

NEGOTIATED SETTLEMENT AGREEMENT

DATE: October 11, 2007

In the Matter Between:

Petitioners: [REDACTED], [REDACTED], [REDACTED] and a class of all similarly situated and treated students with disabilities identified as having Emotional Disturbance/Behavior Disorders; students with disabilities who manifest behavioral issues and have been subject to repeated disciplinary removals totaling more than ten school days (including In-School Suspensions, Out-of-School Suspensions, and undocumented, illegal removals – “cool-off removals” – from school); and students with disabilities who have a Behavior Management Plan as part of their IEP at any time during the 2007-2008 school year

Respondent: Calcasieu Parish Public School System

AGREEMENT

We, the undersigned (hereinafter also “Parties”), having participated in a negotiation session on October 10, 2007 and being satisfied that the provisions of the resolution of our dispute are fair and reasonable, hereby agree to abide by and fulfill the following:

PBIS CONSULTANT

1. The Calcasieu Parish Public School System (CPPSS) agrees to obtain specific and individualized technical assistance/training from an individual or organization (Consultant) with school-based experience and nationally recognized expertise in the development and implementation of district and school-wide Positive Behavioral Intervention and Support (PBIS) programs and services and development of capacity-building for school personnel in implementation of PBIS in the school setting by executing a contract (Contract) for such Consultant services within sixty (60) days of the mutual selection of a Consultant by CPPSS and the Petitioners. This Contract shall run for the term of this Settlement Agreement (Agreement) as specified in Paragraph #24. Within thirty (30) days of the execution of this Agreement, the Petitioners shall provide CPPSS with a list of at least three (3) Consultants whom they feel are qualified and available to provide such technical assistance/training. CPPSS may contract with any of the Consultants proposed by the Petitioners, or it may, within thirty (30) days of receipt of the Petitioner’s list of available Consultants as specified herein above, provide the Petitioners with the names of other individuals/organizations with whom it would like to contract to provide these services. If the parties cannot reach a mutual agreement regarding designation of the Consultant, then a meeting between the parties will be conducted within fourteen (14) days of written notice to the other party regarding a

disagreement and a Consultant will be selected therein. If the parties are unable to agree upon a Consultant at this meeting, then the Settlement Agreement is null and void and Petitioners reserve the right to file their original class action complaint with the Louisiana Department of Education (LDE). In the event that Petitioners should file the class action complaint, CPPSS reserves the right to defend against such complaint.

2. The Consultant will be required to develop and **begin implementation of** a district-wide PBIS training and implementation protocol which shall include all schools in the CPPSS as part of the PBIS Implementation Initiative within ninety (90) days of the date of execution of the Consultant's contract. Such training and implementation protocol shall include but not be limited to strategies, objectives, and timelines related to: implementation of district and school-wide PBIS, the development of functional behavioral assessments (FBAs), the development and implementation of effective behavior intervention plans (BIPs), and the methods/elements involved in conducting appropriate manifestation determination reviews (MDRs). It is understood that the Consultant is authorized to delegate technical assistance/training responsibilities to other individuals under his/her supervision and control and/or colleagues in the field with similar training and experience. Such delegation costs shall be built into the Consultant's proposed contract budget.
3. The PBIS training and implementation protocol shall include all principals, assistant principals, teachers (general and special education), pupil appraisal staff, paraprofessionals, disciplinarians, other school administrators, and other educational service providers working at all schools in the district and shall also include bus drivers and cafeteria workers. CPPSS agrees to fully implement the PBS training and implementation protocol developed by the Consultant pursuant to this agreement for the term of this agreement specified in Paragraph number 23 below.

RELATED SERVICES

4. CPPSS agrees that, within one hundred and twenty (120) days of the execution of this Settlement Agreement, it is free to review the level of related services (social work/counseling/psychological services) being provided to the above defined class of students and make any necessary modifications. CPPSS agrees that, within ninety (90) days of the hiring of the Consultant, the Consultant will review every student in the above defined class receiving less than one (1) hour of related services per week and the Consultant's recommendations regarding the appropriate level of related services per week will be implemented by CPPSS within 60 days. Notice of the Consultant's recommendation for a particular student shall be provided to the student's parent(s). If a student's parent(s) objects to the recommendation either orally or in writing within 10 school days of receipt of notice, an IEP meeting will be held within 10 school days to address the objection.

LEAST RESTRICTIVE ENVIRONMENT (LRE)

5. CPPSS shall develop and implement in agreement with the Consultant for the term of this agreement specified in Paragraph number 23 and commencing no later than the beginning of the 2008-2009 school year specific strategies, objectives, and timelines for significantly increasing the above defined class of students' access to regular education class settings. CPPSS shall also develop and implement in agreement with the Consultant for the term of this agreement specified in Paragraph number 23 specific strategies, objectives, and timelines for eliminating the disproportionate placement of African-American students with disabilities in segregated, self-contained placements. CPPSS and the Consultant shall jointly develop measurable benchmarks and outcomes for determining the successful implementation of the above strategies, objectives and timelines.

DISCIPLINE

6. CPPSS shall develop and implement in agreement with the Consultant for the term of this agreement specified in Paragraph number 23 and commencing no later than the beginning of the 2008-2009 school year specific strategies, objectives, and timelines for significantly reducing the number of suspensions and expulsions of students identified in the above defined class. CPPSS and the Consultant shall jointly develop measurable benchmarks and outcomes for determining the successful implementation of the above strategies, objectives and timelines.
7. CPPSS agrees to develop and implement a computerized data/tracking system for recording the number of disciplinary referrals, removals (suspensions/expulsions), and school-initiated arrests for students in the district. If CPPSS chooses to utilize the current data monitoring mechanism of the Department of Child Welfare and Attendance, CPPSS shall develop in agreement with the Consultant modifications/enhancements of the current data collection system necessary to collect the above data/information.
8. CPPSS agrees that, within sixty (60) days of the execution of this Settlement Agreement, the Superintendent will disseminate to all school building administrators, including assistant principals and disciplinarians, an administrative directive requiring strict compliance with state and federal discipline requirements for students with disabilities, including the requirements for conducting Manifestation Determination Reviews (MDRs), providing IEP services beginning with the 11th cumulative day of out-of-school removals, and development and/or review of appropriate FBAs and BIPs. The Directive shall also specifically prohibit undocumented removals of students with disabilities for disciplinary reasons via "cooling off," "parent pick-up" or other undocumented methods of removals for disciplinary reasons.

9. CPPSS agrees to contract throughout the term of this agreement with an independent community group to randomly survey the parents of students in the above defined class twice a year to determine whether the above types of illegal undocumented removals from school are still occurring. The survey results will be shared with CPPSS and counsel for Petitioners.
10. Prior to the beginning of the 2008-2009 school year, CPPSS will develop and disseminate to every school a "Discipline Handbook" or incorporate into the district's School Code of Conduct a new section detailing IDEA's disciplinary protections and procedures, including those outlined in Paragraph number 8 above for students with disabilities. Counsel for Petitioners shall be provided with a draft of the Discipline Handbook or revised School Code of Conduct and shall be afforded an opportunity to furnish comments prior to its completion and dissemination.

EDUCATIONAL BENEFIT

11. CPPSS agrees to provide all students in the above defined class who are determined to be more than two (2) years behind their chronological grade level in reading and/or math (based upon standardized test scores or curriculum based assessments) with access to intensive reading and math remediation opportunities. Students shall be screened or otherwise assessed by CPPSS during the 2007-2008 regular school year to determine whether or not such students are more than two (2) years behind their chronological grade level in reading and/or math. Access to intensive reading and math remediation opportunities shall be provided to such students beginning in the fall of 2008 and shall continue throughout the term of this Agreement. Notice shall be provided to the parent(s) of any students receiving reading and/or math remediation services. If a student's parent(s) objects such remediation services either orally or in writing within 10 school days of receipt of notice, an IEP meeting will be held within 10 school days to address the objection.

TRANSITION SERVICES

12. CPPSS shall develop and implement in agreement with the Consultant for the term of this agreement specified in Paragraph number 23 specific strategies, objectives, and timelines for ensuring all students in the above defined class who are sixteen (16) years of age or older receive appropriate transition services including vocational education. CPPSS and the Consultant shall jointly develop measurable benchmarks and outcomes for determining the successful implementation of the above strategies, objectives and timelines.
13. CPPSS shall develop and implement in agreement with the Consultant a district-wide training initiative involving all junior high school and high school counselors, special education coordinators, and a "lead" special education and regular education teacher at each school about vocational courses/programs available in the district and about post-

secondary education opportunities, including the admission criteria for these programs and their availability to students with disabilities.

14. The Consultant will be required to annually review a random sample of transition plans of students in the above defined class to determine if the plan accounts for and considers the students' unique strengths and interests and also to determine if a nexus exists between the transition plans and the students' IEP goals and objectives.

COMMENSURATE SCHOOL DAY

15. CPPSS' Superintendent and CPPSS' Counsel shall jointly develop and disseminate to all CPPSS Administrators including the director of transportation and every school principal a written directive that will immediately prohibit and eliminate the practice of loading and transporting special education students either after the start of or prior to the completion of any school day. The directive will stipulate that no student with a disability will arrive at school after the start of school or depart prior to the end of the school day, unless the educational needs of the student supports the need for a shortened instructional day and the reasons for the shortened day are included in the student's IEP. Within seven calendar days of the execution of this agreement, CPPSS shall provide Petitioners counsel with a list of the actual school hours for each school in the district. This list shall be updated and provided to Petitioners counsel before the start of each new school year throughout the term of the agreement
16. CPPSS agrees to contract throughout the term of this agreement with an independent community group to conduct unannounced visits to every school in the district three (3) times per school year to determine and document whether school buses are loading and transporting students with disabilities after the start of the school day and/or before the end of the school day. The documentation gathered by the community group shall be provided to CPPSS and to counsel for Petitioners.

INDIVIDUAL REMEDIES

- ██████████:
17. CPPSS and counsel for Petitioner have agreed to review the records of ██████████ including his initial educational evaluation and subsequent IEP, to assess the IEP committee's decision to move Petitioner ██████████ to a self-contained classroom at Brentwood Elementary School. An IEP meeting shall be held by October 30, 2007 and shall include a thorough discussion of the possible placement of Petitioner ██████████ in the regular education setting with the provision of supplemental aids and services, related services, and additional special education services and supports. CPPSS shall provide Petitioner ██████████ with compensatory education services for the instructional time missed due to illegal and undocumented removals from school during the 2006-2007 school year and for the absence of educational instruction during the 2007-2008 school year while attending class in the library with no certified teacher providing instruction. The amount of compensatory education time shall be determined at the above-referenced IEP meeting

subject to the Petitioner's right of appeal under IDEA's Procedural Safeguards. See 334 C.F.R. § 300.151-153, 507-518

- ██████████:
18. CPPSS agrees to immediately contract with an independent consultant to review Petitioner ██████████ records within the next ten (10) school days. The independent consultant shall attend an IEP meeting for Petitioner ██████████ to assist in the development of a Behavior Intervention Plan, and to recommend an appropriate amount of related services, supplemental aids and services and other special education services to be provided Petitioner at LaGrange High School so that Petitioner ██████████ may graduate with his class in the spring of 2008.

- ██████████:
19. An Independent Educational Evaluation (IEE) will be conducted and completed in the fall of 2007 for Petitioner ██████████. CPPSS agrees to convene an IEP meeting within ten (10) days of the completion of the IEE to discuss the issue of Petitioner ██████████ exceptionality, the provision of related services, and the provision of additional special education services and supports. CPPSS shall provide Petitioner ██████████ with compensatory education services for the instructional time missed due to illegal and undocumented removals from school during the 2006-2007 school year. The amount of compensatory education time shall be determined at the above-referenced IEP meeting subject to the Petitioner's right of appeal under IDEA's Procedural Safeguards. See 334 C.F.R. § 300.151-153, 507-518.

GENERAL SETTLEMENT PROVISIONS

20. CPPSS, the Consultant, and counsel for the Petitioners shall meet at least twice a year for the purpose of reviewing CPPSS' progress in implementing the various provisions of the Settlement Agreement. A third meeting shall be held annually if requested by CPPSS, the Consultant, or counsel for the Petitioners.
21. CPPSS shall provide counsel for Petitioners with access to all documents developed in conformance with the provisions of this Settlement Agreement including but not limited to the PBIS Training Initiative/Protocol.
22. CPPSS agrees to continue its efforts to actively recruit teachers and other instructional personnel who meet the qualifications and standards established by the State of Louisiana for each service provider and to place such special education service providers in CPPSS classrooms and alternative schools serving students identified in the class.
23. This agreement shall terminate three (3) years from the date the Consultant is hired by CPPSS if CPPSS has fully complied with the Agreement's provisions. Upon attaining compliance with the Agreement's provisions, CPPSS shall thereafter have no obligations

under the Agreement. If CPPSS is not in full compliance with the provisions of the Agreement (including the measurable benchmarks and outcomes for determining the successful implementation of the strategies, objectives, timelines listed in the Agreement) by the date specified herein, the Agreement shall continue until full compliance is manifested.

24. A single point of contact will be mutually selected by the Petitioners and CPPSS to address concerns related to compliance with the terms of this agreement. The point of contact designated by CPPSS shall have the authority to investigate and correct any non-compliance with respect to this Agreement. The designated point of contact for CPPSS will be the district's attorney James Spruel. The designated point of contact for the Petitioners will be their attorney, who is presently James-Comstock-Galagan. 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 pre-established breaks in the CPPSS calendar and/or other events outside of the control of the designated contact individual.
25. If the parties hereto (through their designated contact persons) cannot agree on whether there has been compliance with the terms of this agreement and/or with 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 with fifteen (15) 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.
26. In consideration of this agreement, and, after CPPSS has executed a contract with the Consultant referenced above, the three named Petitioners agree to refrain from filing the class administrative complaint and to waive any and all rights that each such Petitioner may have to request a special education due process hearing to address any and all issues involving CPPSS that exist under this agreement.
27. This Settlement Agreement shall not diminish or affect the individual rights of any students receiving special education services in CPPSS and who qualify under the above defined class who are not specifically referenced in this Agreement.
28. 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 CPPSS.
29. 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.

30. The undersigned parents certify that their representatives/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.
31. The parties agree that all undersigned counsel and undersigned representatives of CPPSS have the authority to enter into and execute this Settlement Agreement on behalf of their clients including CPPSS.

Parents of Petitioners:

Parent of [REDACTED]

10-30-07
Date

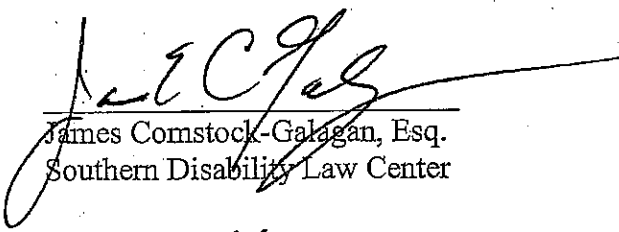
Parent of [REDACTED]

10-30-07
Date


Parent of [REDACTED]

10-30-07
Date

Counsel for Petitioners:

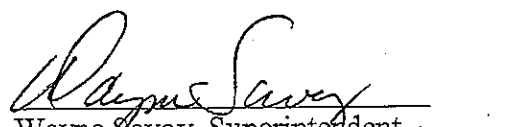

James Comstock-Galagan, Esq.
Southern Disability Law Center

10-30-07
Date


Eden B. Heilman, Esq.
Southern Poverty Law Center

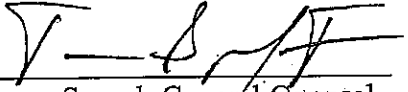
10/30/07
Date

School System Official:


Wayne Savoy, Superintendent
Calcasieu Parish Public School System

11-05-07
Date

Counsel for School System:



James Spruel, General Counsel
Calcasieu Parish Public School System

11-5-07

Date