

Resolution Agreement
Del Norte County Unified School District
Case Number 09-13-1279

Without admitting to any violation of the law, the Del Norte County Unified School District (District) agrees to take the following actions in order to resolve the above referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), under Title VI of the Civil Rights Act of 1964.

I. Individual Remedy

- (1) The District will promptly schedule and hold a meeting with the Complainant to discuss counseling services that Student A¹ (Student) may need to address the effects of the racial harassment of the Student by other students that began in April, 2013. If the Complainant requests counseling for the Student, the XXXXXXXX Elementary School will develop a plan to provide the Student with individual counseling sessions with a District-employed licensed counselor at no cost to the Complainant. The number of counseling sessions, which shall not exceed one time per week, and the individual counselor must be agreed to by the Complainant. Any counseling sessions for the Student will begin no later than 30 days after the District receives OCR's notice of approval of the counseling plan.

Reporting Requirements:

- a) By April 13, 2015, the District will provide OCR a report summarizing the meeting. The report will identify the participants in the meeting, explain the decisions made concerning counseling services for the Student agreed to at the meeting, explain the reasons for the decisions, and establish a timeline or schedule for providing any agreed upon counseling services (*i.e.*, the counseling plan). OCR will review the report within 15 days and notify the District of any questions or concerns. The District will begin implementing the plan after receiving approval from OCR.
- b) Within 30 calendar days after the last counseling session, the District will provide OCR a report that includes documentation of the dates, times, and locations that counseling services were provided, and the name(s) of the service provider(s).

II. School and District-wide Remedies

- (1) As used in this Agreement, the term racial "harassment" includes the use of derogatory language (including racial epithets), intimidation, and threats, unwanted physical contact and/or physical violence, and the use of derogatory images in graffiti, pictures or drawings, notes, e-mails, postings on internet and social networking sites and/or phone messages, based on race, color, or national origin.

¹ The District is aware of the identities of the Complainant and Student, and OCR is withholding their names to protect their personal privacy.

- (2) The District agrees to take all steps reasonably necessary to ensure that students enrolled in XXXXXXXX Elementary School are not subject to a hostile environment based on race or national origin, and to respond promptly and adequately to allegations of harassment on the basis of race or national origin. To this end, XXXXXXXX Elementary School will promptly investigate all incidents of harassment of its students on the basis of race that are known or reasonably should be known to XXXXXXXX Elementary School and will take appropriate action to respond to complaints, which may include disciplinary action against students and/or staff found to have violated the District's harassment policies. XXXXXXXX Elementary School will take prompt and effective responsive action to end a racially hostile environment if one has been created, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment on affected student(s).
- (3) The Superintendent will issue a statement that will be published on the District's website, printed in appropriate publications reaching all XXXXXXXX Elementary School parents/guardians, students, and employees, and posted in prominent locations at XXXXXXXX Elementary School, stating that the District does not tolerate acts of harassment, including acts of harassment based on race, color, or national origin. The statement will encourage any student who believes he or she has been subjected to harassment or a hostile environment based on race, color, or national origin to report the harassment or hostile environment to the District and identify the process that should be used to file such complaints. It will state the District's commitment to conducting a prompt investigation. The statement will warn that students found to have engaged in acts of harassment or other acts that create a hostile environment based on race, color, or national origin may be disciplined and make clear that such discipline may include, if circumstances warrant, suspension and expulsion. The statement will encourage students, parents/guardians, and District staff to work together to prevent acts of harassment of any kind.

Reporting Requirements:

- a) By April 13, 2015, the District will submit a draft of the statement to OCR. OCR will review and mutually agree upon the statement with the District within 30 calendar days of receipt. Within 10 calendar days of mutual agreement, the District will provide OCR with documentation and web links confirming its implementation of this step, including a copy of the final approved statement and evidence of its distribution as described above.
- (4) The District has in place Board Policy 5145.3 Nondiscrimination/Harassment, Board Policy 1312.3 Uniform Complaint Procedures, and Administrative Regulation 1312.5 Complaints Concerning Discrimination (Policies and Procedures) which contain a prohibition of discrimination, including harassment, based on race and procedures for responding to complaints of race discrimination. The District will review and propose to OCR a draft of revisions to the Policies and Procedures as necessary to ensure the Policies and Procedures adequately communicates the prohibition against racial harassment and provides an adequate process for responding promptly and appropriately to incidents of harassment on the basis of race.

- a) At a minimum, the District will include the following in Board Policy 5143.5 if they are not already included:
- 1) A statement setting forth the District's commitment to having a school environment free from all discrimination, including harassment, on the basis of race, color, and national origin. The statement must explain that the District prohibits race, color, and national origin harassment in the school environment, including all academic, extra-curricular and school-sponsored activities. The statement will encourage students to immediately report incidents of harassment. The statement will emphasize that staff must promptly report to the designated staff member, as required in accordance with item 5) below, all incidents of harassment of which they become aware, regardless of whether a formal complaint is filed. The statement will specify that the District will investigate formal and informal complaints of harassment.
 - 2) Examples of the type of conduct and behavior that is covered by the policy, including examples of staff-to-student and peer-to-peer conduct. For example, the District should make readers of its Policy and Procedures aware that harassing conduct may take many forms, including conduct that may be physically threatening, harmful, or humiliating or racial/ethnic slurs, epithets, threats, verbal abuse, derogatory comments, degrading descriptions, jokes, derogatory posters, notes, stories, cartoons, drawings, or pictures. A student can be harassed by other students, by staff, or by third parties. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
 - 3) A statement that discrimination, including harassment, are prohibited in all activities operated or sponsored by the District.
 - 4) An explanation of how to report harassment and/or file a complaint (formally and informally).
 - 5) A requirement that school personnel report incidents of alleged student-on-student and staff-to-student harassment that may be based on race, color, and/or national origin that school personnel witness or of which they have received reports or information, whether such incidents are verbal or physical or amount to harassment in other forms.
 - 6) Identify the procedure (AR 1312.5, Uniform Complaint Procedures) that should be used for filing complaints of discrimination, including harassment, based on race, color, or national origin.
 - 7) A statement that retaliation is prohibited against persons who report harassment or participate in related proceedings.
- b) At a minimum, the District will include the following in Board Policy 1312.3 and Administrative Regulation 1312.5 if they are not already included:

- 1) A statement that the uniform complaint procedure shall be used to investigate and resolve complaints alleging unlawful discrimination.
- 2) A definition of the term racial harassment.
- 3) The name or title, office address, and telephone number for the District employee(s) responsible for receiving and investigating reports of harassment.
- 4) Descriptions of the procedures that will be used to receive, investigate and resolve complaints, including how to file complaints, the availability of interim measures, the availability of optional informal resolution at the site level, and the steps that will be taken as part of formal complaint investigation, and notice of the outcome to the complainant. The description of the procedures will include the following:
 - i. A requirement for documented interviews with individuals who have information about the complaint, including but not limited to, the complainant, the person accused of discrimination, witnesses, and anyone mentioned as having relevant information.
 - ii. A statement that interviews of the complainant, the accused, and all other witnesses are conducted privately, separately, and are confidential. At no time will the complainant and the accused be interviewed together.
 - iii. Review of any records, notes, statements, or other documents related to the complaint.
 - iv. Notice of the outcome of the complaint, including:
 1. The findings of fact based on the evidence gathered;
 2. As to each allegation, the District's conclusion(s) as to whether discrimination occurred, and the reasons or rationale for such conclusion(s);
 3. The consequences imposed on any individual found to have engaged in discrimination that relate directly to the subject of the complaint, such as requiring that the individual found to have engaged in the discrimination stay away from the complainant, prohibiting the individual from attending school for a period of time, or transferring the individual to other classes or another school; and
 4. Notice to the complainant to immediately report any reoccurrence of the conduct or of acts of retaliation to the District.
- 5) An expressed commitment that after a finding of discrimination, the District will take appropriate remedial action to stop the discriminatory conduct, to prevent recurrence,

and to address its effects on the complainant and any other relevant individuals. Examples of appropriate action include:

- i. Interventions for the individual who engaged in the discrimination, such as parent or supervisor notification, discipline, counseling, or training.
 - ii. Interventions for the complainant, such as counseling, academic support, and information on how to report further incidents of discrimination.
 - iii. Separating the complainant and the individual who engaged in the discrimination, provided the separation does not penalize the complainant.
 - iv. Follow-up inquiries with the complainant and witnesses to ensure that the discriminatory conduct has stopped and that they have not experienced any retaliation.
 - v. Training or other interventions for the larger school community to ensure that students, staff, and parents understand the types of behavior that constitute discrimination, that the District does not tolerate it, and how to report it.
- 6) A statement that retaliation is prohibited against persons who report harassment or participate in related proceedings.

Reporting Requirements:

- c) By May 11, 2015, the District will provide OCR with a draft of the modified Policies and Procedures. OCR will review and mutually agree upon the Policies and Procedures with the District within 30 calendar days of receipt. Within 60 calendar days of mutual agreement, the District will formally adopt the Policies and Procedures and provide OCR with documentation that the new Policies and Procedures have been adopted.
- d) Also within 15 days of adopting the Policies and Procedures, the District will disseminate the Policies and Procedures to all administrators, who will be directed to discuss the Policies and Procedures with their site staff and provide the web link to staff. The

revised Policies and Procedures will also be posted on the District's website and available to the public, students, administrators, staff, and parents at the District office.

- (5) The District will provide training to all XXXXXXXX Elementary School employees, staff, and administrators (including the Superintendent, and XXXXXXXX Elementary School bus and other transportation drivers) who work with or supervise students on its revised Policies and Procedures prohibiting discrimination, including harassment, based on race, color and national origin. The training will specifically include:
- a) The definition and examples of racial harassment, as well as the District's policy prohibiting racial harassment.
 - b) An explanation of the Administrative Regulation 1312.3, the District's complaint procedure for resolving complaints of race discrimination, including harassment.
 - c) Identification of the individual, by name or title, and contact information, responsible for receiving and investigating reports of harassment.
 - d) A statement of District personnel's responsibility to report incidents of possible harassment, the procedures for doing so, and instructions on how to recognize, prevent, and respond appropriately to such reports.
 - e) A statement of the requirement that a student or parent/guardian who has reported alleged incidents of racially harassing behavior must be notified of their right to file a formal complaint pursuant to the District's Uniform Complaint Procedures, Administrative Procedure 1312.3, and be offered a copy of the procedures.
 - f) A statement that the District is responsible under Title VI of the Civil Rights Act of 1964 for responding appropriately to reports of racial harassment, even if a formal complaint is not filed.

Reporting Requirements:

- g) Within 30 calendar days after the adoption and implementation of the Policies and Procedures, the District will provide OCR a report that includes the District's proposed training materials. OCR will review and mutually agree upon the materials with the District within 30 calendar days of receipt. Within 15 calendar days of mutual agreement, the District will conduct the training.
 - h) Within 10 calendar days after the completed training activity, the District will provide OCR a report that includes documentation that demonstrates the training occurred, including sign-in sheets, and a copy of the final materials used by the District in the training.
- (6) The District will provide training to all District certificated administrators who are directly involved in processing, investigating, and/or resolving complaints or other reports of race

discrimination, including harassment (investigative training) after it has adopted the Policies and Procedures, and for new, certificated administrators with these responsibilities after they are hired. The training will specifically include:

- a) A review of the District Policies and Procedures that focuses specifically on investigation of discrimination complaints, including instructions on how to conduct and document reliable and impartial investigations of alleged discrimination, including harassment based on race, and on the appropriate legal standards to apply in such an investigation.
- b) A statement that a student or parent/guardian who has reported alleged incidents of racially harassing behavior must be notified of the steps the District is taking in response to the reported incident(s), and guidance to staff on how and when to provide this notification.
- c) A description of the steps the District will take in response to any harassing behavior discovered, including actions to ensure that the offending student(s) understands the seriousness of the alleged offense and, where applicable, progressive disciplinary steps.

Reporting Requirements:

- d) Within 60 calendar days after the adoption and implementation of the Policies and Procedures, the District will provide OCR a report that includes the District's proposed investigative training materials. OCR will review and mutually agree upon the materials with the District within 30 calendar days of receipt. By September 1, 2015, the District will conduct the investigative training.
 - e) Within 10 calendar days after the completed investigative training, the District will provide OCR a report that includes documentation that demonstrates the investigative training occurred, including sign-in sheets, and a copy of the final materials used by the District in the investigative training.
- (7) The District will provide an age-appropriate informational program for all XXXXXXXX Elementary School students which will address racial harassment in order to promote respect and tolerance for others and to avert the establishment of a hostile environment based on race, color or national origin. The District may provide this training as part of the school's Positive Behavior Intervention System ("PBIS"). The District will remind XXXXXXXX Elementary School students of its commitment to having a school environment free from all racial harassment and explain to students what they should do if they believe they or other students are being harassed based on race, color, or national origin. The program will include an age-appropriate review of the District's racial harassment Policies and Procedures, including an explanation of what racial harassment is, information about the effects of racial harassment on the student who is harassed and on the school environment, a clear statement that racially harassing behavior is prohibited at school, and how students should report racially harassing behavior if they are aware of, or subjected to, it, and the disciplinary sanctions related to findings of violations of its racial harassment Policies and Procedures.

The District will also provide students with the name or title, and contact information of a District employee, such as a counselor, that the students may contact if they wish to confidentially discuss any concerns they have about racial harassment, and remind students of the availability of counseling services. The District will distribute written materials during the program that contain the information discussed.

Reporting Requirements:

- a) By May 11, 2015, the District will provide OCR with a description of the informational program for students, including the schedule for the delivery of the program. OCR will review and mutually agree upon the program with the District within 15 calendar days of receipt. Within 15 calendar days of mutual agreement, the District will initiate the program and complete it according to the approved schedule.
 - b) Within 10 calendar days after the student informational program is completed, the District will provide OCR a report that includes documentation that demonstrates the program has been provided. The District report will include a copy of the materials used in the student informational program and a description of who attended the program.
- (8) The District will administer a school climate survey at XXXXXXXX Elementary School 6 months after the student informational program is completed, or before the end of the 2014-15 school year, whichever comes first. The XXXXXXXX Elementary School Site Council will function as a School Climate Survey Working Group (Working Group) to make recommendations to the District regarding the XXXXXXXX Elementary School climate survey. The District will designate one or more District employees to coordinate the Working Group's meetings and activities, and the employee(s) will be responsible for informing the District of the Working Group's recommendations. The District will notify XXXXXXXX Elementary School parents of an opportunity to provide input or comments about the survey to the Working Group. The Working Group will be tasked with providing the District recommendations and input regarding strategies for an effective climate survey, including gathering useful information to improve the School climate on the issue of race, color, and national origin and to promote inter-racial understanding at the XXXXXXXX Elementary School.

After the XXXXXXXX Elementary School climate survey is completed, the District will review the results to assess whether any additional student or other training is needed to further improve the XXXXXXXX Elementary School climate, and to promote inter-racial understanding at the XXXXXXXX Elementary School.

Reporting Requirements:

- a) At least 45 calendar days before the scheduled climate survey administration date, the designated District employee who coordinated the Working Group will provide to the District Superintendent a written summary of the Working Group's recommendations.

- b) At least 30 calendar days before the scheduled climate survey administration date, the District will provide to OCR a report that includes a copy of the proposed school climate survey, along with the District’s explanation of how the District plans to implement the school climate survey. OCR will review and mutually agree upon the documents with the District within 15 calendar days of receipt.
- c) Within 10 calendar days after the climate survey is conducted, the District will provide OCR a copy of the final survey together with a report summarizing the results of the survey, and a description of further activities, if any, the District plans in response to the survey results.

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 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, at §§100.3(a) and (b), which were at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title VI, at §§100.3(a) and (b), which were at issue in 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 a minimum of sixty (60) calendar days to cure the alleged breach.

Participation in the survey by students will be entirely voluntary, and the survey will be conducted in a manner consistent with applicable law.

Approved and agreed to on behalf of Del Norte County Unified School District.

_____/s/_____
Superintendent

_____03/16/2015_____
Date