

## **RESOLUTION AGREEMENT**

### **Yav Pem Suab Academy OCR Case Number 09-14-1170**

The U.S. Department of Education (Department), Office for Civil Rights (OCR) initiated an investigation of a complaint alleging that African-American students were subjected to discrimination on the basis of race in the administration of student discipline at Yav Pem Suab Academy (YPSA), and that the school had failed to respond adequately to a complaint of discrimination against a student and his parents. The investigation was conducted under Title VI of the Civil Rights Act of 1964, 42, U.S.C. § 2000d *et seq.*, and its implementing regulations at 34 C.F.R. part 100, which provide, in relevant part, that no program or activity receiving Federal financial assistance from the Department may discriminate on the basis of race or national origin.

Pursuant to OCR's Case Processing Manual, OCR has the authority to resolve an investigation by means of a resolution agreement (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, YPSA expressed its desire to voluntarily resolve the issues in the review.

Without admitting to any violation of law, YPSA voluntarily agrees to the terms of this Agreement and agrees to comply fully with its provisions. This commitment does not relieve YPSA from fulfilling its other obligations under Title VI or resolve any other individual or class complaint against YPSA under Title VI.

Under this agreement, YPSA has voluntarily agreed to take action in the following areas:

#### **I. Expert Collaboration**

- A. YPSA will designate an employee to serve as the its Discipline Supervisor, who will be responsible for ensuring that the implementation of YPSA's policies concerning discipline is fair and equitable, and for addressing complaints from parents, guardians, students, and others regarding the implementation of YPSA's disciplinary policies. YPSA will publish this individuals' name and/or title, office address, e-mail address, and telephone number on its website, in all school publications regarding discipline, and in any notices that YPSA sends to parents and guardians annually.
- B. YPSA will retain a consultant, who may be a YPSA staff member, with expertise to support YPSA's goal of ensuring that discipline is appropriately and equitably applied to all students and that the school maximizes the use of strategies for teaching, encouraging and reinforcing positive student behavior that do not

require engagement with the discipline system. YPSA will work with the consultant in the following areas:

1. Reviewing and, as appropriate, revising policies and procedures concerning discipline;
  2. Examining data concerning referral of students for discipline and administration of all categories of disciplinary actions to determine whether any aspect of the discipline process results in disproportionate rates of discipline of African-American students;
  3. Addressing all practices identified as resulting in disproportionate rates of discipline of African-American students;
  4. Identifying, planning, adopting and implementing alternative classroom management programs;
  5. Identifying other strategies for meeting YPSA's goal for ensuring that discipline is appropriately and equitably applied to all students; and,
  6. Implementing the provisions of this Agreement.
- C. By November 13, 2015, YPSA will provide OCR the name and qualifications of the individual(s), appointed as its Discipline Supervisor and implementation of the notice requirements pursuant to Section I.A. By December 4, 2015 of the academic years for 2015-16 and 2016-17 and 2017-18, YPSA will provide copies of all complaints received about discipline by the administrator in Section I.A.
- D. By December 13, 2015, YPSA will identify to OCR the expert consultant who is working with the YPSA pursuant to Section I.B., and provide OCR with a copy of the agreement with the consultant and/or other documentation describing the consultant's function(s) and the duration of his/her retention. YPSA will include the expert consultant's qualifications.
- E. By November 2, 2015, YPSA, in collaboration with the consultant, will develop a plan for identifying and addressing the causes of the disparity in discipline based on race. The plan will be based on an examination of referral data, a review of YPSA's discipline policies, and practices, and consideration of the stakeholder input described in Section III. YPSA will provide OCR with a copy of the plan by November 2, 2015, and will work collaboratively with OCR to address any comments or concerns.

## **II. Preventative Strategies, Early Intervention and Support for At-Risk Students**

- A. YPSA will ensure that its staff employ a range of interventions before referring a student for discipline or otherwise referring a student out of the classroom unless it can be documented that the student's conduct threatens the safety of students

and/or staff or results in disruption to the educational environment that can only be reasonably remedied by such a referral.

- B. YPSA, in collaboration with the consultant, will evaluate the Lifelong Guidelines and LifeSkills program to determine its effectiveness. YPSA will also consider whether alternative programs or revisions to the YPSA Lifelong Guidelines and LifeSkills program are needed to provide alternatives to discipline that positively and appropriately encourage and reinforce appropriate student behavior, and that are designed to achieve the overarching goal of this Agreement and create equitable, appropriate, and restorative discipline practices.
- C. YPSA, in collaboration with the consultant, will develop a plan for implementing school-based services to support students experiencing social and emotional challenges resulting from events occurring outside of school that may affect the students' ability to learn. The plan will include counseling services and training for school staff to recognize and refer parents and students for these support services.
- D. YPSA will provide school-based supports for struggling students whose behavior repeatedly disrupts their education and/or the education of other students.
- E. By November 2, 2015, YPSA will provide OCR with the following information:
  - 1. A description of the program(s) selected by YPSA to provide alternatives to discipline, and how they will be used to ensure the use of equitable, appropriate, and restorative discipline practices;

A detailed description of the services and interventions that will be available at the school, including the supports for struggling students.

### **III. Input from Stakeholders**

- A. YPSA will take the following steps to assess and respond to school climate issues:
  - 1. *School Forums*: By April 26, 2016, YPSA will provide an annual opportunity for students to discuss with teachers and administrators any matters relating to discipline policies and practices, including non-discrimination, and provide their input for any improvements in the school discipline process. YPSA can determine the format for student input, depending upon the age and maturity of the students. By April 26, 2016, YPSA will also convene a school forum at which parents and other interested members in the community will have the opportunity to provide input concerning discipline policies and practices. YPSA will provide prior notice of when the school forums will take place;

2. *Climate Surveys*: In collaboration with the consultant, YPSA will develop and administer an annual survey of students (grades 3-6), parents, teachers and staff on matters relating to school safety and the clarity and fairness of the application of discipline policies and practices, including non-discrimination. YPSA agrees to submit the climate survey to OCR for review and comment;
2. By May 2, 2016, and annually thereafter until monitoring of this Agreement is closed, YPSA will provide OCR the following:
  - a. A report describing the process and format for complying with Section III A.1., describing and analyzing the results, and outlining recommendations to address any climate concerns identified and a description of actions YPSA proposes to take in the following school year as a result of the survey results;
  - b. Copies of the climate surveys conducted under Section III A.2. to be administered to students, parents, teachers and staff, and a summary of the results.
  - c. Documentation of the steps YPSA has taken in response to the previous school year's survey results.

#### **IV. Revision of Disciplinary Policies**

- A. YPSA will revise its student discipline policies as necessary to address the findings of the review described in Section III and submit them to OCR for review and comment. YPSA will ensure that its student discipline policies are written and organized in such a way that they are easily understood by students, teachers/staff, and parents. The revised policies will include the following:
  1. Appropriate due process standards for all students disciplined under YPSA's student discipline policies and procedures, including a description of the key elements of the discipline process (appeals, alternative dispositions, timeliness, provisions for informal hearings, etc);
  2. A requirement that disciplinary authorities consider alternatives to expulsion, suspension or other sanctions that require removal from the educational setting, except when applicable state or federal law would require otherwise;
  3. A requirement that students who are removed from school for disciplinary reasons receive academic services, counseling, tutoring, or other educational services during the period of their suspension and/or pending expulsion;

4. A provision prohibiting teachers and staff from contacting parents for removal of the student from school for the day, without following school procedures regarding suspension and exclusion from school;
  5. Clear definitions of all infractions and their consequences.
- B. YPSA will develop and issue new guidance for all staff on the definition and use of California Education Code Sec. 48900(k) [disruption and defiance] as a suspendable offense, including clarification of the behaviors that constitute an infraction under that section, and ensuring that discipline for disruption and defiance is imposed in an equitable and nondiscriminatory manner.
- C. YPSA will develop and implement a system to revise school policies when discipline data or other information gathered pursuant to this agreement shows them to be ineffective in reducing disparities in discipline.
- D. By June 30, 2016, YPSA will submit to OCR for review drafts of the following documents:
1. The results of its data review and the proposed revisions to discipline policies (including recommendations received from students, teachers/staff, and parents) developed pursuant to Sections IV.A. and B.;
  2. Notice to teachers and staff that informal/undocumented suspensions are not permissible pursuant to Section IV.A.3.;
  3. The new guidance to teachers and staff concerning suspensions for disruption and defiance on pursuant to Section IV.B.;
  4. Its proposed system for policy review if data indicate that current policies are not effective in accomplishing the goals of this agreement, pursuant to Section IV.C.;
  5. YPSA will work collaboratively with OCR to resolve OCR's questions or comments about proposed drafts and will finalize, adopt and disseminate the revised policies, regulations, guidance and other documents within 60 days of approval of the draft by OCR.

## **V. Training**

### **A. Employee Support and Professional Development**

1. YPSA will provide resources necessary to support the school's implementation of alternative classroom management programs, including mandatory professional development and training for all administrators,

certificated and classified staff on YPSA's policies and procedures and its adopted programs. The training will emphasize YPSA's commitment to fair, non-discriminatory treatment of all students when making disciplinary decisions and the use of alternative approaches to address student conduct concerns, while at the same time ensuring a safe and orderly educational environment for students and staff.

2. YPSA will provide annual training for all administrators, teachers, classified employees, and other YPSA personnel charged with supervising students, making disciplinary referrals or imposing disciplinary sanctions. The training will include, but is not limited to:
  - a. Detailed explanations of YPSA conduct policies; the definitions and application of offense categories with emphasis on defiance and disruption offenses; YPSA's approved behavior intervention programs; the manner in which interventions and progressive disciplinary consequences will be employed; the circumstances under which deviations from established policies may be justified; the documentation required for disciplinary referrals and sanctions, and YPSA's system for maintaining data on interventions and discipline;
  - b. Discussion of 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; evidence-based techniques of classroom management and de-escalation approaches; information on how to administer discipline fairly and equitably, the resources available to staff having difficulty with classroom management, the value of recognizing and reinforcing positive student behavior; the resources available to students to help them develop self-management skills, and resources for to assist parents in supporting students and the school; and,
  - c. An opportunity for staff to raise concerns or suggestions regarding the improvement of YPSA's programs and disciplinary policies, including any issues related to fairness and non-discrimination on the basis of race or national origin.
3. YPSA will ensure that school staff has available to them appropriate resources and support concerning effective classroom management.
4. By January 29, 2016, YPSA will submit its agenda and schedule for its professional development concerning student discipline policies and procedures and techniques and requirements for addressing student misbehavior without removing students from the educational program.

## **B. Student Training**

1. YPSA will develop a training program to be delivered annually to all students that explains the policies referenced in this Agreement and what is expected of students under those policies, in an age-appropriate, easily understood manner.

## **C. Notice and Information for Parents**

1. YPSA will continue to provide notice to parents and guardians about its student conduct rules, discipline policies and procedures, and the right to file discipline-related complaints with the school.
2. Notice of the revised policies and procedures will be posted on the YPSA website and will be provided annually to all parents and guardians through the Parent/Scholar Handbook.
3. YPSA will provide an informational program for parents or guardians that will explain the YPSA discipline policies and procedures, its classroom management programs; what is expected of students under those policies; YPSA's efforts in achieving fair treatment and discipline of all students, and how to support student success. The parent program may be incorporated into other planned parent meetings, conferences or outreach programs. The program will include, but not be limited to the following:
  - a. Detailed explanations of the discipline policies, the definitions of offense categories, the manner in which progressive disciplinary consequences will be employed, the circumstances under which deviations from established policies may be justified, and resources that are available to students to assist them in developing self-management skills;
  - b. Emphasis on YPSA's commitment to ensuring a safe and orderly educational environment and the fair and nondiscriminatory treatment of all students, including when making disciplinary referrals and imposing disciplinary sanctions, as well as its commitment to recognizing and reinforcing positive student behavior and ensuring to the maximum extent possible that misbehavior is addressed in a manner that does not require removal from the educational program;
  - c. An opportunity for parents to raise concerns or suggestions regarding the improvement of YPSA's disciplinary policies, including any issues in connection with fairness and non-discrimination; and
  - d. Information to parents and guardians as to whom they may contact if they have any concerns about the manner in which YPSA's discipline policies are being implemented, if they wish to file a complaint regarding the

administration of discipline, or if they need assistance in addressing student behavioral problems.

D. YPSA will provide OCR the following information:

1. By November 2, 2015, descriptions, with agendas and schedules, for the training programs developed by YPSA in accordance with Sections V.A and B., and of the informational program developed in accordance with Section V.C.3, including any translated materials. YPSA will provide to OCR a list YPSA administrators and staff who attended the trainings programs and copies of any handouts provided during the training programs.
2. By November 2, 2015, copies of written notices to parents, and references to online resources, developed pursuant to Sections V.C.1- 2.

## **VI. Data Collection, Evaluation and Self-Monitoring**

- A. YPSA will establish uniform standards for the content of student discipline files and/or records to ensure accurate and complete records. 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, YPSA will establish uniform standards for the information provided on discipline referral forms. Referral/sanction forms will require information that is sufficiently detailed to enable YPSA to collect the data outlined in Section VI.B.
- B. YPSA will collect and evaluate on an annual basis data regarding all referrals for student discipline, including referrals to law enforcement. YPSA will maintain records of, and evaluate annually, (i) referrals that *did not* and those that *did* result in the imposition of disciplinary sanctions, (ii) interventions, (iii) in-school and out-of-school suspensions, and (iv) expulsions. The data collected will include, but not be limited to, the following items for each referral:
  1. The name, identification number, grade level, race/ethnicity, sex, age, disability and/or EL status of each student referred for discipline;
  2. The name, grade level, race/ethnicity, sex, age disability, and EL status of all other students involved in the incident, whether or not they were referred for discipline themselves;
  3. The date of the referral, the type of violation/Code section that was the basis of the referral, and a detailed description of the misconduct;
  4. A description of all approaches or interventions that were attempted to address the student's behavior prior to referral for discipline;

5. The referring staff member;
  6. The setting in which the referral was made (e.g. classroom, hallway, playground);
  7. Whether there were any student and/or adult witnesses to the incident; names of witnesses; number of witnesses;
  8. Whether the student's parent/guardian was contacted;
  9. The student's prior disciplinary history;
  10. If any disciplinary sanction was imposed, the date the sanction was imposed, the nature of the sanction, and the length of the sanction in days;
  11. If no violation was charged or penalty/sanction imposed, the reason why;
  12. The staff member who assigned the penalty/sanction; and,
  13. Any non-punitive outcomes including but not limited to referral for counseling, psychological evaluation or services, disability evaluation, or social services.
  14. The outcome of the manifestation hearing determination, if applicable;
  15. Whether school-based or local law enforcement were involved (including whether law enforcement was notified of the offense, whether the referral to law enforcement was mandatory and, if so, the statute or ordinance governing the referral; and Whether the student was arrested as a result of school-based or law enforcement involvement;
  16. 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.
- C. By November 2, 2015, YPSA will identify for OCR the changes in its student data systems necessary to accomplish Section VI.
- D. The YPSA principal and superintendent will meet at the conclusion of each semester with the teachers 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 and analyzed under Section VI.B. The meeting will consider any data or other information showing that members of any group for whom data are collected are disproportionately referred for discipline or sanctioned more harshly than similarly-situated students. If the data show such disproportions, the principal and teachers will identify and implement remedial measures.

E. Beginning with June 30, 2016, and at the conclusion of each subsequent school year, YPSA will provide OCR with the student discipline data describe in section VI B for its review. YPSA, in collaboration with the consultant, will prepare a report that summarizes the result of its analysis of the information collected in Section VI.B., and evaluates (i) whether any group of students is receiving more referrals or discipline than other groups in comparison to their respective enrollments; (ii) whether certain teachers and staff members refer for discipline disproportionately high numbers of any group; (iii) whether any group of students are disproportionately referred for offenses in which subjective judgment is exercised, while student of other groups are not; and (iv) whether all students are consistently referred for similar misbehaviors. The report will describe any school-wide concerns that were identified through analysis of the data, and the steps that were taken to address the concerns.

F. YPSA will provide OCR with the following information:

1. By November 2, 2015, a copy of the revised referral form.
2. By November 2, 2015, a description of the uniform standards for the content of student discipline files.
3. By November 2, 2015, documentation of its implementation of Section VI.B.
4. By June 30, 2016, and by July 1 of each school year thereafter until the monitoring of this Agreement is closed, YPSA will provide documentation to OCR of the meetings between the superintendent, the principal, teachers and other staff regarding the data gathered and analyzed under Section VI.B.
5. By June 30, 2016, and by July 1 of each school year thereafter until the monitoring of this Agreement is closed, a copy of its annual report pursuant to Section VI.E.

## **VII. Training on Complaint Investigation**

A. All staff and administrators with responsibility for investigating complaints of discrimination on the basis of race or national origin, including complaints of racial harassment, will participate in training provided by OCR on the

requirements of Title VI and the investigation of complaints of discrimination, on a date to be arranged by OCR and YPSA.

- B. By February 26, 2016, the training will be conducted by OCR. YPSA will provide documentation to show who attended the training.

### **VIII. Monitoring**

- A. Prior to the conclusion of the monitoring of this agreement by OCR, YPSA will provide information to OCR establishing that any remaining racial disparities in the administration of discipline are not the result of unlawful discrimination.
- B. YPSA understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, YPSA understands that, during the monitoring of this Agreement, OCR may visit the School, interview YPSA staff and students, and request such additional reports or data as are necessary for OCR to determine whether YPSA has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI and its implementing regulations, 34 C.F.R. Part 100, which was at issue in this complaint.
- C. YPSA understands that OCR will not close the monitoring of this Agreement until OCR determines that YPSA has demonstrated compliance with all the terms of this Agreement and is in compliance with Title VI and its implementing regulations, 34 C.F.R. Part 100, which were at issue in this complaint.
- D. YPSA 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 YPSA written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Signed:

\_\_\_\_\_/s/\_\_\_\_\_  
Superintendent

\_\_\_\_\_October 14, 2015\_\_\_\_\_  
Date