

1 MONA TAWATAO (SBN: 128779)
 2 ALEXANDRA SANTA ANA (SBN: 317852)
Equal Justice Society
 3 1939 Harrison Street, Suite 818
 4 Oakland, California 94612
 5 Telephone: (415) 288-8700
 6 Facsimile: (510) 338-3030
 7 Email: mtawatao@equaljusticesociety.org
 8 asantaana@equaljusticesociety.org

9 MELINDA BIRD (SBN: 102236)
 10 MUNMEETH K. SONI (SBN: 254854)
Disability Rights California
 11 350 S. Bixel Street, Suite 290
 12 Los Angeles, California 90017
 13 Telephone: (213) 213-8000
 14 Facsimile: (213) 213-8001
 15 Email: melinda.bird@disabilityrightsca.org
 16 meeth.soni@disabilityrightsca.org

17 *ATTORNEYS FOR PLAINTIFFS*
 18 (Additional Attorneys Listed on Final Page)

19 **UNITED STATES DISTRICT COURT**
 20 **EASTERN DISTRICT OF CALIFORNIA**

21 BLACK PARALLEL SCHOOL BOARD, et al.,

22 Plaintiffs,

23 v.

24 SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,
 25 et al.,

26 Defendants.

Case No. 2:19-cv-01768-DJC-KJN

**STIPULATION AND JOINT REQUEST
 FOR CONDITIONAL DISMISSAL;
 [PROPOSED] ORDER OF
 CONDITIONAL DISMISSAL**

(Fed. R. Civ. P. 41)

Judge: Hon. Daniel J. Calabretta
 Courtroom: 10
 Action Filed: September 5, 2019

1 TO THE HONORABLE COURT:

2 Plaintiffs Black Parallel School Board et al. and Defendants Sacramento City Unified School
3 District et al. (the “Parties”) have agreed and hereby stipulate to the following, pursuant to Rule 41
4 of the Federal Rule of Civil Procedure:

5 1. That the Parties’ Compromise and Release Agreement (“Agreement”), attached
6 hereto as Exhibit “1,” be made part of and an exhibit to the Court’s Order of Conditional Dismissal
7 described in paragraph 3 below;

8 2. That the Court retain jurisdiction over the above-captioned action (“Action”) for
9 those purposes designated in the Agreement for a period of five (5) years following approval by the
10 parties of the Independent Monitor’s Final Action Plan under paragraph D of the Agreement, or until
11 the date by which the Defendants fully implement all provisions and fulfills all obligations of the
12 Agreement and any addenda to the same, whichever is earlier; and

13 3. That, subject to above conditions, the Court order the conditional dismissal of the
14 Action, without prejudice, pursuant to Rule 41(a)(2) and that the Court place the Action on the
15 Court’s inactive docket subject to recall to the active docket should it be necessary for either party to
16 move the Court for an order for those purposes designated in the Agreement.

17 DATED: May 24, 2023

Respectfully submitted,

EQUAL JUSTICE SOCIETY

/s/ Mona Tawatao (as authorized on May 23, 2023)

MONA TAWATAO

Attorneys for Plaintiffs

DISABILITY RIGHTS CALIFORNIA

/s/ Munmeeth Soni (as authorized on May 23, 2023)

MUNMEETH SONI

Attorneys for Plaintiffs

NATIONAL CENTER FOR YOUTH LAW

/s/ Michael Harris (as authorized on May 23, 2023)

MICHAEL HARRIS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attorneys for Plaintiffs
WESTERN CENTER ON LAW AND POVERTY

/s/ Antionette Dozier (as authorized on May 23, 2023)
ANTIONETTE DOZIER
Attorneys for Plaintiffs

DATED: May 24, 2023

LOZANO SMITH

/s/ Sloan Simmons (as authorized on May 24, 2023)
SLOAN SIMMONS
Attorneys for Defendants

1 *ADDITIONAL ATTORNEYS FOR PLAINTIFFS (cont'd. from first page)*

2 MICHAEL HARRIS (SBN: 118234)

3 **National Center for Youth Law**

4 1212 Broadway, Suite 600

5 Oakland, California 94612

6 Telephone: (510) 835-8098

Facsimile: (410) 835-8099

Email: mharris@youthlaw.org

7 ANTIONETTE DOZIER (SBN: 244437)

8 RICHARD ROTHSCHILD (SBN: 67356)

9 **Western Center on Law and Poverty**

10 3701 Wilshire Boulevard, Suite 208

Los Angeles, California 90010

11 Telephone: (213) 487-7211

12 Facsimile: (213) 487-0242

Email: adozier@wclp.org

rrothschild@wclp.org

1 **[PROPOSED] ORDER OF CONDITIONAL DISMISSAL**

2 Upon consideration of Parties’ Stipulated and Joint Requests, and GOOD CAUSE
3 APPEARING THEREFORE, the Court hereby ORDERS AS FOLLOWS, pursuant to Rule 41(a)(2)
4 of the Federal Rules of Civil Procedure:

5 1. The Parties’ Compromise and Release Agreement (“Agreement”) in this matter as an
6 order of the Court and attached hereto as Exhibit 1;

7 2. The Court hereby retains jurisdiction over this Action for those purposes designated
8 in the Agreement for a period of five (5) years following approval by the parties of the Independent
9 Monitor’s Final Action Plan under paragraph D of the Agreement; or until the date by which
10 Defendants fully implement all provisions and fulfill all obligations of the Agreement and any
11 addenda to the same, whichever is earlier; and

12 3. The Court conditionally dismisses this action without prejudice and orders the action
13 placed on the inactive docket subject to recall to the active docket should either party move the
14 Court for an order for those purposes designated in the Agreement.

15 **IT IS SO ORDERED.**

16
17 Dated: _____

18 DANIEL J. CALABRETTA
19 United States District Judge
20
21
22
23
24
25
26
27
28

Black Parallel School Board, et al. v. SCUSD, et al.
Case No. 2:19-cv-01768-DJC-KJN

ORDER ON CONDITIONAL DISMISSAL

EXHIBIT 1

This Settlement Agreement (“Agreement”) is made and entered into, by and between the SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JORGE A. AGUILAR, Superintendent for Sacramento City Unified School District; YVONNE WRIGHT, Chief Academic Officer for the Sacramento City Unified School District; CHRISTINA PRITCHETT, JASJIT SINGH, CHINUA RHODES, TARA JEANE, JAMEE VILLA, TAYLOR KAYATTA, and LAVINIA GRACE PHILIPS, members of the Sacramento City Unified School District Board of Education; THE BOARD OF EDUCATION OF SACRAMENTO CITY UNIFIED SCHOOL DISTRICT (“District or Defendants”) and BLACK PARALLEL SCHOOL BOARD; S.A., by and through his Next Friend, AMY A.; and C.S., by and through his General Guardian, SAMUEL S. (“Plaintiffs”) (hereinafter collectively referred to as the “Parties” or individually as “Party”) to resolve all claims, issues, disputes in *BPSB v. Sacramento City Unified School District et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-01768-DJC-KJN (“the Action”).

General Recitals

A. The Action is now pending in the United States District Court, Eastern District of California. Pursuant to agreement and stipulations by the Parties, and orders of the Court, the Action has been stayed for purposes of the Parties’ efforts to resolve this litigation pursuant to the terms of the Parties’ Structured Negotiations Agreement (“SNA”).

B. As part of the Parties’ efforts to resolve this litigation and pursuant to the Parties’ SNA, the Parties contracted for and received the Experts’ Evaluation Report for Sacramento City School District on Special Education, School Discipline, and Implicit Bias prepared and provided to the Parties in January 2022 (“Experts’ Report”).

C. Pursuant to the intentions of the SNA, this Agreement is intended to establish the terms and process through which, based upon the Experts’ Report and other information and data as may be appropriate, the Parties agree upon and the District implements a plan of action created by an Independent Monitor for responding to and improving outcomes in the relevant subject matter and practice areas, consistent with the claims and allegations raised in the Action, as described below.

D. By and through this Agreement the Parties hereby settle and compromise all disputes and controversies, claims and causes of action that were raised, or could have been raised, by the Parties in the Action including, Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 et seq., Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794, 42 U.S.C. § 1983, the Fourteenth Amendment to the United States Constitution (“Equal Protection Clause”), Title VI of the Civil Rights Act of 1964 (“Title VI”), 42 U.S.C. § 2000d et seq., and California Government Code section 11135 et seq.

E. The Parties acknowledge that this Agreement aligns with the District’s mission statement and Equity, Access, and Social Justice Guiding Principle, as related to Districtwide inclusive practices and implementation of systems that support inclusive practices with regard to special education, school discipline, and addressing race- and disability-based discrimination, as well as the creation and maintenance of a culture of care for students with disabilities,

particularly Black students with disabilities, and the commitment to personal, interpersonal, and systemic change through the implementation of reforms utilizing a data-based outcome-oriented approach.

F. The Parties agree that this Agreement, wherever practicable and consistent with the recitals set forth above, intends to implement plans and systems built upon current implementation of the District's Multi-Tiered System of Supports ("MTSS") program, Positive Behavior Interventions and Supports ("PBIS"), and the Experts' Report.

G. The Terms of this Agreement set forth below shall be understood to be consistent with the following aims; however, these aims do not create separate obligations on behalf of the Parties nor are they to be interpreted as explicit Terms of Agreement, as otherwise set forth below. (1) creation and maintenance of Districtwide inclusive practices and implementation of systems that support inclusive practices with regard to special education, school discipline, and addressing race- and disability-based bullying and harassment; (2) creation and maintenance of a culture of care for students with disabilities, particularly Black students with disabilities; (3) continuous promotion of identification and remediation of racial bias in all its forms, with an understanding that such bias is insidious and requires a long-term commitment to personal, interpersonal, and systemic change; and (4) the use and implementation of reforms utilizing a data-based outcome-oriented approach to reduce negative disproportionate outcomes for students with disabilities.

H. For and in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the Parties have agreed to resolve the Action, without any admission of liability or wrongdoing, and agree as follows.

Terms of Agreement

A. Parties' Selection of Independent Monitor.

1. The Parties will cooperate and work in good faith to select an agreed upon Independent Monitor to serve the purposes outlined in this Agreement, and to thereafter serve additional purposes agreed upon in anticipated subsequent agreements or addendum or addenda to this Agreement.
2. The Parties shall have forty-five (45) days from the Execution of this Agreement to mutually agree on an Independent Monitor.
3. The process for the Parties to select an Independent Monitor will be as follows:
 - i. Within 15 days of the Execution of this Agreement, each Party will nominate no more than two individuals for the role of Independent Monitor.
 - ii. The Parties' nominations for Independent Monitor must possess the following minimum qualifications unless the parties agree mutually to waive any of them:

- a) Familiarity with the relevant federal and California statutes and regulations concerning special education rights of students with disabilities and rights against disability-based and race-based discrimination of students with disabilities and Black students with disabilities;
 - b) Substantial practical or field experience as an expert in designing and implementing programs or systems in public school districts that comply with and promote the aforementioned special education rights and anti-discrimination laws protecting students with disabilities and Black students with disabilities;
 - c) Familiarity and experience with a wide array of relevant data metrics, such as academic, social/emotional, behavioral, attendance, etc. and the corresponding expertise necessary to cross-tabulate/triangulate data metrics; and
 - c) Ability to be physically and virtually present in the City of Sacramento as needed to fulfill their obligations as Independent Monitor of this Agreement.
- iii. The Parties agree the Independent Monitor's projected fees and costs for completing the tasks set forth in this Agreement for the Independent Monitor shall be a factor in the selection of the Independent Monitor. By so agreeing, the Parties do not waive any of the minimum qualification requirements set forth in paragraph A.3.ii of this Agreement. The Parties further agree that, as part of the Independent Monitor nomination and selection process they will provide each other the projected fees and costs associated with the respective nominations for the Independent Monitor.
 - iv. Upon the Parties' nominating of individuals for Independent Monitor, the Parties will each separately conduct interviews of each of the individuals nominated for the role of Independent Monitor. Such interviews shall be scheduled so as to meet the 45-day deadline to select an Independent Monitor under paragraph A.2 above.
 - v. Upon completion of the respective, separate interviews by both Parties of each of the individuals nominated for the role of Independent Monitor, each Party shall notify the other Party in writing of who they have identified as their top two choices of the nominees. When selecting their top two nominees, the Parties will each rank said nominees in order of preference. If the Parties' selections for the top two nominees result in agreement (due to each selecting the same top-ranked nominee, or due to each nominating only one of two individuals that there is agreement on), that will constitute agreement on the choice for Independent Monitor. If the Parties' identification of their top two choices of the nominees does

not result in agreement (including if the Parties each nominate the same two individuals but do not agree on ranking), the Parties will meet and confer in an effort to reach agreement. If the Parties' meet and confer efforts do not result in agreement over the selection of the Independent Monitor, the Parties may either: (a) reinitiate the selection process with the selection of new nominees; or (b) at the election of either Party, submit the issue to the Court for resolution, pursuant to the Dispute Resolution process set forth in paragraph E of this Agreement. If a Party elects to submit the issue to the Court for resolution, the running of the period during which the Court retains jurisdiction over this matter, as set forth at paragraph I of this Agreement, shall be tolled until such resolution.

- vi. Following completion of the interviews of the Parties' four (4) total nominees, the Parties shall meet and confer to select the agreed upon Independent Monitor.
4. The Parties agree that once selected and after entering into a service contract with the District, the Independent Monitor may be removed for cause upon the mutual written agreement of counsel for the Defendants and counsel for Plaintiffs setting forth the cause constituting the basis for such removal. Cause for removal shall include: (a) a material failure or refusal to perform duties required of the Independent Monitor under the terms and conditions of this Agreement; or (b) misconduct on the part of the Independent Monitor. If either Party identifies cause to remove the Independent Monitor, that Party shall notify the other Party of such cause immediately, after which the Parties shall meet and confer within thirty (30) days to try to reach agreement on whether the Independent Monitor should be removed. If the Parties are unable to reach mutual agreement, no later than thirty (30) days thereafter, either Party may move the Court for removal of the Independent Monitor. The Party making such a motion must demonstrate by clear and convincing evidence that cause of removal exists. In the event the Independent Monitor is removed pursuant to the provisions of this Section, the Parties shall select a replacement Independent Monitor pursuant to process set forth in paragraph A.3 above.
5. In the event the Parties are unable to mutually agree upon a replacement Independent Monitor within forty-five (45) days, the Parties shall jointly move the Court to appoint the Independent Monitor from among the nominations of the Parties. The Court shall select one of the candidates so nominated. During the process described in this paragraph, the running of the period during which the Court retains jurisdiction over this matter, as set forth at paragraph I of this Agreement, shall be tolled until the Court selects a replacement Independent Monitor.

B. Independent Monitor Services Contract.

1. Within thirty (30) days of the Parties agreeing upon selection of the Independent Monitor or selection of the Independent Monitor by the Court, pursuant to paragraph A above, the District shall retain and enter into a services contract with the Independent Monitor.
2. In performing their duties under this Agreement, the Independent Monitor may retain such consultants, experts and other personnel as may be reasonably required by the Independent Monitor to assist in their duties under this Agreement.
3. The scope of work of the District's services contract with the Independent Monitor will be limited to that described as the Independent Monitor's duties as set forth in this Agreement in paragraph C below.
4. The District shall bear all costs for the retention of the Independent Monitor. The District shall in accordance with a services contract with the Independent Monitor: (a) compensate the Independent Monitor for professional services; (b) reimburse the Independent Monitor for all expenses incurred by the Independent Monitor in performing their duties under this Agreement; and (c) compensate and reimburse the expenses of any consultants, experts or other personnel retained to assist the Independent Monitor. The professional services contract with the Independent Monitor shall set forth the procedures, conditions, and frequency of payment to Independent Monitor.
5. Based upon the scope of work for the Independent Monitor as set forth in this Agreement in paragraph C below, the monetary amount of the service contract with the Independent Monitor shall be set at a reasonable amount. Should the time or expense for the Independent Monitor to complete the delineated scope of work need to be extended or increased, the Independent Monitor must notify the District immediately so that the District may consider an amendment to the service contract to increase the monetary amount approved for the contract.
6. In performing their duties under this Agreement, the Independent Monitor, and any retained consultants, experts, or other personnel, shall be deemed an agent of the District and shall be entitled to all immunities applicable to the conduct of school district officials or personnel. The District shall defend, indemnify, and hold harmless the Independent Monitor from and against any and all liability, action or proceeding arising from or related to the performance of any act, obligation or duty performed in connection with this Agreement except for any matter that involves or results from willful misconduct.

C. Duties of the Independent Monitor.

1. Within sixty (60) days of approval of the Independent Monitor's services contract, the Independent Monitor shall provide the Parties in writing a proposed plan of

action to address and respond to the issues and deficiencies identified in paragraph C.3 below (“Action Plan”).

2. In developing the Action Plan, the Independent Monitor shall:
 - i. Review the Experts’ Report;
 - ii. Review the Capitol Suspensions Report, the Systemic Instructional Review (SIR) Report of the District, and the 2017 Council of the Great City Schools review and report;
 - iii. Consistent with paragraph C.9 below, account for any District policy and practice changes in place or that are underway relevant to those areas addressed in the Experts’ Report and those which are subject areas and practices that may be addressed by the Independent Monitor’s Action Plan; and
 - iv. Account for other data and information maintained by the District which the Independent Monitor deems necessary or beneficial to the successful and complete preparation of the Action Plan.
3. Based upon the Independent Monitor’s review of the information and documents identified in paragraph C.2 above, the Independent Monitor’s Action Plan shall include steps intended to achieve the following outcomes, assuming the Independent Monitor finds that such steps are not already in place and/or such outcomes have not already been achieved, along with metrics intended to measure whether such steps are succeeding in achieving the desired outcomes. If the Independent Monitor determines upon such review that any of the following outcomes are already in place or have been achieved, the Independent Monitor shall state so in the Action Plan and may set forth an alternative degree or rate of change and an explanation for the same:
 - i. Substantial reduction of disciplinary referrals, including informal suspensions, and in disproportionate such discipline, of students with disabilities;
 - ii. Substantial reduction in disciplinary referrals, including informal suspensions, and in disproportionate such discipline, of Black students with disabilities;
 - iii. Substantial reduction in the placement of students with disabilities in segregated settings;
 - iv. Substantial reduction in the placement and/or disproportionate placement of Black students with disabilities in segregated settings;

- v. Substantial increase in the placement of students with disabilities, in particular Black students with disabilities, in inclusive and integrated classrooms, schools, and school settings in the Least Restrictive Environment, as measured by the percentage of time outside of the general education setting;
- vi. Substantial reduction in incidence of and disproportionality in bullying and harassment of students with disabilities and Black students with disabilities and staffing and structures, including delineated staff responsibilities and duties, to support a functional and robust system that properly responds to, remediates, and prevents the bullying and harassment of students with disabilities and Black students with disabilities; analysis regarding the foregoing shall include addressing the effectiveness of school safety plans and their implementation;
- vii. Compliance with Child Find obligations, including in a manner that appropriately identifies Black students with disabilities without over-identifying or under-identifying Black students for special education and particular disability categories;
- viii. Compliance with obligation to refer students suspected of having a disability for special education assessment in a timely manner, analysis of which shall include the efficacy of and need for Student Study Teams;
- ix. Substantial reduction in over-identification or under-identification of Black students for special education;
- x. Development of best practices, compliant with state and federal laws, to develop IEPs, conduct IEP meetings, and related processes, including but not limited to, increased transparency (e.g., parents are notified in advance of participants, receive information about their rights, programs and services); accessibility, including language access; involvement of parents/guardians, and where appropriate, students, as equal participants with the District; contacting methods to maximize parent/guardian participation; a decision-making process/checklist geared toward placement in Least Restrictive Environment and high academic standards; and the inclusion of District staff knowledgeable about and with the authority to identify and allocate appropriate programs, services, supports, and placements for students with IEPs;
- xi. Analysis of the District's Educationally Related Mental Health Services ("ERMHS") teams and processes to promote adequate, effective, timely and appropriate access to students;
- xii. Timely and appropriate Functional Behavioral Assessments and development and implementation of Behavioral Intervention Plans;

- xiii. Substantial reduction in the overall use of and disproportionality in use of restraints and seclusion for students with disabilities and Black students with disabilities;
- xiv. Adequate and appropriate use of best practices regarding the District's/Special Education Local Plan Area's Special Education Procedural Guide as a usable and accessible resource for parents/guardians and District staff;
- xv. The ratio of school psychologists to students to effectively provide and support MTSS interventions and comprehensive school support services;
- xvi. Substantial implementation of data-driven programs and systems to recruit and retain diverse teaching staff and school site administrators;
- xvii. Implementation of an ongoing professional development system (including training and coaching) designed to achieve the goals of this Agreement based on students', teachers', and staff's needs, the effectiveness of which is measurable, including the goals of establishing and maintaining substantial competency among staff regarding obligations under special education laws consistently applying best practices and culturally responsive pedagogy for educating students with disabilities and Black students with disabilities;
- xviii. Targeted outreach and recruitment focused on diversifying the District's workforce, specifically to reach measurable improvement in the hiring of and retention of the BIPOC employees and employees with disabilities in each of the following groups: teachers, classified staff, and service providers;
- xix. Implementation of a mechanism for the Independent Monitor to, in collaboration with the District, present at publicly agendized workshops before the District's Board of Education to provide an update to the District's Board of Education and community on the District's progress implementing the provisions of the Agreement and outcomes that will be determined pursuant to paragraph D of this Agreement, to occur at a minimum, biannually starting at the six months after commencement of the compliance period under this Agreement;
- xx. Identification and utilization of root cause analyses and reports, where appropriate, for any of the foregoing enumerated items, recognizing the likelihood of overlap on this subject with the District's ongoing SIG-DISP and MTSS efforts; and
- xxi. Establishment of a reliable data collection system to track the metrics outlined in paragraph C.4 of this Agreement.

- xxii. Mechanisms to gather and incorporate stakeholder input, i.e. students, teachers, classified staff, and parents, in development and implementation of policy and systems changes facilitated by the Action Plan.
4. The Independent Monitor's Action Plan and Final Action Plan described in paragraph D of this Agreement shall include a provision for the development of a reliable data collection system and parameters on the measurement of progress of implementing the Action Plan and, where determined applicable and necessary, any necessary metrics, including baseline metrics, that should be establishments for such measurement.
 5. The Independent Monitor's Action Plan shall include reasonable timelines on performing the steps and actions identified in the Action Plan.
 6. The Independent Monitor shall, in their relations with and conduct toward the District and Plaintiffs, be impartial, neutral, and independent of either Party. In carrying out their duties under this Agreement, the Independent Monitor shall act upon and otherwise exercise their independent professional judgment.
 7. In performing the efforts under paragraph C, the Independent Monitor and any retained personnel by the Independent Monitor shall be entitled to access to all District records and data, including student records, except for materials protected by the attorney-client privilege or attorney work product doctrine from either Party. The Independent Monitor and any retained personnel by the Independent Monitor shall have access to District premises, including to observe classroom instruction and speak with District staff, as necessary to perform the Independent Monitor's duties under this Agreement and subject to procedures required by the District of visitors to District premises. The Independent Monitor and any retained personnel by the Independent Monitor shall maintain the confidentiality of all confidential and privileged materials and shall not disclose their contents to any Party or person. The Independent Monitor and any retained personnel by the Independent Monitor shall enter into an agreement with the District, which shall be no more restrictive than comparable agreements the District enters into with other such persons or entities, that allows the Independent Monitor and their personnel to have access to student records in keeping with the Family Education Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, 34 C.F.R. Part 99, Education Code section 49060 et seq., and similar state laws, and also sign an agreement acknowledging that they will comply with relevant privacy and confidentiality laws.
 8. In carrying out their duties under this Agreement, the Independent Monitor shall meet with the Parties on a bi-monthly (every other month) basis for the first year following execution of this Agreement and on at least a quarterly basis thereafter or more frequently if the Independent Monitor determines necessary, and shall consider all reasonable feedback and input from the Parties provided at these

meetings or otherwise. The meetings with the Independent Monitor will be scheduled in such a way to share information and prepare for the required public presentations for the workshops before the Board of Education under paragraph C.3.xix.

9. The Action Plan developed by the Independent Monitor, wherever practicable, should build on current implementation of the District's MTSS program and PBIS, as well as those efforts underway as a result of the District's identification as Significantly Disproportionate by the California Department of Education and required steps and processes the District must complete as a result of that identification. To that end, during the period during which the Independent Monitor is developing the Action Plan, the District shall inform and consult the Independent Monitor regarding policy and practice changes in place or that are underway relevant to those areas addressed in the Experts' Report and those which are subject areas and practices that may be addressed by the Independent Monitor's Action Plan. The Independent Monitor shall review the District's planned actions and may advise and make recommendations to the District about actions that the District should undertake to align the District's actions with the Independent Monitor's Action Plan. The District shall review any such Independent Monitor's advice and recommendations and inform the Independent Monitor and Plaintiffs about whether the District will undertake the actions recommended by the Independent Monitor.
10. The Independent Monitor shall also facilitate resolution of disputes under this Agreement, as set forth in paragraph E of this Agreement.

D. Parties' Consideration and Agreement on Final Action Plan.

1. Within 60 days of receiving the Independent Monitor's Action Plan, the Parties shall collaborate with the Independent Monitor to reach agreement on a final agreed upon Action Plan ("Final Action Plan").
2. In developing the Final Action Plan, the Parties and Independent Monitor shall, wherever practicable, build on current implementation of the District's MTSS program and PBIS, as well as those efforts underway as result of the District's identification as Significantly Disproportionate by the California Department of Education and required steps and processes the District must complete as a result of that identification.
3. In developing the Final Action Plan, the Parties and Independent Monitor shall meet and confer to develop ways to enable implementation of the Final Action Plan that are currently allowable under existing labor agreements and consistent with any bargaining obligations under the Educational Employment Relations Act ("EERA"), Government Code section 3453 et seq. If, pursuant to the EERA, implementation of the Final Action Plan requires additional negotiations, the District will take necessary steps to negotiate on such issues as expeditiously as

possible consistent with the EERA and the goals and objectives of this Agreement and the Final Action Plan. If a dispute results from such negotiations, the District will utilize all available mechanisms to resolve the dispute as expeditiously as possible, consistent with the provisions of the EERA and the goals and objectives of this Agreement and the Final Action Plan.

4. The Independent Monitor's and District's duties regarding implementation of the Final Action Plan shall be memorialized by addendum to this Agreement. The structure for implementing the Action Plan shall include a requirement that the District complete and provide to Plaintiffs and the public periodic written progress reports on discrete outcomes or topics relevant to this Agreement, as determined by the Independent Monitor. The anticipated future addendum to this Agreement that will memorialize implementation of the Final Action Plan shall include a provision that the Independent Monitor shall have full authority to compel the District to comply with the Final Action Plan, subject to paragraph D.3 of this Agreement. To capture and monitor the overall progress in the District's implementation of the plans to effectuate the agreed upon outcomes for this Agreement, the Independent Monitor shall maintain and provide to Plaintiffs on a bi-monthly (every other month) basis a chart or spreadsheet that tracks such progress.
5. If the District or Plaintiffs do not agree with the Independent Monitor's Final Action Plan, they may resolve that dispute through the procedures set forth under paragraph E of this Agreement.

E. Dispute Resolution.

The following terms shall govern resolution of Disputes under the Agreement, including with regard to compliance with the Agreement's terms, the agreement with the Independent Monitor's Final Action Plan, and the District's implementation of the Final Action Plan.

1. All disputes concerning the interpretation, implementation, monitoring of and compliance with this Agreement, including disputes related to the District's implementation of the matters described herein as the Independent Monitor's Final Action Plan, shall be subject to the dispute resolution process as follows:
 - i. Notification in writing. Any Party's dispute concerning this Agreement shall provide notice in writing to the attention of the other Party of the dispute. The other Party may provide a written response to the issues raised in the notice within ten (10) calendar days of receipt of the notice.
 - ii. Unless otherwise agreed to by the Parties with respect to any particular dispute, the Parties agree to engage in a meaningful meet and confer regarding the alleged noncompliance within twenty (20) calendar days after a dispute is raised in writing by one of the Parties, to attempt to resolve the dispute.

- iii. If a Party fails to meet and confer or the Parties meet and confer and fail to resolve the dispute within twenty (20) days after the dispute is raised, a Party may immediately submit the matter to the Independent Monitor in writing for resolution. Unless agreed to otherwise by the Parties, the Independent Monitor must issue a resolution determination regarding the dispute within thirty (30) days of receiving written notification of the dispute as to whether the Party is out of compliance, establish a recommended course of action for the Party to come into compliance by a reasonable date certain and/or the development of a compliance plan. As detailed, such determination may include compelling a Party or Parties to take specific action.
 - iv. If the Independent Monitor is unable to resolve the dispute, either Party may seek enforcement of the Agreement before the Court on a proper and good faith motion, which must be filed within thirty (30) days after the Parties, or any Party, provide notice in writing that they believe they are unable to resolve the dispute at issue. In no case shall such a motion be filed more than sixty (60) days after the Independent Monitor issues their dispute resolution determination under paragraph E.2.iii above.
2. If the Court is asked to resolve a dispute under paragraph E.1.iv, the Court will retain authority upon a showing of good cause to order that the compliance period under this Agreement be tolled as to the specific issue or issues which are in dispute and which the Court has been asked to resolve.

F. Short-Term Measures.

1. **Town Hall:** Within 120 days of the effective date of this Agreement, the District, in collaboration with Plaintiffs, shall host a town hall delineating the outcome of the parties' Agreement, and the measures which will take place under the Agreement, including the role of the Independent Monitor, and the anticipated Action Plan subject areas. The town hall shall take place at a date and time designed to ensure maximum public participation and in a manner that provides maximum language access and maximum access to people with disabilities. The District shall record the public town hall and make the recording available on the District's website within 30 days of the town hall.
2. **Resolution on Rights of Students with Disabilities:** Within 60 days of the effective date of this Agreement, the District shall submit to the SCUSD Board of Education for adoption the resolution entitled "Recognition of the Rights of Students with Disabilities to a Quality and Inclusive Education" incorporated in and attached to this Agreement as Exhibit A. The District shall make such submission with the intent and taking all necessary action to facilitate the Board of Education's adoption of the resolution at the earliest date possible after submission.

3. **Data Review:** Within 90 days of the effective date of this Agreement, the District shall implement the following with the understanding that any or all of the following may be changed, enhanced, or superseded by implementation of the Final Action Plan: (1) establish a norm/expectation regarding regular site level review of certain existing data points covering use of referrals, in-school suspension, out-of-school suspension and “other means of correction,” disaggregated by disability status and race; and (2) led by the District, as a professional development exercise, conduct semi-annual data reviews with all site leaders reviewing the aforementioned data points and possible others determined by the District.
4. **De-Escalation Practices:** Within 3 months of the effective date of this Agreement, the District shall continue with ongoing efforts to make Crisis Prevention Intervention (CPI) non-verbal de-escalation trainings available to staff in an effort to address and reduce the use of restraint and seclusion more broadly.

G. Attorneys’ Fees and Costs.

Within sixty (60) days of the Effective Date of this Agreement, the District will pay Plaintiff’s counsel a total amount not to exceed Six Hundred and Fifty Thousand Dollars (\$650,000.00) for attorneys’ fees and Thirty Seven Thousand Nine Hundred Sixty Nine Dollars and Ten Cents (\$37,969.10) for costs, as full payment and satisfaction of attorneys’ fees and costs in the Action.

H. Dispute Resolution Fund.

Upon the Effective Date of this Agreement, the District shall establish a Dispute Resolution Fund (“Fund”) in the amount of One Hundred and Fifteen Thousand Dollars (\$115,000.00) from which prevailing party attorneys’ fees and costs may be sought and recovered in the event that the Court is asked to resolve a dispute under paragraph E. If Plaintiffs are the prevailing party in a dispute under paragraph E and are awarded fees or costs, the District shall pay prevailing party fees and costs to Plaintiffs from the Fund. If the District is the prevailing party in a dispute under paragraph E and are awarded fees or costs, the District shall reduce the Fund by the amount awarded. Any remaining monies in the Fund at the expiration of this Agreement shall revert to the District.

I. Dismissal of the Action and Continuing Court Jurisdiction.

Upon execution of this Agreement, the Plaintiffs’ will within five (5) days file a stipulation entered into by the Parties to conditionally dismiss the Action, pursuant to Rule 41 of the Federal Rules of Civil Procedure. The Parties’ stipulation shall ask that the Court enter the Agreement as an order of the Court pursuant to Federal Rule of Civil Procedure 41(a)(2), that the Court retain jurisdiction over the Action to enforce the Agreement for a period of five (5) years following approval by the Parties of the Independent Monitor’s Final Action Plan under paragraph D of this Agreement; or until the date by which the District fully implements all provisions and fulfills all obligations under this Agreement and any addenda to the same, whichever is earlier, and that the Court conditionally dismiss the Action without prejudice pursuant to Rule 41(a)(2). The

Parties' stipulation shall ask the Court to place the case on the Court's inactive docket subject to recall to the active docket should it be necessary for either party to move the Court for an order to enforce a term or terms of the Agreement. If the Court issues an order pursuant to the Parties' stipulation conditionally dismissing the Action, then a conditional dismissal will be followed by a final dismissal with prejudice either on: (1) performance of the terms of the Agreement at the end of the five (5) year term, or extended term should any tolling occur in accordance with the terms of this Agreement, following approval by the Parties of the Independent Monitor's Final Action Plan pursuant to paragraph D above, or (2) as stipulated to by the Parties, unless Plaintiffs successfully petition to extend the term of the Agreement. Such an extension shall be limited to those provisions of the Agreement that Plaintiffs successfully petition to have extended rather than the entire Agreement. The Parties will meet and confer before Plaintiffs file any motion to extend the Court's jurisdiction.

J. No Admission of Liability.

It is understood and agreed that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability by any Party.

K. Ratification by Governing Board and Effective Date.

This Agreement shall be executed by the Parties as indicated below. This Agreement shall become binding and effective upon the execution by Plaintiffs and the District, and upon ratification by the District's Governing Board ("Effective Date").

L. Release of Claims.

Plaintiffs agree to accept said conditions in this Agreement herein in full settlement and compromise of the above-entitled matters described as the Action and agrees that same shall fully and forever discharge and release all claims and causes of action, or appeal rights, whether now known or now unknown, which Plaintiffs have, or might have or could have asserted, against the District, its officials, employees, or representatives or agents, in the Action, arising out of the incidents which are the subject thereof, including restitution, disgorgement, damages, incentive or enhancement award, attorneys' fees and costs, including but not limited to claims arising under Title II of the ADA, 42 U.S.C. § 12101 et seq., Section 504, 29 U.S.C. § 794, 42 U.S.C. § 1983, the Equal Protection Clause, Title VI, 42 U.S.C. § 2000d et seq., and California Government Code section 11135 et seq. through the Effective Date of the Agreement.

M. Civil Code section 1542.

This Agreement includes an express waiver by Plaintiffs of Civil Code section 1542, which states:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Case 2:19-cv-01768-DJC-KJN Document 80 Filed 05/24/23 Page 21 of 29
Compromise and Release Agreement

BPSB et al. v. SCUSD et al., U.S.D.C., E.D. Cal., Case No. 2:19-cv-01768-DJC-KJN

Therefore, the Parties expressly acknowledge that this release is intended to include in its effect, without limitation, all claims and causes of action that they do not know or suspect to exist in their favor and that this release contemplates the extinguishment of all such claims and causes of action.

PLAINTIFFS' INITIALS (ALL PLAINTIFFS):

Baril ss l mlr

N. Representation by Counsel.

Each of the Parties acknowledges and agrees that they have been represented by independent legal counsel of their own choice throughout the negotiation of this Agreement and that they are executing this Agreement having had sufficient opportunity to investigate the facts and obtain advice of such counsel.

O. Voluntary Agreement.

Each Party affirms and acknowledges that she/he/it has read, fully appreciates, and understands the words, terms, and provisions of this Agreement, is entirely satisfied with the settlement described, and has duly executed this Agreement voluntarily and of her/his/its full free will and accord. Each Party had an opportunity to review and consult with their respective legal counsel on this matter.

P. Entire Agreement.

This Agreement constitutes the entire agreement between Plaintiffs and Defendants, in conjunction with the stipulation described in paragraph I herein. No other promises, agreements, or statements between the Parties shall be binding unless made in writing and signed by all Parties hereto.

Q. Amendments.

This Agreement cannot be changed or supplemented orally and may be modified or superseded only by written instrument executed by all Parties.

R. Interpretation.

Each of the Parties acknowledges and agrees that this Agreement is to be construed as a whole according to its fair meaning and not in favor of nor against any of the Parties as draftsman or otherwise.

S. Other Documents.

The Parties hereby agree to execute all such other documents and to take all such other action as may be reasonably necessary to effectuate the purpose of this Agreement.

Case 2:19-cv-01768-DJC-KJN Document 80 Filed 05/24/23 Page 22 of 29
Compromise and Release Agreement

BPSB et al. v. SCUSD et al., U.S.D.C., E.D. Cal., Case No. 2:19-cv-01768-DJC-KJN

T. Choice of Law.

This Agreement shall be governed by and interpreted under the laws of California applicable to instruments, persons, transactions, and subject matter which have legal contacts and relationships exclusively within the State of California.

U. Severability.

If any provision of this Agreement is held to be invalid, void, or unenforceable, the remaining portions of the Agreement shall remain in full force and effect.

V. Warranty of Authority.

Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the Parties by signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

W. Binding Effect.

This Agreement is for the benefit of and shall be binding on all Parties and their successors, assigns, heirs, executors, administrators, predecessors, partnerships, employees, attorneys, insurers sureties, agents, representatives, directors, officers, receivers, trustees and/or stockholders.

X. Execution in Counterparts.

This Agreement may be executed in several counterparts and, subject to the requirements of paragraph K herein, shall be deemed legally effective at such time as counterparts thereof duly executed on behalf of all Parties have been furnished and delivered to the attorneys for all Parties to this Agreement. Signed copies and facsimile versions of this Agreement shall have the same force and effect as signature of the original. All Parties agree that electronic signatures, including but not limited to typewritten signatures, shall have the same force and effect as a wet signature.

Dated: 5/19/2023

Darryl White

Darryl White for Plaintiff Black Parallel School Board

Dated: 5/19/2023

Amy A.

Amy A., Guardian Ad Litem for Plaintiff S.A.

Dated: 5/18/2023

Samuel S.

Samuel S., General Guardian for Plaintiff C.S.

Case 2:19-cv-01768-DJC-KJN Document 80 Filed 05/24/23 Page 23 of 29
Compromise and Release Agreement

BPSB et al. v. SCUSD et al., U.S.D.C., E.D. Cal., Case No. 2:19-cv-01768-DJC-KJN

Dated: _____

Jorge A. Aguilar, Superintendent of Sacramento City
Unified School District, on Behalf of the District, the
District's Governing Board, and all other District
Defendants

APPROVED AS TO FORM AND CONTENT:

Dated: 5/18/2023

DISABILITY RIGHTS CALIFORNIA

Munmeeth Soni

By: Munmeeth Soni
Attorneys for Plaintiffs

Dated: 5/18/2023

EQUAL JUSTICE SOCIETY

Mona Tawatao

By: Mona Tawatao
Attorneys for Plaintiffs

Dated: _____

NATIONAL CENTER FOR YOUTH LAW

By: Michael Harris
Attorneys for Plaintiffs

Dated: 5/18/2023

WESTERN CENTER ON LAW & POVERTY

Antionette Dozier

By: Antionette Dozier
Attorneys for Plaintiffs

Dated: _____

LOZANO SMITH

By: Sloan R. Simmons
Attorneys for Defendants

Dated: _____

Jorge A. Aguilar, Superintendent of Sacramento City
Unified School District, on Behalf of the District, the
District's Governing Board, and all other District
Defendants

APPROVED AS TO FORM AND CONTENT:

Dated: _____

DISABILITY RIGHTS CALIFORNIA

By: Munmeeth Soni
Attorneys for Plaintiffs


Dated: _____

EQUAL JUSTICE SOCIETY

By: Mona Tawatao
Attorneys for Plaintiffs

Dated: May 19, 2023

NATIONAL CENTER FOR YOUTH LAW



By: Michael Harris
Attorneys for Plaintiffs

Dated: _____

WESTERN CENTER ON LAW & POVERTY

By: Antionette Dozier
Attorneys for Plaintiffs

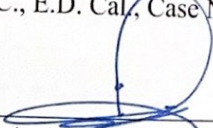
Dated: _____

LOZANO SMITH

By: Sloan R. Simmons
Attorneys for Defendants

Compromise and Release Agreement
BPSB et al. v. SCUSD et al., U.S.D.C., E.D. Cal., Case No. 2:19-cv-01768-DJC-KJN

Dated: 5/18/23



Jorge A. Aguilar, Superintendent of Sacramento City Unified School District, on Behalf of the District, the District's Governing Board, and all other District Defendants

APPROVED AS TO FORM AND CONTENT:

Dated: _____

DISABILITY RIGHTS CALIFORNIA

By: Munmeeth Soni
Attorneys for Plaintiffs

Dated: _____

EQUAL JUSTICE SOCIETY

By: Mona Tawatao
Attorneys for Plaintiffs

Dated: _____

NATIONAL CENTER FOR YOUTH LAW

By: Michael Harris
Attorneys for Plaintiffs

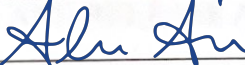
Dated: _____

WESTERN CENTER ON LAW & POVERTY

By: Antionette Dozier
Attorneys for Plaintiffs

Dated: 5/19/2023

LOZANO SMITH



By: Sloan R. Simmons
Attorneys for Defendants

DRUD'gv'cr0x0UEWUF "gv'cr0"
WUUF 0E0'GF 0Ecr0'Ecug'P q04-3; /ex/2398: /FILE/MLP "
E Q O R T Q O K U G ' C P F ' T G N G C U G ' C I T G G O G P V

EXHIBIT C

Sacramento City Unified School District
Board of Education

RESOLUTION No. _____

Recognition of the Rights of Students with Disabilities to a Quality and Inclusive Education

WHEREAS, the Sacramento City Unified School District (SCUSD) serves approximately 6,573 students formally identified with disabilities, representing 16% of the total student population.

WHEREAS, despite the affirmative rights and appreciation for students with disabilities in our federal and state laws, students with disabilities suffer the worst academic and social emotional outcomes in our District, especially Black students and other students of color and English language learners; and

WHEREAS, October includes National Disability History Month, National Bullying Prevention Month, Worldwide Dyslexia Awareness Month, National Learning Disabilities Awareness Month, and National Disability Employment Awareness Month; and

WHEREAS, the Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public and assures that people with disabilities have the same civil rights protections and opportunities as everyone else, similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion; and

WHEREAS, Section 504 of the federal Rehabilitation Act regulations requires a school district to provide related aids and services designed to meet the student's individual educational needs; and

WHEREAS, the Individuals with Disabilities Education Act (IDEA) requires all public schools to address the needs of pupils with disabilities and develop Individualized Education Plans (IEPs) which provide a Free and Appropriate Public Education (FAPE) reflecting the specific needs of each pupil; and

WHEREAS, California has been a leader in furthering disability rights with the enactment of such pioneering legislation as the Disabled Persons Act, the Unruh Civil Rights Act, the Fair Employment and Housing Act, Section 11135 of the Government Code, the Lanterman-Petris-Short Act, and the Lanterman Developmental Disabilities Services Act; and

WHEREAS, the California Education Code requires California schools to adopt instructional materials that accurately portray the cultural and racial diversity of our society, including the role and contributions of Black people, persons with disabilities, among those of members of other groups; and

WHEREAS, the FAIR Education Act enacted January 1, 2012 requires that California schools provide Fair, Accurate, Inclusive and Respectful (FAIR) representations of people with disabilities and people who are lesbian, gay, bisexual or transgender in History and Social studies curriculum and mandates schools to include the contributions of people with disabilities and members of the LGBT community in the curriculum; and

WHEREAS, the Board of Education and SCUSD recognize the rights of students with disabilities and their parents/guardians under federal and state law, and are committed to ensuring compliance with federal and state laws and providing equal opportunity for all individuals in District programs and activities; and

WHEREAS, as educational leaders the Board of Education and SCUSD recognize that evidenced-based instructional methods, inclusive practices, restorative justice practices, social and emotional learning, bullying prevention and intervention, mental health supports, and authentic family engagement are proven to substantially improve the educational and equitable outcomes for all students, including students with disabilities, students of color, and English language learners; and

WHEREAS, the Board of Education and SCUSD recognize that our students with disabilities are general education students first, and that every educational, operational, and budget decision we make begins with the belief that students with disabilities have a right to and have the ability to learn alongside their non-disabled peers and equitable and meaningful opportunities to learn and grow; and

WHEREAS, the Board of Education and SCUSD recognize that school climate refers to the norms, values, and expectations that support people to feel physically, socially, and emotionally safe and connected. To be their best, students must feel a sense of connectedness and belonging to their school community. Specifically, schools that are committed to promoting a variety of positive relationships with caring adults will have more connected and engaged students with disabilities, including students of color and English language learners.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education and SCUSD remain committed to work towards equitable outcomes for students with disabilities, including Black students and other students of color and English language learners, and support a vision of high expectations for all students and a commitment to learning goals, standards, interventions, and supports that are strong, clear, understood, and put into practice; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education and SCUSD value and support diversity and inclusion and recognize both the legal right to and the reciprocal benefits of inclusive education; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education and SCUSD remain committed to ensuring the implementation and efficacy of a Multi-Tiered System of Supports (MTSS), including an early identification and early intervention system to identify and document interventions for students whose performance and/or progress indicates they are at-risk for attendance, behavior, and/or course performance; and

///

///

///

///

///

NOW, THEREFORE, BE IT RESOLVED, that the Superintendent transmit copies of this resolution to its administrators, teachers, staff, departments, and schools for appropriate distribution and implementation.

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTESTED TO:

Jorge A. Aguilar
Secretary of the Board of Education

President of the Board of Education