

## **RESOLUTION AGREEMENT**

### **Tangipahoa Parish School Board OCR Complaint No. 06-17-1462**

The U.S. Department of Education, Office for Civil Rights (OCR) and the Tangipahoa Parish School Board (TPSB or District) enter into this agreement to resolve the allegations in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures OCR that it will take the following actions to comply with the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulation, at 34 C.F.R. Part 100; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation, at 34 C.F.R. Part 106; Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of race, color, national origin, sex, and disability by recipients of Federal financial assistance and public entities, respectively.

Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions.

### **TRAINING AND PROFESSIONAL DEVELOPMENT<sup>1</sup>**

#### **Action Item 1**

By **May 31, 2018**, the TPSB will provide training, by a qualified individual,<sup>2</sup> to all staff and administrators at the XXXX XXXX XXXX XXXX (XXXX), including but not limited to staff members who are directly involved in processing, investigating and/or resolving complainants or other reports of harassment based on disability and all counselors, teachers, administrators, or other personnel who are likely to receive reports of harassment and/or bullying. The training should include instruction including but not limited to:

- (a) In-depth instruction on what type of conduct constitutes harassment, including addressing examples of harassment based on disability, and a discussion about the negative impact that such harassment has on the educational environment;
- (b) The responsibility of staff to report incidents of possible harassment based on disability, and the procedures for doing so, and instruction on how to recognize, prevent and respond appropriately to such harassment;

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<sup>1</sup> The trainings identified pursuant to Action Item 1 and Action Item 2 within this Resolution Agreement may be completed as part of a training completed for other reasons, XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX, as long as the training meets the requirements identified within Action Item 1 and Action Item 2.

<sup>2</sup> A person who is knowledgeable about the issues pertaining to the prohibitions against harassment and discrimination more generally pursuant to Section 504 and Title II, and statutory and regulatory requirements pursuant to each law.

- (c) The TPSB's responsibility under Section 504 and Title II to address incidents of harassment based on disability about which it knows or reasonably should have known;
- (d) Identification of designated staff at the TPSB and XXXX specifically who is/are available to answer questions or concerns regarding the TPSB's policies, practices, regulations or other issues related to harassment based on disability;
- (e) Identification of the individual(s) designated as Section 504 Coordinator and Title II Coordinator, and where individuals can find the respective Coordinator's address, phone number, and email address;
- (f) The TPSB's responsibility to take immediate and appropriate action to investigate incidents of harassment based on disability;
- (g) An outline of TPSB policies with respect to the prohibition of discrimination, including but not limited to harassment based on disability, and where individuals can find the respective TPSB policies;
- (h) How to conduct investigations concerning harassment based on disability in an adequate, reliable, and impartial manner, including the appropriate standards to apply in such investigations, an outline of the appropriate disciplinary measures for violations of the TPSB's anti-harassment policy in accordance with the TPSB's Student Code of Conduct;
- (i) If an investigation reveals that discriminatory harassment has occurred, the TPSB's responsibility to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring; and
- (j) The duty of the TPSB to respond to incidents of harassment based on disability even if the misconduct is also covered by an anti-bullying policy, and regardless of whether the student has complained, asked the school to take action, or identified the harassment as a form of discrimination.

#### Reporting Requirement

By **June 14, 2018**, the TPSB will provide documentation to OCR evidencing that the training required by Action Item 1 has been completed, including the identity of the individual conducting the training and the individual's qualifications, along with a copy of the materials or a summary of the material covered in such training and sign-in sheet(s) or other documentation showing who attended the training.

#### **Action Item 2**

By **May 31, 2018**, the TPSB will provide training, by a qualified individual,<sup>3</sup> to all teachers, administrators, school aides, school security officers, and any other personnel charged with supervising students, making disciplinary referrals, and/or imposing disciplinary sanctions at the XXXX. The training will include an opportunity for employees to raise any concerns or suggestions regarding the improvement of the District's and/or XXXX disciplinary policies, procedures, and practices. The training will:

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<sup>3</sup> A person knowledgeable about the laws and issues pertaining to the prohibitions of discrimination based on race, color, national origin, and sex, including the prohibitions against different treatment, contained within Title VI and Title IX respectively.

- (a) Emphasize the District's commitment to using its discipline policies, procedures, and practices to ensure a safe and orderly educational environment and the fair and equitable administration of its disciplinary policies and procedures<sup>4</sup> with respect to all students when making disciplinary referrals and imposing disciplinary sanctions;
- (b) Include detailed explanations of discipline policy; the definitions of offense categories with emphasis on the impact of subjective judgment in relationship to nondiscrimination when determining whether a student's conduct meets the definition of an offense; 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 HWMS staff members who make disciplinary referrals or impose disciplinary sanctions;
- (c) Include techniques on classroom management and de-escalation approaches; information on how to administer discipline fairly and equitably, including by addressing bias/implicit bias in discipline decision-making; resources that are available to staff members who need additional support with classroom discipline; resources that are available to students to assist them in developing self-management skills and social and emotional competencies; the value of recognizing and reinforcing positive student behavior; and the importance of ensuring, to the maximum extent possible and permitted by and consistent with the law, that misbehavior is addressed in a manner that does not require removal from the educational program; and
- (d) Offer the opportunity to raise concerns or suggestions regarding the improvement of the District's and/or XXXX disciplinary policies, procedures, and practices, including any issues related to nondiscrimination on the basis of race, color, national origin, or sex.

### Reporting Requirement

By **June 14, 2018**, the TPSB will provide documentation to OCR evidencing that the training required by Action Item 2 has been completed, including the identity of the individual conducting the training and the individual's qualifications, along with a copy of the materials or a summary of the material covered in such training and sign-in sheet(s) or other documentation showing who attended the training.

### Action Item 3

By **May 31, 2018**, the TPSB will disseminate a memorandum (this memorandum can be sent electronically) to all staff and administrators at the XXXX reminding staff and administrators the following things:

- (a) Students shall be disciplined in a manner consistent with disciplinary policies and procedures of the TPSB and XXXX, and commensurate with their culpability;
- (b) Where to locate the TPSB and the XXXX policies and procedures concerning student discipline; and
- (c) Title VI and Title IX prohibit discrimination on the basis of race, color, national origin, and sex, including specifically different treatment with respect to the severity, type, and/or frequency of discipline on the basis of race, color, national origin, and sex.

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<sup>4</sup> Including specifically treating all students fairly and equitably in the administration of discipline, without regard to race, color, national origin, or sex.

Reporting Requirement

By **June 14, 2018**, the TPSB will provide OCR with a copy of the memorandum sent to all administrators and staff, as set forth in Action Item 3, including a list of recipients of the memorandum and the TPSB's method of distribution.

**INDIVIDUAL STUDENT RELIEF**

**Action Item 4**

By **May 31, 2018**, the TPSB will complete an investigation into all allegations of harassment based on disability, identified in reference to this complaint. All information identified by previous investigatory actions taken by the TPSB concerning the respective allegations can be utilized in addition to all new or additional information obtained through investigatory actions pursuant to this agreement in reaching investigatory determinations. As part of the investigation, the TPSB will meet with and interview the Student, and the Student's parents, if they make themselves available to the TPSB. The TPSB will interview any witnesses they identify, if possible. If the TPSB determines that the allegations are substantiated, in whole or in part, the TPSB will take actions necessary to appropriately address the harassment. In addition, the TPSB will take steps to prevent any recurrence of the harassment and remedy the effects of the harassment toward the Student.

Reporting Requirement

By **June 14, 2018**, the TPSB will provide documentation to OCR indicating findings of the investigation required by Action Item 4.

**Action Item 5**

By **June 14, 2018**, the TPSB will provide notice to the Complainant of the outcome of its investigation and, if the TPSB substantiates the harassment as a result of the investigation, the TPSB will issue, by certified mail, a written offer to the Student to provide any remedy/remedies determined to be appropriate to remedy the effects of the harassment, including but not limited to counseling/academic/therapy services for the assessment and/or treatment of any psychological harm or any of the lingering effects from the harassment, XXXX XXXX XXXX XXXX XXXX XXXX XXXX.

Reporting Requirement

By **June 28, 2018**, the TPSB will provide OCR evidence of the notice provided to the Complainant required by Action Item 5.

### **Action Item 6**

By **May 31, 2018**, the TPSB will convene a group of knowledgeable persons<sup>5</sup>, including the Student's parent(s)/guardian(s), to determine whether as a result of the effects of bullying and/or harassment, the Student's needs have changed such that the Student is no longer receiving a FAPE. If the group of knowledgeable persons determines that the Student's needs have changed, the group will determine additional or different services, accommodations, and/or related aids which are needed by the Student. The group will also ensure that needed changes or additions are implemented promptly and that the determination of what changes or additions are needed avoids putting the onus on the Student to avoid or handle bullying or harassment. The group will also determine whether the Student needs compensatory and/or remedial services as a result of the TPSB's failure to reevaluate the Student during the XXXX school year and any educational loss suffered by the Student due to the TPSB's alleged in-school and out-of-school suspensions of the Student during the XXXX school year; and if so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services, including a timeline for completion. The TPSB will provide the Complainant notice of the procedural safeguards including the right to challenge the group's determinations through an impartial due process hearing.

If the Student no longer attends school within the TPSB, the TPSB will send a letter to the Student's parent(s)/guardian(s) by **May 31, 2018**, indicating that if the Student ever returns or reenrolls for school within the TPSB, within thirty (30) calendar days of reenrollment, the TPSB will:

- (a) Convene a group of knowledgeable persons, including the Student's parent(s)/guardian(s), to determine:
  - i. Whether as a result of the effects of bullying and/or harassment, the Student's needs have changed and determine all additional or different services, accommodations, and/or related aids which are needed by the Student; and
  - ii. Whether the Student needs compensatory and/or remedial services as a result of the TPSB's failure to reevaluate the Student during the XXXX school year and any educational loss suffered by the Student due to the TPSB's alleged in-school and out-of-school suspensions of the Student during the XXXX school year; and
- (b) Ensure that needed changes or additions are implemented promptly and that the determination of what changes or additions are needed avoids putting the onus on the Student to avoid or handle bullying or harassment.

### **Reporting Requirement**

Within 14 days (by **June 14, 2018**) of making its decisions with respect to the Student as indicated in Action Item 6, the TPSB will submit to OCR documents supporting the group's decisions. The documentation submitted shall include documentation showing

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<sup>5</sup> If a group of knowledgeable persons is convened, or an offer is made to convene a group of knowledgeable persons XXXX XXXX XXXX XXXX XXXX XXXX XXXX pursuant to other Resolution Agreements or for other reasons, those actions may meet the requirements of Action Item 6, as long as the specific requirements of Action Item 6 are met.

the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any special education and/or related aids and services to the Student, a description of and schedule for providing any compensatory and/or remedial services to the Student, and demonstrating that notice of procedural safeguards was provided to the Student's parent(s)/guardian(s). If the Student no longer attends school within the TPSB, the TPSB will provide OCR with a copy of the letter indicated within Action Item 6, documentation demonstrating that the letter was sent, and documentation demonstrating that the Student no longer attends school within the TPSB.

### **Action Item 7**

By **May 31, 2018**, the TPSB will review the Student's discipline record pertaining to (1) in-school suspensions received by the Student during the XXXX school year and (2) out-of-school suspensions received by the Student during the XXXX school year. The TPSB will review the basis for the Student's receipt of the above indicated discipline, including all information contained within the Student's disciplinary records and other supporting information necessary to assess the basis for the TPSB's disciplinary determinations. As part of the review, the TPSB will assess and determine:

- (a) Whether all disciplinary actions/considerations concerning the Student are consistent with disciplinary policies and procedures of the TPSB and XXXX, and commensurate with the Student's culpability;
- (b) Whether all disciplinary actions/considerations concerning the Student are consistent with disciplinary determinations/considerations concerning other students; and
- (c) Whether any disciplinary actions/considerations were a result of, based on, or motivated by the Student's race, color, national origin, and/or sex;

If the TPSB determines that each of the disciplinary actions/considerations was warranted, the TPSB will provide OCR with a narrative, explaining the basis of this determination. If the TPSB determines that any/all of the disciplinary actions/considerations were not warranted and/or not consistent with disciplinary policies and procedures of the TPSB and XXXX, and commensurate with the Student's culpability, the TPSB will expunge the Student's discipline record pertaining to the respective disciplinary actions/considerations.<sup>6</sup> Within two weeks of expunging the Student's discipline record, the TPSB will provide the Complainant with a copy of the Student's discipline record (this may be done electronically) showing that the discipline record has been expunged.

### **Reporting Requirement**

By **June 14, 2018**, the TPSB will provide OCR a copy of: (1) a narrative, explaining the basis for any determination by the TPSB that the disciplinary actions/considerations were warranted if applicable; (2) the Student's discipline record concerning the actions set forth in Action Item 7, demonstrating that they have been expunged, if applicable pursuant to the

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<sup>6</sup> If the TPSB has expunged the Student's discipline record on a basis unrelated to this specific OCR complaint, the TPSB may indicate that as well.

requirements of Action Item 7; and (3) any documentation that the TPSB provided to the Complainant concerning the Student's discipline record being expunged, if applicable.

The District understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview 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 regulations implementing Title VI, at 34 C.F.R. §100.3; Title IX, at 34 C.F.R. § 106.31; Section 504, at 34 C.F.R. § 104.4; and Title II, at 28 C.F.R. §§ 35.130. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

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.

This Agreement will become effective immediately upon the signature of the District's representative below.

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**Mark Kolwe, Superintendent**  
**Tangipahoa Parish School Board**

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**Date**