SETTLEMENT AGREEMENT
Case #05-11-5003

The Sun Prairie Area School District (District) enters into the following Agreement to resolve compliance review #05-11-5003. The review addressed whether African American students are subjected to discrimination on the bases of race and/or disability, in the pre-referral/referral and evaluation of these students for special education and their placement in special education. The District enters into this Agreement to ensure its compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504), and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs, services or activities operated by recipients of Federal financial assistance, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132 (Title II), and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The District agrees to take the following actions:

Outside Expert

1. By January 1, 2014, the District will hire an expert with expertise in addressing the overrepresentation of minority students in special education. The expert will review the District's procedures for screening, identification, evaluation and placement of students with regard to special education and/or the provision of related aids and services. The expert will examine the root cause(s) of the racial disparity in the overrepresentation of minority student in special education. The expert will make recommendations as to what measures the District should take to ensure that it is making appropriate determinations as to its students' eligibility for special education and/or related aids and services and to address the overrepresentation of minorities in special education and the root causes of this overrepresentation. The expert may be an independent contractor(s) for the District and/or an employee(s) of the District. The District, after retaining its expert, shall promptly provide the expert with all appropriate information the consultant(s) believes is necessary to engage in this process. As part of the expert's review and assessment, the following may be considered:

    a. Access to, awareness and participation (or lack of participation) of students in early intervention programs and activities;
    b. Parent involvement and awareness of regular education interventions and the building team procedures;
    c. The effectiveness of regular education interventions available to students at all schools and of the training provided to teachers regarding use of these interventions; these interventions may include informal classroom interventions, building team interventions and interventions outside of the classroom and/or after school hours, such as after school programs, tutoring, mentoring or other programs designed to help students succeed.

d. Availability of high quality reading programs for all elementary school students that are focused on improving the reading performance of such students.

REPORTING REQUIREMENT: By January 1, 2014, the District will submit documentation that it has hired an expert to OCR. By May 1, 2014, the District will submit the expert's recommendations to OCR, along with the District's reason(s) for accepting or rejecting each recommendation and a description of changes the District plans to make to implement the recommendations. By July 30, 2014, July 30, 2015, and July 30, 2016, the District will provide OCR documentation of its implementation of the recommendations.

Screening

2. By January 1, 2014, the District will develop a plan for a universal screening process for use in all schools to identify students in need of extra assistance as early as possible in their academic careers and early each school year, on an annual basis, with a goal of ensuring that students are not inappropriately referred for a special education evaluation. This plan will specify the methods staff will use to screen students, the steps the District will take to train all District staff on use of the screening process, and the means by which the District will monitor the implementation and success of the screening process, and will, as needed, modify the screening in future years.

   REPORTING REQUIREMENT: By June 1, 2014, the District will submit a copy of the plan to OCR, with the name(s) and titles of all District personnel involved in developing the plan.

3. Beginning in the 2014-2015 school year, and at the beginning of each ensuing school year, the District will implement the plan referenced at item #2 and other screening improvements identified by the expert.

   REPORTING REQUIREMENT: By July 1, 2015, and July 1, 2016, the District will submit documentation to OCR showing implementation of the universal screening in the preceding school year, a copy of its assessment of the implementation and success of the process and any resulting modifications that were implemented, and a description of its plans for conducting the screening in the upcoming school year.

Interventions/Building-Level Teams

4. By the beginning of the 2014-2015 school year, and by the beginning of the following school years, the District will ensure, with the assistance of the expert, that every school in the District has implemented a systematic, team-based means of providing intervention strategies for students experiencing academic or

behavior difficulties. The District will develop written procedures to be provided to all schools that encompass the following, at a minimum:

a. guidelines on the purpose and composition of the teams;
b. a description of training to be provided to team members and other staff members;
c. procedures for referring students to the team and oversight to ensure consistency of the referral process in each school, including:
    - specificity regarding the circumstances under which a student should be referred to the team;
    - the timeliness of referrals to the team after identification of the need for referral;
    - the extent to which informal classroom interventions should be attempted prior to referral to the team and the suggested timeframes for such; and
    - documentation of the reasons for the referral to the team;

d. procedures for conducting team meetings to ensure consistency in the conduct of these meetings at each school, including:
    - specificity regarding the timeliness of the convening of team meetings after teacher referrals of students to the team;
    - attendance and participation of building-level administration in each team meeting; and,
    - documenting decisions made at each team meeting for each student, including the date the student was referred to the team, the date of the meeting, the interventions recommended, and the date the team will follow-up regarding the effectiveness of the interventions;

e. procedures for providing team-prescribed interventions to ensure consistency in the provision of these interventions at each school, including:
    - specificity regarding the availability of staff to provide team-prescribed interventions;
    - the amount of time that team-prescribed interventions should be provided;
    - how teachers and other staff should document the provision of the team-prescribed interventions; and
    - requirements that interventions prescribed by the team for students whose dominant language is not English are provided in an effective manner;

f. procedures, timeframes, and objective criteria, including measures of feedback from parents, for evaluating the effectiveness of pre-referral interventions prescribed by the team, and determining next steps if the prescribed interventions are deemed ineffective; and,

g. documentation schools are to use to track the success of intervention strategies and consideration of alternate pre-referral interventions and/or consideration of referral for special education.

REPORTING REQUIREMENTS: By September 15, 2014, the District will submit to OCR a copy of all documentation provided to schools pursuant to this item. By July 30, 2015, and July 30, 2016, the District will submit documentation to OCR demonstrating implementation of the team process in the preceding school year, a description of any plans to modify the process in the upcoming school year, and the reason(s) for such modifications.

5. By the beginning of the 2014-2015 school year, the District will review and revise its materials regarding intervention strategies distributed to District personnel, parents/guardians, students, and other stakeholders to whom the District ordinarily distributes copies of such materials, in both hard copy and online (if such materials are posted online), to reflect any changes made pursuant to item #4 above. In addition, the materials will clarify how parents can request intervention strategies prior to referral for a special education evaluation and will state that the District's intervention strategies are not a substitute for and shall not delay the timely and appropriate evaluations and/or special education services. By September 1, 2014, the District will also distribute copies of the materials to District personnel, parents/guardians, students, and other stakeholders to whom the District ordinarily distributes copies of such materials.

   REPORTING REQUIREMENTS: By September 15, 2014, and by the same date annually thereafter, the District will provide OCR a copy of the materials referenced in this item and will document that it has provided District personnel, parents/guardians and other stakeholders of the materials.

Professional Development

6. By May 30, 2014, and by the same date annually thereafter, the District will provide professional development to all teaching staff designed to increase awareness of the overrepresentation of African American students in special education and emphasize the purpose and significance of placement in special education is designed only to serve students with disabilities. The professional development will also address the identification of possible non-disability related causes of academic or behavior deficits and the provision of appropriate regular education interventions and behavior management techniques that can be implemented in the regular education classroom to address these deficits.

   REPORTING REQUIREMENT: By July 30, 2014, and by the same date annually thereafter, the District will submit to OCR a copy of all materials provided in the professional development and a list of all individuals who attended the professional development.

7. By September 15, 2014, and by the same date annually thereafter for new staff, the District will provide District-wide professional development to all members of each school's building-level team on the intervention process and on intervention strategies for students. The professional development will address the identification of possible non-disability related causes of academic or behavior deficits and the provision of appropriate regular education interventions and behavior management techniques that can be implemented in the regular education classroom to address these deficits.

   REPORTING REQUIREMENT: By October 1, 2014, and by the same date annually thereafter, the District will submit to OCR a copy of all materials provided in the professional development and a list of all individuals who attended the professional development.

8. By September 30, 2014, and by the same date annually thereafter for new staff, the District will provide all teachers with professional development on the building-level teams, including, but not limited to the following:

   a. the purpose of the team;
   b. its written procedures for referring students to the building-level teams, focusing on the circumstances under which a student should be referred to the team, the timeliness of referrals to the team after identifying the need for referral, the extent to which informal classroom interventions should be attempted prior to referral, including suggested timeframes, and the need to document the reason(s) for the referral and the types of, and extent to which, informal interventions were provided prior to the referral;
   c. the team's process for discussing the student and developing a plan to provide additional interventions; and
   d. documentation used by the team, including documentation used to evaluate the effectiveness of interventions.

   REPORTING REQUIREMENT: By October 1, 2014, and by the same date annually thereafter, the District will submit to OCR a copy of all materials provided in the training and a list of all individuals who attended the training.

Special Education Evaluations

9. By August 30, 2014, the District will conduct a review of the most recent evaluation of all students in in the categories of CD, EBD, SLD, or OHI in order to assess whether the student was determined eligible for special education based on the published criteria, including whether the student was determined eligible based on multiple factors, whether the student showed a sufficient discrepancy from peers or expectations to justify eligibility for special education, and whether the team properly ruled out all exclusionary factors in finding the student eligible for special education. The District may choose to conduct this review at the time

the District convenes a team to review, revise and/or develop an Individualized Education Program for the student. For any student who this review reveals may not have met special education eligibility criteria, the District will immediately commence a re-evaluation to determine whether the student is in fact eligible for special education. A District-level administrator will oversee all re-evaluations conducted under this item to ensure that teams consistently apply the District's eligibility criteria. For any students who this review determines were improperly found eligible for special education, the District will provide by the end of the school year in which the re-evaluation is completed all necessary compensatory and/or remedial services to address any deficits resulting from the improper placement.

REPORTING REQUIREMENT: By September 15, 2014, the District will submit to OCR a list of students whose records were reviewed as part of the implementation of this item, with the race of each student, will indicate for which students it determined a re-evaluation was warranted, and will provide a description of the outcome of each re-evaluation. By July 30, 2015, the District will document to OCR that it has provided all compensatory and/or remedial services determined necessary as a result of the review.

Data Maintenance and Evaluation

10. On an annual basis, the District will maintain the following data:

    a. the number of students, by race and national origin, enrolled in each District school in the most-recently completed school year;
    b. the number of students, by race and national origin, in special education in the District in the most-recently completed school year;
    c. a list of students, by race or national origin, and school, who were referred to the building-level team due to academic or behavioral concerns in the most-recently completed school year, including for each the date of referral to the team, the date of the initial building level team meeting, whether the building-level administration participated in the meeting, the interventions recommended (if any), the date the team followed up regarding implementation of the team-prescribed interventions (if any), and whether the student was referred for a special education evaluation, and if so, on what date; and
    d. a list of students, by race or national origin, and school, who were referred for initial special education evaluation in the most-recently completed school year, and the outcome of each evaluation.

REPORTING REQUIREMENT: By July 30, 2014, July 30, 2015, and July 30, 2016, the District will provide to OCR the data referenced in this item for the just completed school year.

11. Using the data maintained pursuant to item #10, and other information gathered during the implementation of the Agreement, the District will annually evaluate the effectiveness of its screening, intervention, evaluation, and placement processes and identify improvements necessary in these areas to ensure it is making appropriate determinations and addressing the overrepresentation of minorities in special education.

    REPORTING REQUIREMENT: By July 30, 2014, July 30, 2015, and July 30, 2016, the District will provide to OCR the evaluation referenced in this item, and a description of any steps to be taken in response to the evaluation.

12. The District will analyze its data related to teacher referrals of elementary school students to the building-level team, to determine whether students of all races and national origins were treated equitably in this regard. At a minimum, the District will analyze referrals made by each elementary school teacher to determine whether African American students were referred by any particular teacher at a disproportionate rate when compared to their representation in that teacher's classroom. If so, the District will determine whether over-referral by a particular teacher was based on race or national origin; and take appropriate actions to address any problems noted.

    REPORTING REQUIREMENT: By July 30, 2014, July 30, 2015, and July 30, 2016, the District will provide to OCR the analysis of teacher referrals prepared for the just completed school year. At a minimum, the information provided for each school year will indicate:

    a. The name of each elementary school teacher, and the teacher's school and grade level;
    b. the number of students enrolled, by race and national origin, in the teacher's classroom;
    c. the number of students referred to the team by the teacher, by race and national origin; and
    d. the District's analysis of whether referrals by the teacher were disproportionate for African American students, and if so, how the District addressed any problems identified with regard to the over-referral; and
    e. An assessment of whether each teacher referred students of different racial and ethnic backgrounds for similar reasons.

13. The District will also analyze data related to the provision of team-prescribed interventions, to determine whether students of all races and national origins were treated equitably in this regard. At a minimum, the District will determine whether all interventions prescribed by the team to each student were provided, whether teams met timeframes for meeting to determine the effectiveness of team-prescribed interventions, and whether teams were consistent in determinations made regarding whether additional interventions were necessary or whether a referral for special education evaluation was necessary.

REPORTING REQUIREMENT: By July 30, 2014, July 30, 2015, and July 30, 2016, for the just completed school year the District will provide to OCR the analysis of the provision of team-prescribed interventions. At a minimum, the information provided for each school year will indicate:

a. the name of each elementary school teacher, and the teacher's school and grade level;
b. the number of students who received team-prescribed interventions in each teacher's class;
c. the District's analysis of whether all interventions prescribed by the team were provided; and if not, how the District addressed any problems identified;
d. the number of students who received team-prescribed interventions at each elementary school;
e. the date that each student was referred to the team;
f. the date that the team met to evaluate each student referred;
g. any classroom interventions attempted for each student, including how long each intervention was attempted and the outcome;
h. the District's analysis of whether teams met timeframes for meeting to determine the effectiveness of team-prescribed interventions for these students; and,
i. the District's analysis of whether teams were consistent in determinations made regarding whether additional interventions were necessary or whether a referral for special education was necessary.

Other Information

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the recipient has fulfilled the terms of this Agreement and is in compliance with Title VI, 42 U.S.C. §2000d, and its implementing regulation at 34 C.F.R. §§ 100.3(a) and (b), and Section 504, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. §§ 104.33 – 104.36, and Title II, 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. § 35.130, which were at issue in this case. Prior to the conclusion of OCR's monitoring, the District will provide documentation establishing that any disparities relating to the identification, evaluation and placement of students in special education are not the result of discrimination prohibited by Title VI and its implementing regulations.

The District 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 District understands that during the monitoring of this Agreement, if necessary, 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 Title VI, 42 U.S.C. §2000d, and its implementing regulation at 34 C.F.R. §§ 100.3(a) and (b), and

Section 504, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. §§ 104.33 – 104.36, and Title II, 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. § 35.130, 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 recipient written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Superintendent or designee

10/28/13
Date

10/28/13