

NEGOTIATED SETTLEMENT AGREEMENT

DATE: March\_\_\_\_, 2008

*In the Matter Between:*

Petitioners: A.B., A.C., D.C., R.V. and a Class of All Similarly Situated and Treated Emotionally Disturbed Students as well as on behalf of R.K., T.O. and a Class of All Similarly Situated Special Education Students who manifest behavioral issues and are subject to repeated disciplinary removals totaling more than ten school days (either In-School Suspensions or Out-of-School Suspensions) or placement in alternative school settings in the Caddo Public School District (hereinafter "CPSD")

Respondents: Louisiana Department of Education (hereinafter "the Department")  
Louisiana Board of Elementary and Secondary Education (hereinafter "BESE")

AGREEMENT

We, the undersigned (hereinafter also "Parties"), having participated in negotiations on Petitioners' request for due process bearing filed on November 19, 2007, and being satisfied that the provisions of the resolution of the due process request are fair and reasonable, hereby agree to abide by and fulfill the following:

TIDE CONSULTANT OR INDEPENDENT MANAGEMENT TEAM

1. The Department shall compel CPSD to fund a special independent consultant or independent management team. The independent consultant or independent management team shall have the necessary expertise to address the violations found by the Department in its decision and Focused Monitoring Report dated February 8, 2008, including those violations involving Positive Behavioral Interventions and Supports (hereinafter "PBIS"). The independent consultant or independent management team shall develop, oversee the implementation of, and assess compliance with an Intensive Corrective Action Plan (hereinafter "ICAP").

a. The ICAP shall address all current areas of non-compliance found by the Department in its monitoring report issued on February 8, 2008. A copy of the letter from Michele L. Staggs to H. Clay Walker and Nadalie Thomas, dated February 8, 2008, and the Monitoring Report which accompanied this letter are attached, and marked as Exhibits A and B, respectively, and incorporated herein by reference.

b. The independent consultant or management team shall have access to, including the right to review and copy, the "educational records," as that term is defined in the Federal Education Rights and Privacy Act, 20 U.S.C. § 1232g, of all class members, as well as the educational records of any other CPSD students deemed by the consultant or management team necessary to implement the PBIS program or determine compliance with the ICAP.

c. Both CPSD and the Petitioners may submit names of an independent consultant, or independent management team, for the Department's selection by Friday, February 29, 2008.

d. The Department shall select an independent third party consultant or independent third party management team by March 22, 2008.

e. CPSD must take the steps necessary to hire or contract with the consultant or management team within four months of the Department's approval. The ICAP, including any new or revised policies required to be developed pursuant to the ICAP, shall be completed and implementation begun no later than 30 days from the date the consultant or management team is hired.

f. The consultant or management team shall submit quarterly reports to the Department on CPSD's progress in implementing and complying with the ICAP. The consultant or management team may send, and the Department may require, special or interim reports more frequently.

g. The Department shall send its own consultant or monitoring team to externally monitor CPSD's progress in implementing and complying with the ICAP, at intervals determined by the Department. The Department shall conduct a final on-site monitoring visit to verify CPSD's full implementation and compliance with, the ICAP before releasing CPSD from the ICAP.

## INTENSIVE CORRECTIVE ACTION PLAN (ICAP)

2. In addressing each current area of non-compliance found by the Department, the ICAP shall include the following:

### Discipline and PBIS

a. A systemic training program that includes strategies, objectives, and timelines for the implementation of district-wide PBIS, the development of functional behavioral assessments (FBAs), the development and implementation of behavior intervention plans (BIPs), and conducting manifestation determination reviews. The PBIS training program shall include all pupil appraisal staff, teachers, paraprofessionals, disciplinarians, school administrators, cafeteria workers, bus drivers, and other service providers working at all schools within the district.

b. The development of specific school system policies that are disseminated by the

Superintendent to all school building administrators including principals, vice-principals, and disciplinarians outlining and mandating strict compliance with IDEA's discipline requirements including the requirements of Manifestation Determination Reviews; providing the services set forth in a student's Individualized Education Program (hereinafter "IEP"), upon reaching the 11<sup>th</sup> cumulative day of an out-of-school removal; developing and implementing appropriate FBAs; developing and implementing BIPs involving positive behavioral supports, strategies and services; reviewing and modifying BIPs after every 10 days of suspensions;

c. Specific strategies, objectives, and timelines for significantly reducing the number of suspensions and expulsions of students with disabilities;

d. The development and implementation of a computerized data and tracking system for recording the number of disciplinary referrals, removals (suspensions and expulsions), and school-initiated arrests for students in the district;

#### Related Services and the Provision of Educational Benefit

e. Specific strategies, objectives, and timelines for significantly increasing the frequency and duration of social work, counseling, and psychological related services provided to ED students and all other students who are subject to repeated disciplinary removals or placement in alternative school settings in the CPSD;

f. The development of specific school system policies that are disseminated by the Superintendent to all school building administrators including principals, vice-principals, and members of IEP teams that ensure decisions involving such related services are based upon individual need and not staff availability;

g. Specific strategies, objectives and timelines for assessing and screening ED students who are performing more than one year behind their chronological grade level in reading or math in elementary school and more than two years behind their chronological grade level in reading or math in middle or high school (based upon standardized test scores or curriculum based assessments) and providing such students with access to intensive reading and math remediation opportunities.

h. Specific strategies, objectives, and timelines for providing supports and services that are designed to augment the access of ED students and other students with significant behavioral programming issues to the general education curriculum and classrooms.

#### INDIVIDUAL REMEDIES

3. CPSD shall review and revise the IEPs of A.B., A.C., D.C., R.V., R.K., and T.O., based on their current unique educational needs and circumstances, to address all areas of non-compliance identified in the Monitoring Report which is attached to this Agreement as Exhibit B. In addition, A.B., A.C., D.C., R.V., R.K., and T.O. are entitled to a program of compensatory education commensurate with any violations found in the above-referenced monitoring report that occurred from between February 5, 2005 (two years prior to the filing of the administrative complaint, dated February 7, 2007) and the date of the IEP meeting. An IEP meeting shall be held

by April 30, 2008 for each of the named-Petitioners. The nature and scope of the services, and the amount of compensatory education time to be provided, shall be determined at the above-referenced IEP meeting. Any Petitioner who believes that he or she has been aggrieved by the compensatory education decision made at the IEP meeting may have such decision reviewed and, if appropriate, modified by the independent consultant or management team.

#### GENERAL SETTLEMENT PROVISIONS

4. Representatives of the Department, representatives of BESE, the independent consultant or management team, and counsel for the Petitioners shall meet at least twice a year for the purpose of reviewing CPSD's progress in implementing the various provisions of the Settlement Agreement.

5. The Department shall require the independent consultant or management team to provide counsel for Petitioners with access to all documents, not privileged or subject to the attorney work-product exception, developed in conformance with the provisions of this Settlement Agreement, including but not limited to all ICAP related materials and the PBIS Training Initiative. This information may be provided as part of the quarterly reports required under Paragraph 1(f), herein.

6. This Agreement shall terminate three (3) years from the date the independent consultant or management team is hired by CPSD if CPSD has fully complied with the ICAP. If CPSD is not in full compliance with the ICAP (including successful implementation of the policies, strategies, objectives and timelines required by the ICAP) by the date specified herein, the Agreement shall continue until full compliance is manifested.

7. A single point of contact will be selected by the Petitioners, BESE, and the Department to address concerns related to compliance with the terms of this Agreement. The point of contact for the Department shall have the authority to investigate and correct any non-compliance with respect to this Agreement. The designated point of contact for the Petitioners, the Department, and BESE will be their respective attorneys. The individual selected as the single point of contact will provide written notice to the other party regarding any concern(s) related to compliance with the terms of this Agreement and the receiving party shall investigate said concern(s) and shall provide a response to the other party within a five (5) day period unless it is clearly not feasible to do so due to events outside of the control of the designated contact individual.

8. If the parties hereto (through their designated contact persons) cannot agree on whether there has been compliance with the terms of this Agreement, whether CPSD has attained full compliance with the terms of the ICAP specified herein, or the proper remedy for non-compliance, the parties shall meet and negotiate in good faith to resolve such issues between themselves. If such concerns are not amicably resolved within thirty (30) days of such meeting, then either party shall have the right to seek enforcement of the terms of this Settlement Agreement in any State court of competent jurisdiction or in a district court of the United States.

9. The Department shall require the CPSD to convene a meeting for parents of all class members and the designated contact persons of the Parties to explain the terms of the ICAP.

10. In consideration of this Agreement, and, after CPSD has executed a contract with the consultant or independent management team referenced above, the named Petitioners agree to waive any and all rights that they may have to request a special education due process hearing to address any and all issues involving the Department, BESE, or CPSD that exist under this Agreement.

11. This Settlement Agreement shall not diminish or affect the individual rights of any students receiving special education services in CPSD and who qualify under the above defined class who are not specifically referenced in this Agreement.

12. This Agreement is entered into in good faith for the purpose of amicably resolving concerns raised by the Petitioners and in no way constitutes any admission of error, omission, or wrongdoing on the part of the Department or BESE.

13. It is expressly agreed that all terms of this Agreement are contractual and not merely recitals. The parties to this Agreement intend that this document will incorporate the complete terms and conditions of their Agreement.

14. The undersigned parents certify that their attorneys have reviewed all of the terms of this Settlement Agreement with them and that they fully agree with all of the terms of this Settlement Agreement.

15. The parties agree that all undersigned counsel for Petitioners, undersigned counsel for the Department, and undersigned counsel/representatives of BESE have the authority to enter into and execute this Settlement Agreement on behalf of their clients.

Parents of Petitioners:

William H. [Redacted]

Parent of A. B.

MAR 17 2008  
Date

Marian V. [Redacted]

Parent of A. C.

3-13-08  
Date

[Redacted]

Parent of D. C.

3-13-08  
Date

Ruthie V. [Redacted]

Parent of R. V.

3-13-08  
Date

Paula [Redacted]

Parent of R. K.

3-13-08  
Date

Mary D. [Redacted]

Parent of T. O.

3-13-08  
Date

Counsel for Petitioners:

James Comstock-Galagan

James Comstock-Galagan, Esq.  
Southern Disability Law Center

3-17-08  
Date

Eden B. Heilman

Eden B. Heilman, Esq.  
Southern Poverty Law Center

3/17/08  
Date

H. Clay Walker

H. Clay Walker, Esq.

3.12.08  
Date

Counsel for the Louisiana Department of Education:

L. Adrienne Dupont  
L. Adrienne Dupont, Counsel  
Louisiana Department of Education

March 17, 2008  
Date

Representative for the Board of Elementary and Secondary Education:

Richard M. Johns  
President, Board of Elementary and Secondary Education

3/17/08  
Date

Counsel for the Board of Elementary and Secondary Education:

Angelique Duhon Freel  
Angelique Duhon Freel, Counsel  
Board of Elementary and Secondary Education

March 17, 2008  
Date