

**Resolution Agreement**  
**BASIS Scottsdale**  
**OCR Complaint # 08-16-1676**

In order to resolve an allegation in Case Number 08-16-1676, filed against BASIS Scottsdale (School) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the School voluntarily agrees to implement the following Resolution Agreement. The complaint was opened to investigate allegations that the School failed to comply with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d-7, and its implementing regulation at 34 C.F.R. Part 100. Title VI and its implementing regulation prohibit discrimination on the basis of race, color or national origin by recipients of federal financial assistance from the U.S. Department of Education. Specifically, the School voluntarily agrees to enter into this Resolution Agreement to resolve the allegation that Student A was subjected to racial harassment.

This Agreement shall not in any way be construed as an admission by the School that it has acted wrongfully or violated any laws, nor shall it be construed as a finding by OCR that BASIS Scottsdale has acted wrongfully or violated any laws. The School specifically disclaims any liability to or wrongful acts against Student A, Student B or any other person.

**Review of Policies, Practices, and Procedures**

1. *Revised Discrimination and Harassment Policies.* The School will review and revise, as necessary, its nondiscrimination and harassment Policies, Practices, and Procedures to ensure they adequately address and provide the School sufficient options for responding promptly and appropriately to incidents of discrimination and harassment. At a minimum, the Policies, Practices, and Procedures will provide the following:
  - a) a statement setting forth the School's commitment to having a school environment free from all harassment on the basis of race, which will explain that the School prohibits race harassment in the school environment, including all academic, extracurricular and school-sponsored activities, encourage students to immediately report incidents of harassment, emphasize that staff are required to promptly report incidents of harassment, and specify that the School will investigate formal and informal complaints of harassment;
  - b) examples of the type of conduct and behavior that is covered by the Policies, Practices, and Procedures, including examples of staff-to-student and student-to-student conduct;

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- c) examples of the kinds of activities and sites where prohibited conduct could occur;
- d) an explanation of how to report harassment and/or file a complaint, formally or informally, including specific information regarding the name or title and contact information (including office address, e-mail address, and telephone number) for the School employee(s) responsible for receiving formal and informal complaints;
- e) a description of the School's formal complaint procedures, including a Complaint Form, timeframes for the School's investigation of a complaint, and a requirement that written notice of the outcome be provided to the parties for both formal and informal complaints;
- f) a requirement that the designated School employee(s) document all reports of incidents of harassment and that the School establish a protocol for recordkeeping that complies with the recordkeeping requirements for Arizona charter schools;
- g) a requirement that School staff members who observe acts of harassment based on race take reasonable steps to intervene to attempt to stop the harassment, unless circumstances would make such intervention inappropriate or dangerous;
- h) prohibition of retaliation against persons who report harassment or participate in related proceedings;
- i) identification of means the School will use to investigate incidents of harassment, including but not limited to the following:
  - i. the various steps the School will take to conduct adequate, reliable, and impartial investigations of reported incidents;
  - ii. an assurance that the School will take reasonable action that is intended to stop the harassment, remedy the harassment, and prevent recurrence; and
  - iii. a statement that the School uses a preponderance of the evidence standard (*i.e.*, it is more likely than not that harassment occurred) to resolve complaints of harassment or discrimination.

**REPORTING REQUIREMENT:** By May 15, 2017, the School will provide OCR with documentation demonstrating implementation of item #1 for OCR's review and approval. The School will respond to any feedback OCR provides regarding the revised policies.

2. *Adoption and Publication.* Within 30 days after OCR's approval of the proposed changes to the School's revised policies referenced in item #1, the School will publish the revised policies on its website and will include them in the Parent Student Handbook for the 2017-18 school year.

**REPORTING REQUIREMENT:** Within 30 days after OCR's approval of the proposed changes to the School's policies, the School will provide OCR with

documentation demonstrating implementation of the website publication requirement of item #1, including a copy of the policies and the URL where the policies are located on the School website. By September 1, 2017, the School will provide OCR with a copy of the 2017-18 Parent Student Handbook.

### **Training**

3. *Training for Staff.* The School will retain a qualified individual, who may be a BASIS employee, subject to OCR's approval, which shall not be unreasonably withheld, to provide training to all School teachers, administrators, and school aides, and any other School personnel charged with supervising School students, on the Title VI regulation at 34 C.F.R. § 100.3, which was at issue in this case, including but not limited to the responsibility of staff to report incidents of possible discrimination or harassment and the procedures for doing so, and provide instruction on how to recognize, take steps reasonably designed to prevent and respond appropriately to such discrimination or harassment. The training will also cover the School's revised policies referenced in items #1 above.

**REPORTING REQUIREMENTS:** By July 1, 2017, the School will provide OCR with information regarding the proposed trainer, including the trainer's qualifications to deliver the required training, and provide a brief description of the training that is planned. The School will respond to any feedback OCR timely provides regarding the qualifications of the trainer and description of the training.

**REPORTING REQUIREMENTS:** By the later of August 31, 2017 or within 45 days of the date on which OCR has approved the trainer and planned training, the School will provide the training to School staff identified in this item. Within 10 calendar days of the provision of training to School staff, the School will provide OCR documentation of the completed training, including sign-in sheets with participants' names and positions, agendas, and all materials distributed.

4. *Training for Students.* The School will retain a qualified individual, who may be a BASIS employee, subject to OCR's approval, which shall not be unreasonably withheld, to provide an age appropriate program for all School students, which will address racial harassment (the program may also address, at the School's discretion, national origin harassment, sexual harassment, and disability harassment), in order to promote respect and tolerance for others and to avert the establishment of a hostile environment based on race for students enrolled in the School. The School will remind students of its commitment to having a school environment free from all harassment and explain to students what they should do if they believe they or other students are being harassed. The program will include a review of the School's nondiscrimination policies and code of conduct, including an explanation of what harassment on the basis of race is, as well as potential disciplinary sanctions related to findings of violations of its policies and code of conduct. The School will also provide students with the name and contact

information of a School employee that the students may contact if they wish to confidentially discuss any concerns they have.

**REPORTING REQUIREMENTS:** By April 30, 2017, the School will provide OCR with information regarding the proposed program facilitator, including the facilitator's qualifications to deliver the program, and provide a brief description of the program that is planned. The School will respond to any feedback OCR timely provides regarding the qualifications of the facilitator and description of the program.

**REPORTING REQUIREMENTS:** By the later of May 31, 2017 or within 45 days (excluding days in June and July during which the School is closed) of the date on which OCR has approved the facilitator and planned program, the School will provide the program to School students. Within 10 calendar days of the provision of the program to School students, the School will provide OCR documentation of the completed program, including all materials distributed.

### **Climate Check**

5. *Climate Survey:* The School will develop or engage someone to develop and, by May 31, 2017 will conduct a School climate survey<sup>1</sup> to assess the perceptions of students regarding the presence and impact of harassment at the School. Based upon the results of the Climate Survey, the School will consider whether further revisions to its nondiscrimination policies, practices and procedures or additional staff or student training are appropriate. If the School determines that further revisions or training are appropriate, it shall make such revisions to its policies, practices and procedures or provide additional training no more than 90 days after the administration of the climate survey.

**REPORTING REQUIREMENTS:** By June 30, 2017, the School will provide OCR with a copy of the climate survey, a summary of the results, and its plans (if any) of action based on the results of the climate survey. If the School determines that no additional revisions or trainings are necessary, it shall provide OCR a written statement summarizing the reasons for its determination.

### **Individual Relief**

6. *Counseling.* By April 1, 2017, the School will inform the Complainants, in writing, that it will make a licensed clinical social worker or counselor of the School's sole choice available to meet with Student A for 30 minutes every month at a location on the School campus for the remainder of the 2016-17 school year and throughout the 2017-18 school year, with the exception of the months of June and July during each year, when the School is closed. The counseling will

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<sup>1</sup> Participation in the survey by students will be entirely voluntary, and the survey will be conducted in a manner consistent with applicable law, including A.R.S. § 15-117.

provide Student A with an opportunity to discuss the effects, if any, of any alleged harassment. If Student A refuses this offer in whole or in part or does not attend any or all of the required counseling sessions, regardless of the reason for the refusal or non-attendance, the School shall nonetheless be deemed to have complied with this provision by making the counseling sessions available to Student A. The School and counselor shall make reasonable efforts to schedule the counseling sessions at a date and time each month that is convenient to Student A and the Complainants, but the School and counselor shall have no obligation to comply with unreasonable scheduling demands.

**REPORTING REQUIREMENT:** By May 31, 2017, December 15, 2017, and May 31, 2018, the School will provide OCR with the dates of all counseling sessions provided or offered to Student A.

7. *Response to Harassment.* Effective in the 2016-2017 school year, and for each year thereafter in which Student A is enrolled in the School, the School will take any steps necessary to protect Student A from harassment or bullying on any basis on School grounds and in School-sponsored activities. These steps may include, but are not limited to, developing a safety plan, identifying a specific contact person(s) to whom Student A should report incidents of harassment or bullying if they occur, identifying a place in the school where Student A can go during the day, as needed, and checking in with Student A on a periodic basis (at least monthly) to ascertain whether any instances of harassment, bullying or retaliation have occurred and taking prompt and appropriate action in accordance with this Agreement if any such harassment, bullying and/or retaliation has occurred.

**REPORTING REQUIREMENT:** By May 31, 2017 and May 31, 2018, the School will provide a report identifying any incidents of harassment of Student A about which it became aware, a brief description of any steps taken to respond to the harassment, and all documentation related to any such incident.

The School understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the School understands that during the monitoring of this Agreement, if necessary, OCR may visit the School, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the School has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI, at 34 C.F.R. § 100.3(a) and (b)(1) and (2) as related to the allegations regarding Student A, which were at issue in this case. The School understands that, consistent with Section 110(k) of OCR's *Case Processing Manual (CPM)*, OCR will give careful consideration regarding whether to close any complaint allegations related to the same issues that are covered by this Agreement if such a complaint or complaints are filed while the monitoring of this Agreement is open.

The School understands that OCR will not close the monitoring of this Agreement until OCR determines that the School has fulfilled the terms of this Agreement and is in

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compliance with the regulations implementing Title VI, at 34 C.F.R. § 100.3(a) and (b)(1) and (2) as related to the allegations regarding Student A, which were at issue in this case. OCR shall notify the School promptly in writing of the date on which OCR concludes its monitoring of the Agreement.

The School 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 School written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Pursuant to Section 503 of the *CPM*, this Agreement may be modified in whole or in part in writing pursuant to agreement between the School and OCR at any time, and any modifications will be appended to the original Agreement.

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For the School

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Date