

ATTACHMENT D

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

THERESA D. THOMAS, et al.,
Plaintiffs

UNITED STATES OF AMERICA,
Plaintiff-Intervenor

vs.

ST. MARTIN PARISH SCHOOL
BOARD, et al.,
Defendants

CIVIL ACTION NO. 6:65-cv-11314

JUDGE ELIZABETH E. FOOTE

CONSENT ORDER REGARDING
QUALITY OF EDUCATION

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I. INTRODUCTION

Plaintiffs and Plaintiff-Intervenor, United States of America (“United States”), (collectively, the “Plaintiff Parties”) and Defendant, St. Martin Parish School Board (the “Board”), have engaged in good faith negotiations. Pursuant to agreements reached in those negotiations, all parties have voluntarily agreed, as indicated by the signatures of their counsel below, to enter into the instant Consent Order regarding the quality of education, including student discipline, being offered by Defendants to students in accordance with the above-captioned matter.¹

Upon review of the agreed-upon terms set forth below, the Court concludes that the entry of this Consent Order is consistent with the Fourteenth Amendment to the Constitution of the United States of America, Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c *et seq.*, and other applicable federal law.

IT IS, THEREFORE, ORDERED, ADJUDGED, and DECREED as follows:

II. BACKGROUND

In 1965, Plaintiffs successfully sued the Board to enjoin its maintenance of *de jure* racially segregated schools.² In the same year, the parties agreed that a “freedom of choice” plan would govern student assignments.³ In 1969, however, the Fifth Circuit, following the United States Supreme Court’s decision in *Green v. School Board of New Kent County*,⁴ held that the

¹ This Consent Order does not preclude Plaintiffs or the United States from referencing and/or presenting evidence on historical facts and/or issues of (1) inequalities in the quality of education being offered to the white and Black students; and (2) racial discrimination in student discipline that may relate to student assignment. Such references and/or evidence will not preclude the Board from seeking or achieving unitary status in the areas of quality of education and student discipline consistent with the dictates of this Consent Order.

² Doc. 1 at 1.

³ Doc. 25-1, Item 1 at 1-2.

⁴ 391 U.S. 430 (1968).

freedom of choice plan operating in St. Martin Parish did not satisfy the Constitution.⁵ On remand, this Court approved a school desegregation plan and ordered that it be implemented for kindergarten through eighth grade starting in September 1969 and for grades nine through twelve starting in the fall of 1970 (“1969 Decree”).⁶ The 1969 Decree called for establishing school attendance zones, pairing schools, desegregating faculty and other staff, creating a majority-to-minority (“M-to-M”) transfer policy, and filing periodic reports with the Court. In 1974, after nine years of active litigation, the case was placed on the inactive docket.⁷

In 2012, over the Board’s objection, this Court determined that this case remains open.⁸ The Fifth Circuit affirmed that decision.⁹ On remand, the case returned to active litigation. An evidentiary hearing regarding student assignment was held on January 19, 2016. An evidentiary hearing regarding transportation and quality of education has been scheduled for February 16-18, 2016.¹⁰

The St. Martin Parish School District (the “District”) currently serves over 8,000 students, and operates sixteen (16) schools, housing grades ranging from pre-kindergarten through high school. By grade level (elementary school, junior high school, high school), the Black student enrollment ranged from 45% to 46% in the 2014-2015 school year.

Since 2012, the parties have engaged in extensive discovery—including document production, the submission of expert reports, multiple site visits, and depositions of Board members and personnel—to examine all of the District’s operations. In conjunction with this comprehensive discovery, the parties have met numerous times to discuss concerns, clarify

⁵ *Hall v. St. Helena Parish Sch. Bd.*, 417 F.2d 801, 809 (5th Cir. 1969).

⁶ Doc. 25-3, Item 7, at 14-24.

⁷ Doc. 25-2 at 1-4.

⁸ Doc. 58.

⁹ Doc. 67.

¹⁰ Docs. 86 and 145.

positions, and identify solutions. This Consent Order is the result of the parties' collective settlement negotiations.

III. LEGAL STANDARDS

The ultimate goal of every desegregation case, including this one, is the elimination of the vestiges of past segregation in all aspects of school operations to the extent practicable and, ultimately, a declaration that the school district has achieved unitary status.¹¹ Federal court supervision of a local school system is intended to remedy the constitutional violation and, after unitary status has been achieved, to return control of the school system to the locally elected Board.¹²

The United States Supreme Court has described six areas of operation that must be free of racial discrimination before a school district can declare that full unitary status has been achieved: (1) student assignment; (2) faculty assignment; (3) staff assignment; (4) extracurricular activities; (5) facilities; and (6) transportation.¹³ Each of these "*Green* factors" may be considered individually, and a school district may achieve partial unitary status as to these factors one at a time such that federal judicial supervision is relinquished incrementally.¹⁴ In addition, a court may consider ancillary factors, such as the quality of education being offered to the White and Black student populations, including student discipline, course offerings, graduation rates, and in-grade retention rates.¹⁵ In examining these indicia of quality of education, the court may consider the equitable or inequitable participation and performance of Black students, as compared to White students, within the school district.¹⁶

Although the 1969 Decree does not contain specific language regarding quality of

¹¹ *Freeman v. Pitts*, 503 U.S. 467, 489 (1992).

¹² *Id.*

¹³ *Green*, 391 U.S. at 435.

¹⁴ *Freeman*, 503 U.S. at 489-91.

¹⁵ *Id.* at 492.

¹⁶ *Id.* at 482-84.

education, the general injunction against discriminatory operations applies to quality of education.¹⁷ Thus, it is appropriate for this Court to address quality of education in this case.

In order to secure a declaration of unitary status as to any one (or more) of the *Green* factors, the Board must demonstrate, as to each specific factor, that it has complied in good faith with the desegregation decree for a reasonable period of time and that the vestiges of past discrimination have been eliminated to the extent practicable.¹⁸ For each area of operation, if the facts reveal no continued racial discrimination, and if the Board has made good faith efforts to comply with the desegregation decree and made affirmative efforts to eliminate the vestiges of the prior discrimination, this Court may declare that factor unitary, but retain continuing jurisdiction over the remaining factors until such time as unitary status is achieved in the remaining areas.¹⁹

IV. AGREED REMEDIAL MEASURES REGARDING QUALITY OF EDUCATION

The parties have agreed to the below-described remedial measures designed to eliminate the vestiges of the prior discrimination and address the Plaintiff Parties' concerns regarding the quality of education that the Board is offering to Black students. The remedial measures are presented below in two sections, Section IV.B "Student Discipline" and Section IV.C "Course Assignment, Graduation Rates, and In-Grade Retention." Each of the afore-mentioned sections has its own set of applicable definitions – the definitions for Section IV.B "Student Discipline" can be found in Section IV.B.1, while the definitions for Section IV.C. "Course Assignment, Graduation Rates, and In-Grade Retention" can be found in Section IV.C.1. The Court finds that the relief detailed below will address such concerns and, if fully and properly implemented over

¹⁷ *Singleton v. Jackson Mun. Separate Sch. Dist.*, 419 F.2d 1211, 1218-19 (5th Cir. 1970) (en banc).

¹⁸ *Bd. of Educ. v. Dowell*, 498 U.S. 237, 249-50 (1991). See also *Flax v. Potts*, 915 F.2d 155, 158 (5th Cir. 1990); *Monteilth v. St. Landry Pub. Sch. Bd.*, 848 F.2d 625, 629 (5th Cir. 1988).

¹⁹ *Freeman*, 503 U.S. at 490-91.

a reasonable period of time, is designed to result in the achievement of unitary status and dismissal.

A. Purpose

This Consent Order reflects the Parties' shared goals of ensuring that the District administers student discipline in a fair and non-discriminatory manner, addresses disproportionate assignment of exclusionary sanctions to Black students, and provides all students with an equal opportunity to learn in a safe, orderly, and supportive environment. The Parties acknowledge that the unnecessary use of exclusionary discipline can have serious, long-term, detrimental effects on student engagement and success. The District shall ensure that students remain in the regular classroom environment to the greatest extent possible under the Comprehensive Discipline Plan ("Discipline Plan"). Except as required by law, the District shall not administer exclusionary discipline consequences prior to attempting and documenting non-exclusionary corrective strategies and interventions.

This Consent Order also reflects the Parties' shared goal of ensuring that the District provides equal educational opportunities to its students by collecting, tracking, and analyzing its course assignments, graduation rates, and in-grade retention rates with an eye toward addressing racial disparities in those areas.

B. Student Discipline

1. Definitions

- a. Progress:** is defined as strengthening policies, practices, and prevention-oriented programming to improve student behavior, reducing disciplinary actions in each school and throughout the district, reducing variances between schools, and reducing racial variances within each school, between schools, and district-wide for schools with common grade levels (i.e., elementary school, middle school, high school).
- b. Continuous Progress:** is defined as measurable improvement across two or more years as indicated by reductions in days of lost instruction, percentage of students issued one or more in-school suspensions ("ISS"), percentage of students issued one or more out-of-school suspensions ("OSS"), and number of office referrals as compared to the prior school year. Measureable improvement shall be reflected in specific indicators identified in advance by the District based on the Baseline Year data. The indicators will, at a minimum, include reductions in:

 - i. the percentage of Black students who receive one or more Office Discipline referrals ("ODRs");
 - ii. the percentage of Black students who receive one or more ISS or OSS;
 - iii. the number of instructional days that Black students lose as consequences for discipline (e.g., ISS and OSS).
- c. Functional Behavioral Assessment:** is defined as a problem-solving process in which information is collected to ascertain "why" a student engaged in an act of misconduct in the first place. Specifically, information is collected to identify possible causes and functions of the problem behavior. Once the cause/function of the behavior is identified, the team can develop an individualized behavior support plan or a Behavior

Intervention Plan (BIP) to help the student learn or practice replacement behaviors that will reduce the problem behaviors.

- d. Baseline Year:** refers to the starting point from which the District's Progress is measured, the 2015-2016 school year.
- e. Graduated Infractions:** refers to a system of progressive discipline such that as the behavior becomes more serious or safety-threatening, it is met with increasingly more serious sanctions.
- f. Culturally Responsive:** refers to the skills, knowledge and attitudes associated with effective educational practices for students from diverse racial, socio-economic and cultural backgrounds.
- g. Grade-Band:** refers to schools housing grades of a common level (e.g. PK-5, 6-8, 9-12).

2. Agreed Remedial Measures

The Plaintiff Parties challenged the Board's compliance with its desegregation obligations regarding student discipline, citing inconsistencies in discipline policies and practices and racial disparities in discipline rates. Although the Board disputes the conclusion that its actions relative to student discipline are discriminatory, it has nevertheless represented to the Plaintiff Parties and this Court that it has had plans in progress, including revising discipline policies in consultation with the Southeast Equity Center, or other qualified expert, to address the documented inconsistencies and racial disparities in discipline rates and has agreed to implement those plans and the additional terms detailed below, in order to resolve the Plaintiff Parties' concerns regarding student discipline. Thus, the Parties have agreed that the full and proper implementation of the following remedial measures will likely lead to unitary status in the area of student discipline:

a. Professional Development

i. As soon as practicable or within ninety (90) days of entry of this Consent Order, the Board shall enter into a contract with the Southeast Equity Center or other qualified consultant, to help the District build its capacity to effectively administer discipline, especially with regard to (a) effective classroom management, including Culturally Responsive instruction; and (b) school discipline and race, including practices for identifying and reducing racially disparate discipline. Within fourteen (14) days of entering into the contract, the Board will submit contract to Plaintiff Parties. If the Southeast Equity Center is unavailable, the District shall provide the Plaintiff Parties with a minimum of fourteen (14) days to either approve or object to an alternative consultant before formally retaining their services. The Parties shall work together in good faith to resolve any disagreements regarding the selection of qualified consultants, pursuant to Section V.C.4 below.

(a) The Board shall provide training to personnel responsible for administering discipline on fair and effective administration of discipline, including, but not limited to training on cultural responsiveness, de-escalation tactics, and the use of conflict resolution programs:

(b) Appropriate personnel includes all District employees responsible for classroom management and student discipline, including, but not limited to, all teachers, school-level administrators, and relevant central office staff.

(c) The training shall be taught by the qualified consultant and/or administrators who have successfully completed training conducted by the qualified consultant.

(d) The District shall invite the qualified consultant to observe the first training of District employees conducted by each administrator – preferably in person, but alternatively by videoconference if necessary – so that the consultant will have the opportunity to assist each administrator in appropriately delivering the training.

(e) Each year, all teachers, administrators, and other staff who deal with student discipline must complete four hours of discipline-related training per school year, addressing issues including, but not limited to: cultural responsiveness,²⁰ de-escalation tactics, and the use of conflict resolution programs.

b. Discipline Policies and Procedures

i. Prior to the 2016-2017 academic year, the District shall revise its disciplinary policies, including its Discipline Plan, and submit the revised policies to the Plaintiff Parties for review, comment, and approval before the Superintendent submits such revised policies to the Board for approval. In revising the policies, the District shall solicit and consider input from its retained consultants, District teacher and administrative representatives, and the Plaintiff Parties. The Plaintiff Parties shall not unreasonably withhold approval of the District's revised policies and shall complete their review and raise objections as quickly as possible, but no later than

²⁰ Cultural Responsiveness training should address the: “five components essential to [Culturally Responsive Classroom Management (CRCM)]: (a) recognition of one’s own ethnocentrism and biases; (b) knowledge of students’ cultural backgrounds; (c) understanding of the broader social, economic, and political context of our educational system; (d) ability and willingness to use culturally appropriate classroom management strategies; and (e) commitment to building caring classroom communities.” Weinstein, C. S., Tomlinson-Clarke, S., & Curran, M. (2004). *Toward a Conception of Culturally Responsive Classroom Management*. *Journal of Teacher Education*, 55(1), 25-38. For more information, see Gay, G. (2010). *Culturally responsive teaching: Theory, research, and practice*. (2nd ed.). New York, NY: Teachers College Press.

thirty (30) days after receipt of the proposed revisions. If the Plaintiff Parties do not object or otherwise respond within thirty (30) days of receipt of the proposed revisions, their non-objection is presumed. Upon receipt of consent of Plaintiff Parties to the proposed plan, the Board shall bring the plan for public comment and a Board vote as soon as practicable. In the event that the Plaintiff Parties object to the revised policies, the parties will meet and confer (either via telephone, videoconference, or in person) about each objection within fourteen (14) business days of service of the objection. In the event that the parties reach an impasse as to either (a) whether an objection has merit, or (b) how to remedy any concerns raised in an objection, then any party may move the Court to resolve the dispute so long as the motion is made within forty-five (45) calendar days of the meet and confer.

- ii. The District shall review, modify, and/or establish written agreements with the local law enforcement agencies to ensure compliance with the District's revised disciplinary policies, as approved by the Plaintiff Parties and the School Board.
- iii. The District's Discipline Plan shall apply to each District school, including the College and Career Readiness Center, to ensure consistency of disciplinary practices. The District shall, consistent with the Discipline Plan, administer consequences that are non-discriminatory, fair, age-appropriate, and proportionate to the severity of the student's misbehavior. The District may adopt and apply a separate Discipline Plan at its alternative school, the Juvenile Continuing Education Program ("JCEP"). If the District chooses to use a separate Discipline Plan at its alternative school, it shall solicit input and seek approval in accordance with the process described above in Section IV.B.2.b.i, with any disputes about approval to be resolved in accordance with Section V.C.4.

iv. The revised Discipline Plan shall:

- (a) include a detailed and clearly defined system of Graduated Infractions, corrective strategies, and consequences that minimize the number of lost days of instruction to the least amount of days possible;
- (b) clearly describe expected positive behaviors;
- (c) objectively define behavioral infractions at every level (including whether the behavior should be handled in the classroom or through referral and the definition of habitual or repetitive misconduct);
- (d) incorporate Culturally Responsive and developmentally appropriate tiered prevention and intervention strategies;
- (e) incorporate a continuum of alternatives to exclusionary discipline (including Behavior Intervention Plans (BIPs), reflective writing assignments, conflict resolution, and restorative justice practices);
- (f) address the limited circumstances under which the use of exclusionary consequences and the involvement of law enforcement is permitted;
- (g) address appropriate consequences and/or interventions for infractions related to tardiness or truancy;
- (h) communicate policies on the use of exclusionary discipline in a clear manner;
- (i) incorporate behavioral supports for students with multiple referrals;
- (j) incorporate protections for students with disabilities as outlined by federal and state law;
- (k) include guidelines for communication with parents or guardians to address the infraction and assist with transition back to the school and/or classroom environment;

- (l) detail policies to provide suspended students with reasonable opportunities to complete regular academic work and earn equivalent grades and credit to other students, and not require students to complete punitive or non-academic writing assignments while assigned to suspension;
 - (m) use terms and designations that completely align with the terms and designations used in the District's electronic student records management system.
- v. The revised Discipline Plan shall provide classroom teachers with a wide variety of classroom management and corrective strategies that do not deprive students of valuable instructional time or involve removal from their home school. These strategies shall be designed to reduce the occurrence of student infractions, provide constructive feedback, teach alternative or replacement behaviors, and motivate students to demonstrate compliance with established school expectations outlined in the Discipline Plan. Examples of corrective strategies include reflective activity, parent or guardian contact, a letter of warning, a loss of privileges, in-school detention, and restorative justice practices. The use of all corrective strategies shall be documented.
- vi. Additionally, the Board shall conduct the first series of annual trainings on the District's new disciplinary policies, as required by Section IV.B.2.a above, within sixty (60) days after the Plaintiff Parties either consent, or fail to object, to these new policies.
- vii. The District shall establish behavioral support teams, as appointed by the Superintendent, to function as an early warning system for infractions such as tardiness and truancy. The behavioral support teams' goals shall include: (a)

identifying underlying issues that may contribute to the infraction, and (b) helping students develop a BIP. The District shall also provide Functional Behavioral Assessments (FBAs) for students who may need a more formal, longer-term intervention.

- viii. Each school's behavior interventionist, assistant principal, or dean of students, as assigned by the Superintendent shall track the number of days of exclusionary discipline given to each student, and shall immediately report to the District Child Welfare and Attendance Supervisor, who oversees District's implementation of PBIS, when any student accumulates five (5) total days of exclusionary discipline within a school year.
- ix. The District shall hold informational sessions annually prior to or in conjunction with beginning-of-the-school-year activities, which shall include a clear explanation of the school's system of classroom corrective strategies and consequences, the Discipline Plan, due process and appeal procedures, and discussion of the District's efforts to reduce exclusionary discipline and racial disparities in discipline referrals and consequences. During these sessions, attendees shall have an opportunity to comment on the District's Discipline Plan, and receive guidance on how parents or other guardians may ask questions, receive information, or submit complaints about student discipline.
- x. The District will distribute the revised Discipline Plan and any explanatory materials to all students, parents and/or guardians in print and post such materials on the Board's website after the Board adopts the new Discipline Plan.
- xi. The District shall develop, describe, and implement a clear complaint process by which students and parents or other guardians can submit complaints to the District

regarding the administration of student discipline. This complaint process shall include an appropriate investigation and response mechanism. The Board shall include information on the complaint process and contact information for the Child Welfare and Attendance Supervisor on its website, in its student handbooks, and in the Discipline Plan.

c. Discipline Data Collection, Review, and Self-Assessment

- i. The District shall utilize a data collection system to facilitate the regular examination of discipline referral data in order to identify improvements and areas of concern particularly with respect to office discipline referrals, out-of-school suspension, and lost days of instruction.
- ii. The Board delegates responsibilities for discipline data collection and reporting to Child Welfare and Attendance Supervisor.
- iii. The District shall report semi-annually on the District's Progress in implementing the revised discipline policy. The District shall provide the Parties with a mid-school year Discipline Progress Report on February 1 ("Mid-Year Discipline Report"), and provide the Court one end-of-school year Discipline Report on July 1 ("End-of-Year Discipline Report").
- iv. Each Discipline Report shall include the following:
 - (a) a summary of all consultations the District has had with the selected consultant to address discipline, including the date of the consultation and a detailed description of the nature of the consultation.
 - (b) a list of all teachers, school-level administrators, and relevant staff who received the training described in Section IV.B.2.a above, along with their

titles, the school to which they are assigned, and the date of the training they attended.

- (c) a written explanation of actions the District has taken to address any remaining disparities, along with justifications for disparities the District deems impracticable for elimination.

v. The End-of-Year Discipline Report shall also include the following annual calculations by race for each school and district-wide for each Grade-Band:

- (a) student expulsions by grade, by race, by gender, by reason for expulsion, and by duration of expulsion;
- (b) duplicated counts (all events) and unduplicated counts (number of individual students) of these disciplinary actions, with separate accounting of: (1) alternative school referrals relating to discipline, (2) ISS, (3) OSS, (4) after-school detention, (5) corporal punishment, (6) the five most frequent disciplinary consequences across the district, and (7) non-punitive behavioral supports;
- (c) racial disparities identified for each category of disciplinary action enumerated in subsection (b) immediately above and comparisons of disciplinary activity within each individual school with all schools;
- (d) within Grade-Bands, the District shall rank the schools in terms of the lowest rate of discipline to the school with the highest rate of discipline;
- (e) within Grade-Bands, the District should identify the average rates of Black and White students' receipt of ODRs, OSS, and lost days of instruction.

- vi. Schools with above average rates of discipline relative to their Grade-Band averages will strive to reduce ODR rates, OSS rates, and lost days of instruction to achieve average or below-average rates relative to their Grade-Band averages.²¹
- vii. The Board will strive to eliminate all disparities identified in the Baseline Year as agreed by the Parties.²² Towards this end, the District will show Continuous Progress across three consecutive school years to reduce disparities identified in the Baseline Year.
- viii. The informational sessions mentioned in Section IV.B.2.b.ix above shall include a clear explanation of the school's system of data collection, data review, and self-assessment.

C. Course Assignment, Graduation Rates, and In-Grade Retention Rates

1. Definitions

- a. **Progress:** is defined as (1) increasing the proportion of all ninth Grade students who graduate from high school within four years, (2) increasing total numbers of students graduating from high school, and (3) reducing intra-race and between-school variances for in-grade retention, graduations/dropouts and type of diplomas granted.
- b. **Continuous progress:** is defined as measurable improvement across two or more years as compared to the prior school year.
- c. **Cohort survival graduation rate:** is calculated by dividing the total number of students who entered ninth grade for the first time in a given academic year by the total

²¹ Grade-band averages lower when there are reductions in differences between schools. This is an indication that the District is engaged in a process of "continual improvement."

²² Failing to eliminate all disparities may not be the sole basis for granting or denying the school district unitary status in the area of quality of education.

number of those same students who graduate from high school within four academic years.²³

2. Agreed Remedial Measures

Plaintiffs have expressed concerns about the District's limited collection, tracking, and analysis of quality of education indicia by race to ensure the equitable access to educational opportunities. Although disagreeing with the conclusion that it has not already achieved unitary status with regard to quality of education, the Board has agreed to address Plaintiffs' concerns.

The parties have agreed to the following terms as an appropriate remedial measure designed to achieve unitary status with regard to quality of education:

a. Course Assignment

- i. The Board shall take the following steps, to eliminate and avoid, to the extent practicable, racially identifiable program assignments in its secondary schools:
 - (a) assign students to all sections of non-elective or elective classes taking into account, *inter alia*, the overall racial composition of students assigned to each class;
 - (b) advise students and parents regarding course selection to pursue academic challenges that will prepare them for future education and work opportunities, and that identify multiple criteria relevant to student need for, and likelihood of, benefitting from such classes;
 - (c) open all advanced classes offered in grades 6-12, to any student who wishes to be assigned to them, without testing or other admission criteria;

²³ All students must be included in a cohort unless they transfer out as legitimate leavers. See LA Dep't of Ed. Cohort Graduation Data Certification, Review of Policy and Data Process, May 2015, <https://www.louisianabelieves.com/docs/default-source/accountability/cohort-graduation-rate-review-2015.pptx?sfvrsn=2>

- (d) incorporate the following into staff development for administrators, faculty and staff: training in identifying students of all races and cultures capable of doing advanced work, and specifically, minority students for possible inclusion in advanced classes;
 - (e) take all reasonable steps to ensure that parents and students (particularly Black parents and students) are informed of the nature and benefits of all special classes and programs, as well as application or selection processes, admission criteria, course prerequisites, and applicable deadlines; to this end, the Board shall assure that written notices containing such information are posted on the District's website, and are sent to all student households separate from the notice included in the Student Handbook. The Board shall further assure that dissemination occurs in time to allow students to apply, be considered, and be enrolled in each special class and program; and
 - (f) retain all notifications, announcements, and records of steps taken to publicize special classes and programs and make them available to the Plaintiff Parties upon request, with reasonable notice, for inspection and copying.
- ii. The Board shall take steps to eliminate and avoid, to the extent practicable, racial disparities in all diploma programs District-wide and to increase Black student enrollment in the most academically rigorous and college preparatory diploma programs²⁴ in its secondary schools by taking the following steps:

²⁴ In Louisiana, high schools issue two types of high school diplomas: 1) a College and Career diploma or 2) a Career diploma. Within the College and Career diploma, there are two courses of study—the more academically rigorous “Core 4” and the “Basic Core.” Among other things, the “Core 4” course of study requires additional credits in science, social studies, and art and also requires foreign language credits. Graduation Requirements, La. Dep’t of Educ., <http://www.louisianabelieves.com/courses/graduation-requirements> (last visited January 5,

- (a) review criteria for recommending that students seek each type of diploma offered by the District and practices associated with recommending students' diploma track (including all components of the formal advisement process, as well as counseling practices in the District) to identify educationally sound modifications that might reduce patterns of underrepresentation of Black students in college preparatory diploma programs at different schools.
- (b) assure that the advisement process includes, at a minimum:
 - (1) parent and student preregistration meetings that explain course offerings for students in grades 8-12 and requirements for seeking each type of diploma;
 - (2) packets containing such information, which are sent home with students;
 - (3) a requirement that parents and/or guardians sign and return a form stating that formal advisement materials have been received and reviewed; and
 - (4) if parents and/or guardians fail to sign and return such material, reasonable efforts are made by school staff to ensure that they do so.
- (c) provide to Plaintiff Parties a proposal ("Diploma Track Proposal") by July 1, 2016, for implementation no later than Fall 2016, to:
 - (1) ensure all parents and students are well informed about all the diploma tracks;
 - (2) attract and recruit Black students to seek a "Core 4" or college-preparatory diploma;

2016). The Core 4 diploma is the diploma designed for college-bound students.

- (3) retain Black students on the path to attaining a “Core 4” or college preparatory diploma, and seek expert assistance, as needed, with the afore-mentioned efforts and the efforts made pursuant to subsections (1) and (2) immediately above.

b. Graduation Rates

- i. The Board shall take steps to eliminate and avoid, to the extent practicable, racial disparities in graduation rates in its secondary schools by taking the following steps:

- (a) Annually calculate the following and file with the Court as a Graduation

Report:

- (1) number and percentage of high school graduates/dropouts using the cohort survival rate by school, by type of diploma granted, and by race;
- (2) district-wide high school graduations/dropouts by type of diploma granted and by race;
- (3) use the high school graduation cohort survival rate to examine high school graduation/dropouts and compare and identify racial disparities as defined as a variance of more than 5 percentage (5%) points in all comparisons, for (a) each high school’s graduates/dropouts; and (b) the district-wide total of high school graduates/dropouts. In other words, a racial disparity exists if there is a more than 5 percentage (5%) point difference between the cohort graduation rates for Black and White students.

- (b) With the Graduation Report, provide to the Plaintiff Parties the steps the District has taken to address disparities in the previous school year and the District's proposals for the next school year.

c. In-Grade Retention

- i. The Board shall take steps to eliminate, to the extent practicable, racial disparities within in-grade retention rates in all schools by taking the following steps:

- (a) Annually calculate the following and file with the Court as an In-Grade Retention Report:

- (1) in-grade retention rates for each school, with data disaggregated by race and grade;
- (2) in-grade retention rates within Grade-Bands (PK to 5th grade, 6th to 8th grade, and 9th to 12th grade) disaggregated by race; and
- (3) total in-grade retention district-wide data disaggregated by race;
- (4) Compare and identify racial disparities, as defined as a variance of more than 5 percentage (5%) points, in (1) each school's in-grade retention rates; (2) Grade-Bands' in-grade retention rates; and (3) district-wide total in-grade retention rates;

- (b) With the In-Grade Retention Report, provide to the Plaintiff Parties the steps the District has taken to address disparities in the previous school year and the District's proposals for the next school year. The District must justify any racial disparities subsequently deemed by the District to be impractical to eliminate.

- ii. The Board shall file with the Court the above Graduation and In-Grade Retention Reports on July 1 for the preceding school year.

- iii. The Board will strive to eliminate all disparities identified in the Baseline Year as agreed by the Parties. Towards this end, the District will show Continuous Progress across three consecutive school years to reduce disparities identified in the Baseline Year.

V. IMPLEMENTATION AND REPORTING

A. Reports to Plaintiff Parties: The Board shall submit to the Plaintiff Parties proposals and reports covering each of the preceding time periods on or before the following dates:

1. Ninety (90) days after consent order is entered:

- Board shall enter into a contract with the Southeast Equity Center or other qualified discipline expert or consultant and submit the contract to Plaintiff Parties no later than fourteen days thereafter.

2. July 1, 2016

- Diploma Track Proposal

3. February 1, 2017

- Mid-Year Discipline Report

4. February 1, 2018

- Mid-Year Discipline Report

5. February 1, 2019

- Mid-Year Discipline Report

B. Reports to Court: The Board will annually file with the Court the reports above regarding quality of education, covering each of the preceding time periods on or before the following dates:

1. July 1, 2016

- In-Grade Retention Report (Baseline Year)
- Graduation Report (Baseline Year)

- End-of-Year Discipline Report (Baseline Year)

2. July 1, 2017

- In-Grade Retention Report
- Graduation Report
- End-of-Year Discipline Report

3. July 1, 2018

- In-Grade Retention Report
- Graduation Report
- End of Year Discipline Report

4. July 1, 2019

- In-Grade Retention Report
- Graduation Report
- End of Year Discipline Report

C. Meet and Confer

1. The Parties will meet at least once a year within forty-five days of a semi-annual Discipline Report to confer on the District's progress and any/all proposed interventions related to discipline.
2. The Board shall arrange for conference calls with the Parties to update the Plaintiff Parties as to the District's progress. These conference calls shall take place no less than seven days and no more than 21 days after each report is submitted. The Board will invite the discipline consultant to conference calls regarding discipline reports.
3. Specific written objections by the Plaintiff Parties to the reports shall be submitted within forty-five (45) calendar days of receipt of each report or such objections will be deemed

waived and a presumption of compliance for the preceding one-year reporting period will be applied.

4. The parties will meet and confer (either via telephone, videoconference, or in person) about each objection within fourteen (14) business days of service of the objection. In the event that the parties reach an impasse as to either (a) whether an objection has merit, or (b) how to remedy any concerns raised in an objection, then any party may move the Court to resolve the dispute so long as the motion is made within forty-five (45) calendar days of the meet and confer.

VI. FINAL TERMINATION

The parties agree that full compliance with the agreed remedial measures detailed in Section IV will support a finding that the District has complied in good faith with both the letter and the spirit of the orders governing this matter as they pertain to quality of education, and that the vestiges of segregation in this area have been eliminated to the extent practicable.²⁵ Ninety (90) calendar days subsequent to the Board filing a complete report on July 1, 2019, the Board may move for unitary status and dismissal regarding quality of education and/or the Plaintiff Parties may move for further relief or to enforce the Consent Order on quality of education. The applicable provisions of the Federal Rules of Civil Procedure and the Local Rules of this Court will apply to any such motion. In the absence of a motion in opposition to unitary status, a motion to enforce the Consent Order, or a motion for further relief by the Plaintiff Parties, and subject to this Court's ruling that the District is in compliance with this Consent Order, Title IV of the Civil Rights Act of 1964, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, then the Court may declare the District unitary with respect to quality of education and dismiss this case as to quality of education.

²⁵ See *Freeman*, 503 U.S. at 485.

VII. CONTINUING JUDICIAL SUPERVISION

The parties agree and the Court finds that this Court shall retain jurisdiction for purposes of monitoring and enforcing compliance with the terms of this Consent Order until such time that the Court declares the Board unitary and finally terminates the pending injunction relative to the Board's operations in the area of quality of education. All prior orders of this Court not inconsistent herewith remain in full force and effect.

HEREBY ORDERED, ADJUDGED, AND DECREED, this the 31 day of

February, 2016.

UNITED STATES DISTRICT JUDGE

APPROVED REGARDING FORM AND CONTENT:

For Plaintiffs:

/s/ Deuel Ross

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