

# VOLUNTARY RESOLUTION AGREEMENT

## Lubbock Independent School District OCR 06135001

The U.S. Department Education, Office for Civil Rights (OCR) and the Lubbock Independent School District (LISD or the District) enter into this Voluntary Resolution Agreement (Agreement) to resolve the above-referenced compliance review. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the LISD.

OCR initiated a proactive compliance review of the LISD in order to investigate whether the LISD discriminates against African American students on the basis of race by disciplining them more frequently and more harshly than similarly situated White students. The LISD assures OCR that it will take the following actions to ensure that it complies with 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. Part 100, which prohibit discrimination on the basis of race.

Prior to the completion of OCR's investigation, the LISD agreed to resolve the issue presented in this compliance review pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to resolve the issue under investigation, the LISD agrees to take the actions outlined below.

### **Designation of Responsible Employee**

1. The District will designate an employee(s), subject to OCR's review and approval, to serve as the District's Discipline Supervisor(s), and will publish this individual's name and/or title, office address, e-mail address and telephone number on its website, in all school publications regarding discipline, and in the notice that the District sends to parents annually. The Discipline Supervisor(s) shall be responsible for overseeing the implementation of the District's policies concerning discipline in a fair and equitable manner. In addition, the District's Discipline Supervisor(s) will address complaints from parents, guardians, students and others regarding the implementation of the District's disciplinary policies.

**REPORTING REQUIREMENT:** By January 12, 2018, the District will provide OCR the name and qualifications of the individual(s) proposed to be designated as the Discipline Supervisor(s) and documentation regarding its implementation of the notice requirements of item 1. By June 30, 2018, June 30, 2019, and June 30, 2020, the District will provide to OCR copies of all complaints about discipline received by the District.

### **Early Identification of At-Risk Students and Early Intervention**

2. All District schools will require 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, or as required by the Texas Education Code. The District will develop (or amend as

necessary) and implement for the school year a plan to effectively tailor school-based services that are supportive of the needs of students in order to decrease behavioral difficulties that manifest in school and to increase students' ability to benefit from the learning environment. The plan will describe the following:

- a. the process for identifying students who are at risk for behavioral difficulties;
- b. school-based interventions for students who are identified as at-risk for behavioral difficulties;
- c. skill-building for at-risk youth; and
- d. support for school staff to meet the needs of the at-risk students.

**REPORTING REQUIREMENT:** By January 12, 2018, the District will provide OCR documentation that the District requires staff to employ a range of corrective measures, as referenced in this item. By September 30, 2018 and September 30, 2019, the District will provide OCR a copy of the plan for the upcoming school year referenced in this item. By June 30, 2018, June 30, 2019, and June 30, 2020, the District will provide to OCR documentation of the steps taken to implement the plan in the just-completed school year.

### **Outreach to Students, District Staff and Community Members**

3. The District will develop and administer an annual school climate survey to students (grades 3-12), staff, and parents. The survey will be administered separately to each of these groups and will measure (including, but not limited to) the perceptions of: relationships among the school community members (teacher-student, teacher-parent, and student relationships); school safety; clarity of rules and behavioral expectations; and fairness and equity in the administration of discipline. The District agrees to submit the climate survey prior to administration to OCR for review and approval. The District will draft a report about the survey results (to include response rates) and determine a method for sharing the report publicly, particularly with the participating groups. All LISD schools will be requested to participate in the annual climate survey.

**REPORTING REQUIREMENT:** By January 12, 2018, January 12, 2019, and January 12, 2020, the District will submit to OCR for review and approval the climate surveys referenced in this item. During the monitoring period, if the District utilizes a climate survey previously approved by OCR, the District does not need to submit the survey again to OCR for approval. By June 30, 2018, June 30, 2019, and June 30, 2020, the District will submit to OCR documentation showing that its climate survey has been administered, a copy of the report on survey results, and evidence of how the report was shared publicly.

### **Policies, Practices and Procedures**

4. The District will review and revise its student discipline policies, practices and procedures, to ensure that they include the following:
  - a. Standards for disciplinary referrals that include clear definitions, categories and procedures for staff to follow when making referrals;

- b. Definitions of misconduct that are objective and eliminate, to the maximum extent possible, vague, subjective or redundant offenses, including those that necessarily require a high degree of subjectivity and individual discretion (e.g., defiance/disobedience, other misbehavior, disruptive behavior). To the extent the District retains such offenses, the District will provide specific examples to ensure that staff understand the circumstances under which such offenses can be used to impose disciplinary sanctions and the distinctions between such offenses;
- c. Categories of offenses for which there is established a range of penalties that may be imposed, criteria to ensure the penalty selected is proportionate to the misconduct, and allowance of deviations only for justified and well documented reasons;
- d. An explanation of how the District will distinguish between first offenders and repeat offenders when imposing disciplinary sanctions and a clear explanation of how any progressive disciplinary policies, practices and procedures are implemented;
- e. A requirement that alternatives to sanctions that require removal from the educational setting be considered in all cases except those where the immediate safety of students or staff is threatened or the behavior in question is such that the disruption to the educational environment can only be remedied by removal, or as required by the Texas Education Code;
- f. A requirement that school staff attempt 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 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 as required by the Texas Education Code;
- g. A clear description of the circumstances that must be present for school staff to involve school resource and/or security officers in the discipline of District students, including whether threatening or violent behavior must be involved, along with examples, if applicable, of circumstances where behavior that is neither threatening nor violent can nonetheless result in the involvement of school resource officers;
- h. Appropriate due process standards for all students disciplined under the District's student discipline policies, practices and procedures, including a description of the key elements of the discipline process (appeals, alternative dispositions, timelines, provisions for informal hearings, etc.);
- i. A program that seeks to successfully reintegrate within the school community students who have been suspended, expelled or excluded, or who return from alternative school or periods of incarceration, including counseling, tutoring or

other additional educational services to permit the student to make up lost classroom time.

**REPORTING REQUIREMENT:** By January 12, 2018, the District will submit its proposed student discipline policies, practices and procedures to OCR for review and approval. Within 15 days of OCR's approval, the District will provide documentation to OCR that it has disseminated the student discipline policies, practices and procedures to all District students, parents and staff and/or posted them in a prominent location on the District's website and in each District school. Within 30 days of OCR's approval, the District will also provide documentation to OCR that it has translated the revised student discipline policies, practices and procedures as necessary to accommodate English language learners and their parents.

### **Staff and Student Training**

5. The District will provide training programs to all District teachers, administrators, school aides, school resource officers (SROs), and any other District personnel charged with supervising students, making disciplinary referrals, or imposing disciplinary sanctions.
  - a. The training will emphasize the District's commitment to using its discipline policies, practices and procedures to provide a safe and orderly educational environment and to facilitate the fair and equitable treatment of all students when making disciplinary referrals and imposing disciplinary sanctions.
  - b. As appropriate, the training for District employees may include, but will not be limited to, detailed explanations of the discipline policy; definitions of misconduct; identification of offense categories; the specific manner in which progressive disciplinary consequences will be employed, if applicable; the circumstances under which deviations from established policies and procedures may be justified; the documentation that must be developed and maintained by all 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 discipline; 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.
  - c. The training will emphasize the District's requirement that staff employ a range of corrective measures before referring a student to disciplinary authorities and/or law enforcement unless it is 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.

- d. The training will provide employees the opportunity to raise concerns or suggestions regarding the District’s disciplinary policies, including any issues in connection with fairness and non-discrimination on the basis of race.

REPORTING REQUIREMENT: By June 30, 2018 and June 30, 2019, the District will submit its training materials for OCR’s review and approval. By September 30, 2018 and September 30, 2019, the District will provide documentation to OCR that it has provided the training required by this item.

6. The District will provide training programs to all District students in an age-appropriate, easily understood manner.
  - a. The training will emphasize the District’s commitment to using its discipline policies, practices and procedures 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 procedures in connection with any disciplinary action taken or proposed by the District.
  - b. The training will include, but will not be limited to, detailed explanations of the discipline policy, definitions of misconduct, identification of offense categories, the specific manner in which progressive disciplinary consequences will be employed, 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 addressing misbehavior in a manner that does not require removal from the educational program.

REPORTING REQUIREMENT: By June 30, 2018 and June 30, 2019, the District will submit its training materials for OCR’s review and approval. By September 30, 2018 and September 30, 2019, the District will provide documentation to OCR that it has provided the training required by this item.

### **Data Collection and Self-Monitoring**

7. The District will ensure that staff at each campus maintains classroom discipline logs which will record substantive discipline actions administered to students in the classroom, but may not otherwise be reported to the campus administration (e.g., lunch or after-school detentions, clean-up duty, or after-hours student-teacher conferences). The information logged will include, at a minimum, the following:
  - a. The identity of the student by name, race/ethnicity, and grade level;
  - b. The date the incident occurred;
  - c. A detailed description of the incident; and
  - d. A statement regarding the discipline imposed.

At the conclusion of each school year, the classroom discipline logs will be provided to the campus disciplinarian, who shall maintain the records for a minimum of three (3) school years. This information will also be shared with the discipline review team referenced below.

8. The District will collect data, by school, regarding referrals for student discipline, the imposition of disciplinary sanctions, and referrals to law enforcement at all District schools. The data collected will include, but not be limited to, the following:
  - a. The student's name, identification number, race, color or national origin, sex, age, and grade level;
  - b. The student's disability and ELL status, if applicable;
  - c. For each referral, name/identification number, race, color or national origin, sex, age, grade level, disability &/or ELL status, as applicable, of all other students involved in incident, whether or not they were referred for discipline themselves;
  - d. A detailed description of the misconduct;
  - e. A description of all approaches that were attempted in order to address the behavior at issue prior to referral for discipline;
  - f. The date of the referral, if any;
  - g. The specific offense(s) for which the referral was made;
  - h. The referring staff member (by staff identification/employee number);
  - i. The school and type of class from which the referral was made or other specific setting (e.g., bus referral, hallway referral);
  - j. The full names of each student and/or adult witness(es) of the incident;
  - k. The prior disciplinary history of the student;
  - l. The specific offense(s) for which the student was punished and the penalty/sanction imposed, or if no offense was charged or penalty/sanction imposed, the reason why;
  - m. The manifestation hearing determination, if applicable;
  - n. The date the penalty/sanction was imposed;
  - o. The length of the penalty/sanction (in number of days);
  - p. The staff member who assigned the penalty/sanction (by staff identification/employee number);
  - q. Whether school-based or local law enforcement were involved (e.g., law enforcement was notified of the offense);
  - r. Whether referral to law enforcement was mandatory, and if so, the statute or ordinance governing the referral;
  - s. Whether the student was arrested as a result of school-based or law enforcement involvement;
  - t. Any other non-punitive outcomes arising out of each referral incident, including, but not limited to, referral for homebound services or disability evaluation; and
  - u. 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 a version of events and/or an explanation for conduct prior to imposition of sanctions, and whether, when, and how parents were contacted in connection with each referral incident.

**REPORTING REQUIREMENT:** By June 30, 2018, June 30, 2019, and June 30, 2020, the District will provide to OCR the data referenced in this item for the just-completed school year.

9. The District will evaluate on an ongoing basis, but at least at the end of each school year, the data referenced in item 8 of the Agreement to assess whether the District is implementing its student discipline policies, practices and procedures in a non-discriminatory manner. The evaluation of the data will include, but not be limited to, the following:
  - a. Review of discipline referrals and penalties imposed, including instances where no penalty was imposed, to examine whether African American students are receiving a disproportionate number of referrals or discipline than students of other races;
  - b. Review of referrals to law enforcement to examine whether African American students are receiving a disproportionate number of referrals than students of other races;
  - c. Examination of whether certain teachers and administrators refer disproportionately high numbers of students of a particular race for discipline or are disproportionately responsible for imposing disciplinary sanctions that include exclusion from the educational program;
  - d. Examination of whether African American students are disproportionately referred for offenses in which subjective judgment is exercised, while students of other races are not;
  - e. Examination of whether all students are consistently referred for similar misbehaviors without regard to race;
  - f. Examination of whether penalties imposed are consistent with the penalties specified in the District's discipline policies and procedures and, where exceptions are made, whether they are justified.

**REPORTING REQUIREMENT:** By June 30, 2018, June 30, 2019, June 30, 2020, the District will provide to OCR the evaluations referenced in this item for the just-completed school year.

10. The District will establish uniform standards for the content of student discipline files at all District schools. The standards will be designed to ensure that the District keeps accurate and complete records of all discipline incidents, including those that do not result in sanctions. To this end, the District will develop a uniform District referral form to be used by all District staff when making disciplinary referrals and a uniform District disciplinary sanctions form to be used by all District staff when imposing disciplinary sanctions. At a minimum, the forms must capture sufficient information so the District can collect the data required in item 8 above. The District may use an electronic database for collecting and maintaining this information.

**REPORTING REQUIREMENT:** By January 12, 2018, the District will provide to OCR, for its review and approval, documentation of the proposed forms developed pursuant to this item of the Agreement.

11. Annually, the Superintendent or Superintendent’s designee(s) will meet with the principal of each District school to discuss the data gathered by the District under item 9 of this Agreement. The meetings will examine how discipline referrals and disciplinary sanctions imposed at each school compare to those at other District schools and consider any data suggesting that African American students are disproportionately referred for discipline or sanctioned more harshly than similarly situated students of other races. If the data suggests such disproportion, the meetings will explore possible causes for the disproportion and consider steps that can be taken to eliminate any racially discriminatory discipline. If applicable, the principals will be reminded of District resources that are available to assist them in addressing any racially discriminatory discipline. If the information suggests that the principal or other school staff are failing to adhere to the District’s student discipline policies, practices and procedures or are engaging in discrimination, the Superintendent or Superintendent’s designee(s) will take appropriate corrective action, including, but not limited to, additional training or disciplinary action. Where the data shows no disproportion, the meetings will examine steps that are being taken at the school to ensure the fair and equitable enforcement of the District’s student discipline policies, practices and procedures that might be adopted as “best practices” at those schools where disproportion exists.

**REPORTING REQUIREMENT:** By September 30, 2018, September 30, 2019, and September 30, 2020, the District will provide documentation to OCR of the meetings held pursuant to this item and provide for OCR’s review and approval a list of all steps taken as a consequence of information shared at the meetings.

12. Annually, each school principal will meet with the teachers and administrators at his/her school to discuss the data gathered by the District under item 9 of this Agreement. These meetings can take place in conjunction with the annual staff training.
  - a. The meetings will examine how discipline referrals and disciplinary sanctions imposed at the school compare to those at other District schools and consider any data suggesting that African American students are disproportionately referred for discipline or sanctioned more harshly than similarly situated students of other races.
  - b. If the data suggests such disproportion, the meeting will explore possible causes for the disproportion and consider steps that can be taken to eliminate any discriminatory discipline.
  - c. If applicable, the teachers will be reminded of District resources that are available to assist them in addressing any discriminatory discipline.
  - d. If information suggests that a teacher or administrator is failing to adhere to the District’s student discipline policies, practices and procedures or is engaging in

discrimination, the principal will take appropriate corrective action, including, but not limited to, additional training or disciplinary action.

- e. Where the data shows no disproportion or suggests 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 enforcement of the District’s student discipline policies, practices and procedures that might be shared as “best practices” with other teachers at the school and with other schools where disproportion exists.

**REPORTING REQUIREMENT:** By September 30, 2018, September 30, 2019, and September 30, 2020, the District will provide documentation to OCR of the meetings held pursuant to this item and provide for OCR’s review and approval a list of all steps taken as a consequence of information shared at the meetings.

13. The District will establish a discipline review team to review the disciplinary actions taken at each District school on an ongoing basis to ensure that the actions taken were non-discriminatory and consistent with the District’s student discipline policies, practices and procedures. If appropriate, the review may be done by random sampling. At the conclusion of each school year, the discipline review team will prepare a report that summarizes the results of its review at each school and includes recommendations on any changes to the District’s student discipline policies, practices and procedures that should be made in light of the team’s findings. The District will submit any recommendations or changes to the District’s discipline policies and procedures to OCR for review and approval before implementation. If at any point the discipline review team identifies any disciplinary action that was discriminatory or inconsistent with the District’s student discipline policies, practices and procedures, it will immediately report its finding to the Superintendent, who will take immediate corrective action. Under such a circumstance, the discipline review team will expand its review at the school in question to include every disciplinary action taken at the school during the school year.

**REPORTING REQUIREMENT:** By January 12, 2018, the District will provide documentation to OCR that the team has been established. By June 30, 2018, June 30, 2019, and June 30, 2020, the District will provide documentation to OCR of the review conducted by the team during the just-completed school year. The District will submit any recommendations proposed by the discipline review team to OCR for review and approval before implementation of the recommendations.

### **Later Amendment of Policies, Practices and Procedures**

14. Annually, the District will consider whether changes to its student discipline policies, practices and procedures are warranted based on all information collected pursuant to this Agreement. The District will submit any proposed changes to its student discipline policies, practices and procedures to OCR for review and approval prior to implementation.

**REPORTING REQUIREMENT:** By June 30, 2018, June 30, 2019, and June 30, 2020, the District will provide documentation to OCR of all proposed changes to policies, practices, and procedures being made pursuant to this item and the rationale for the changes. Within 30 days of OCR’s approval of any changes, the District will implement these changes and provide notice of these changes to the school community.

**Scope of Agreement and Monitoring**

The District understands that by signing this Agreement, it agrees to provide to OCR data and other information in a timely manner. Further, the District understands that, during the monitoring of this Agreement, OCR may visit the District, interview staff and students, 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, especially §§100.3(a) and (b), which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this compliance 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 sixty (60) calendar days to cure the alleged breach.

Approved and agreed to on behalf of the Lubbock Independent School District, Lubbock, Texas.

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Berhl Robertson, Superintendent

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Date