VI of this Agreement.

## VII. Notice to Parents and Students

- a. The District publishes its policies on positive school climate and discipline, and complaint procedures in its annual Parent Guide. This Guide is available in hard copy and on the District's website. Students receive information about student responsibilities and behavior expectations in their Student Handbooks, which are unique to each school site. The District will revise its parent and student notices to reflect any changes in these policies and practices made under this Agreement, as necessary, and continue its existing practice of notification to parents and students.
- b. The District will provide notice to parents and guardians about the availability of information regarding discipline, contact information for the District's Ombudsperson's Office and the right to file complaints regarding the implementation of discipline policies with the Ombudsperson's Office of the District. This notice will be posted on the District's website and will be provided annually to all parents and guardians.

The District will develop a means to inform the public on data on the use of suspensions and expulsions, disaggregated by race, ethnicity, sex, disability, English Language Learner (ELL) status, school and/or grade level, most frequent reasons leading to exclusionary discipline and other factors determined by the experts and District Discipline Committee(s). The data shall include referrals for discipline, suspension, expulsion, and referrals to law enforcement. The District will consider, but is not limited to, publishing the data on its website.

- c. No later than 90 days after the conclusion of Phase I, the District will provide OCR with confirmation of its means to inform the public of its use of suspensions and expulsions.
- d. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will provide OCR with documentation demonstrating its implementation of Agreement Item VII.
- e. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will provide OCR with a copy of any District guidance to school sites regarding revisions to site-based Student Handbooks and the Parent Guide.

VIII. Discipline Review Committee: VRP (Voluntary Resolution Plan) Team

- a. During Phase 1 of the Agreement, the District will establish a cross-functional and interdepartmental VRP Team with overall responsibility for Phase I implementation planning. At the conclusion of Phase I, the VRP Team will transition to overall responsibility for implementation, compliance, evaluation and annual reporting to OCR under the Agreement.

- b. No later than 90 days after the conclusion of Phase I, the District's VRP Team will complete an action plan to coordinate, monitor and evaluate the District's ongoing efforts to ensure that discipline is appropriate and equitable.
- c. The action plan will include the following:
  - i. In conjunction with Item III(c)(ix) of this Agreement, develop a definition of "defiance" and "disruption" as a suspendable infraction and a method of monitoring site application of/fidelity to the definition.
  - ii. School level and District-wide measures of discrimination with respect to suspensions and expulsions which have been established in consultation with the experts described in Item I.
  - iii. Targeted reductions in the overall use of student suspensions; suspensions for African American students, Latino students, and students receiving Special Education services; and African American students suspended for defiance.
  - iv. A framework and schedule for a centralized review of school-level and District-wide discipline data to measure progress towards the goal of ensuring that discipline is appropriate and equitable and to inform recommendations for changes to programs and strategies for achieving this goal.
  - v. Targeted school-wide and classroom interventions and support that will be provided to all schools whose data indicate the need to identify causes for the continued failure to demonstrate progress and targeted best practices for ensuring that discipline is appropriate and equitable.
  - vi. A framework and schedule for schools to review their discipline data and identification of student and teacher needs for support.
  - vii. A framework for developing and a review process for schools discipline plans for reducing the use of exclusionary discipline and ensuring that discipline is appropriate and equitable.
  - viii. Process for identifying, acknowledging and utilizing site administrators and teachers with demonstrated best practices to serve as coaches to their peers.
  - ix. A schedule for training on best practices for use of alternative interventions, classroom management and reviewing and utilizing data and mechanism for facilitating staff participation.

- x. A process for ensuring that when students are suspended or expelled, they still receive academic services.
  - xi. A process for ensuring that the implementation of the District's policies concerning discipline is fair and equitable, and for providing notice to the public of the VRP Team's contact information and role with respect to Item VIII of this Agreement.
- d. No later than 90 days after the conclusion of Phase I, and annually thereafter no later than September 30 of each year during the course of OCR's monitoring of this Agreement, the District will provide OCR with a copy of its action plan and a report of its progress in implementing the action plan described in Item VIII(c) of this Agreement.

IX. Data Collection, Evaluation and Assessment, and Self-Monitoring

- a. The District will continue to gather and review electronic data it currently collects on the use of punitive disciplinary measures, such as suspension and expulsion. The District will also continue to review and provide technical assistance to school sites regarding the quality of the data input and collection.
- b. By March 30, 2013, the District will identify changes in student database (AERIES) or other databases that are necessary to meet all of the reporting and evaluation requirements of Section IX(c) of this Agreement, including tracking school site-based discipline and teacher initiated suspensions under Section 48910 of the Education Code. The District will determine whether its current data systems are appropriate to collect and evaluate data on interventions and alternatives that were attempted prior to suspension. At all times, the District will notify OCR of all changes or modifications to the data collection system(s).
- c. No later than 60 days after the end of Phase I, the District shall demonstrate that it is accurately collecting and regularly evaluating data regarding all referrals for student discipline, including those that did not result in the imposition of disciplinary sanctions, referrals to law enforcement, and suspension and expulsion at all District schools. The data collected will include, but not be limited to, the following:
  - i. The name, identification number, race, ethnicity, sex, age, disability and/or English Language Learner (ELL) status, homeless or foster care status, as applicable, and grade level of each student referred for discipline;
  - ii. For each referral, the name, identification number, race, ethnicity, sex, age, grade level, disability and/or ELL status, as applicable, and grade level of all

other students involved in the incident, whether or not they were referred for discipline themselves;

- iii. A detailed description of the misconduct;
- iv. A description of all approaches that were attempted in order to address the behavior at issue prior to referral for discipline;
- v. The date of the referral;
- vi. The specific Code violation for which the referral was made;
- vii. The referring staff member (by staff identification/employee number);
- viii. The school and type of class from which the referral was made or other specific settings (e.g. bus referral, hallway referral);
- ix. Whether there were any student and/or adult witness(es) of the incident; names of witness(es); number of witnesses;
- x. The prior disciplinary history of the student;
- xi. The specific Code violation for which the student was punished and the penalty/sanction imposed or, if no violation was charged or penalty/sanction imposed, the reason why;
- xii. The outcome of the manifestation hearing determination, if applicable;
- xiii. The date the penalty/sanction was imposed;
- xiv. The length of the penalty/sanction (in number of days);
- xv. The staff member who assigned the penalty/sanction (by staff identification/employee number);
- xvi. Whether the student was transferred to the alternative school or to a different school site;
- xvii. Whether school-based or local law enforcement were involved (e.g. law enforcement was notified of the offense);
- xviii. Whether the referral to law enforcement was mandatory and, if so, the statute or ordinance governing the referral;
- xix. Whether the student was arrested as a result of school-based or law enforcement involvement;

- xx. Any other non-punitive outcomes arising out of each referral incident, including, but not limited to, referral for homebound services, disability evaluation; and,
  - xxi. Whether the student was given access to appropriate due process procedures in connection with the penalty/sanction, including but not limited to being given the opportunity to present his or her version of events and/or an explanation for their conduct prior to the imposition of sanctions, and whether, when, and how their parents were contacted in connection with each referral incident.
- d. The District will convene a District-wide user forum to discuss the utility and usability of its electronic database for discipline data. The purpose of the forum and resulting revisions to the form and use of the electronic database will be to ensure that the system can align with site-based discipline policies while protecting the District's capacity to maintain a centralized collection of discipline data.
  - e. No later than 90 days after the end of Phase I, the District will ensure that the reason codes and disposition options in its electronic database align with any improvements or revisions to discipline policies arising from this Agreement particularly to describe interventions attempted and accurately describe alternatives used.
  - f. During Phase I, the District will provide a mandatory professional development to the VRP Cohort Schools' site administrators and their designees on the form and use of the District's electronic database for discipline data.
  - g. The District's Research and Assessment department currently provides monthly reports to school sites regarding the use of out of school suspensions, disaggregated by school, race, gender, and type of infraction. The District will continue to share these reports with school sites and determine whether it can supplement these reports based on any revisions made to the data collection system under this Agreement, including referrals for discipline, and interventions used or alternatives to suspension imposed. No later than 90 days after the end of Phase I, and annually thereafter no later than September 30 of each year for the duration of OCR's monitoring, the District will submit a report that summarizes information collected under Item IX of this Agreement to assess whether the District is meeting its goal of ensuring that discipline is appropriate and equitable.
  - h. Each school principal at VRP Cohort Schools will meet at the conclusion of each school year with the teachers at his/her school to discuss strategies for teaching, encouraging and reinforcing positive student behavior that do not require engagement with the discipline system and to discuss the discipline of students for that semester. The discussion will specifically review the data gathered by the District pursuant to this Agreement.

- i. The meetings will examine how discipline referrals and disciplinary sanctions imposed at the school compare to those at other schools and consider any data or other information suggesting that members of any group for whom data are collected are treated differently with respect to discipline or sanctioned more harshly than similarly-situated students of other groups.
- j. If the data indicates that it is appropriate, the teachers will be reminded of District resources that are available to assist them in managing their classrooms and reinforcing positive student behavior.
- k. Where the data or other information indicates that it is appropriate to do so, the principal will meet individually with particular teachers to provide mentoring and professional support.
- l. If the data or information suggests that the teacher is failing to adhere to the District's student discipline policies or practices or is engaging in discrimination, the principal will take appropriate corrective action, including but not limited to, additional training or disciplinary action.
- m. Where the data indicates that a teacher has been particularly successful in managing student discipline at the classroom level, the meetings will examine steps that are being taken at the school or by the individual teacher to ensure the fair and equitable application of the District's student discipline policies that might be shared as "best practices" with other teachers at the school and with other schools.
- n. Principals will facilitate opportunities for the teachers who demonstrate best practices to coach, mentor and collaborate with their peers and opportunities for other teachers to observe the best practices teachers.
- o. The Superintendent or Superintendent's designee(s) will meet at the conclusion of each school year with the principals of each VRP Cohort School to discuss the data gathered by the District pursuant to this Agreement, as well as the Discipline Review Committee: Voluntary Resolution Plan Team. The meetings will examine how discipline referrals and disciplinary sanctions imposed at each school compare to those at other schools and, if applicable, to schools outside the District, and consider any data suggesting that member of any group for whom data are collected are disproportionately referred for discipline or sanctioned more harshly than similarly-situated students of other groups. The meeting will also review the resources that are available to teachers to assist them in managing their classrooms and reinforcing positive student behavior. If the data or other information suggest that the principal or other school staff are failing to adhere to the District's student discipline policies and practices or are engaging in discrimination, the Superintendent will take appropriate corrective action. Where the data indicate that a school has been particularly successful in managing student discipline, the meeting will examine steps that are being taken at the school to ensure the fair and equitable

implementation of the discipline policies that might be adopted as “best practices” at other schools.

- p. No later than 90 days after the end of Phase I, and annually thereafter no later than September 30 of each year during the duration of OCR’s monitoring of this Agreement, the District will submit reports to OCR and its VRP Team documenting its implementation of this section and indicate what problems and/or best practices were identified, by site.

X. School Security Officers (SSO)

- a. The District will conduct a comprehensive review of its SSO program to assess the program’s effectiveness and identify any changes that should be made to the program to ensure it aligns with and aids the District in accomplishing the goals and objectives set forth in this Agreement. The review will include, but not be limited to, the following:
  - i. A review of every instance during the 2011-12 school year in which an SSO became involved in the disposition of a student discipline matter where a District student was referred to law enforcement or which resulted in an arrest to determine whether it was appropriate for the SSO to become involved in the disposition of the matter and whether, once involved, the SSO acted in a manner that was consistent with the District’s expectations and its discipline policies. This review will also carefully consider whether the referral to law enforcement was appropriate under the circumstances present at the time and consistent with the treatment of other similarly situated students. If the District determines the referral was inappropriate, it will promptly take steps to remedy any adverse effects, including efforts to expunge educational records and discontinue law enforcement involvement.
  - ii. The District will develop a training program to be delivered to all District SSOs that will explain the revisions being made to the SSO program and what is expected of the SSOs under the revised SSO program and the District’s revised student discipline policies, as well as to develop an orientation program to be delivered to all SSOs newly assigned to the District that explains the SSO program, what is expected of SSOs in the SSO program and the District’s discipline policies.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that, during the monitoring of this Agreement, OCR may visit the School, interview District staff, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title VI and its implementing regulation, 34 C.F.R. Part 100, which was at issue in this review.

It is the intention of this Agreement that all deliverables required herein are to be completed by September 30, 2017. The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and is in compliance with Title VI and its implementing regulation, 34 C.F.R. Part 100, which were at issue in this review.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Signed:

**OAKLAND UNIFIED SCHOOL DISTRICT**

/s/  
\_\_\_\_\_  
Dr. Anthony Smith, Superintendent

\_\_\_\_\_  
9/2  
7/2012  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Jody London  
President, Board of Education

/s/  
\_\_\_\_\_  
Edgar Rakestraw, Jr.  
Secretary, Board of Education

Approved as to Form

/s/  
\_\_\_\_\_  
Jacqueline P. Minor, General Counsel