

OFFICE OF THE ATTORNEY GENERAL  
OF THE STATE OF NEW YORK  
CIVIL RIGHTS BUREAU

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IN THE MATTER OF THE INVESTIGATION OF  
ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL OF  
THE STATE OF NEW YORK,

**AOD No. 14-159**

OF

SYRACUSE CITY SCHOOL DISTRICT

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**ASSURANCE OF DISCONTINUANCE**

In October 2013, the Office of the Attorney General of the State of New York (“OAG”) began to investigate the extent to which the Syracuse City School District (the “District”) failed to provide students with procedural safeguards due under state and federal law and discriminated against students in the application of discipline policies on the basis of race and disability status. The OAG initiated the investigation after receiving multiple complaints from parents, advocates and community leaders. Specifically, the OAG investigated whether the District (a) complied with New York State law, which requires that, when districts suspend students out of school for any length of time, the district must provide students and/or parents with notice of the charges and an opportunity to be heard; (b) complied with the Individuals with Disabilities Education Act, which protects students with disabilities from discipline on the basis of their disability; and (c) violated Title VI of the Civil Rights Act of 1964 by applying suspensions in a manner that had a disparate impact on black and Hispanic students.

This Assurance of Discontinuance (“Assurance”) contains the OAG’s findings in connection with its investigation of the District and the relief agreed to by the OAG and the District (“the Parties”).

**PART ONE: DEFINITIONS**

1. As used throughout this Assurance, the terms set forth below shall have the following meanings.
  - a. “Assurance” means this Assurance of Discontinuance.
  - b. “Effective Date” means the date this Assurance is executed by both parties.
  - c. The “District” means the Syracuse City School District and its board of education, trustees, school authorities, school officers, school administrators, superintendents, principals, employees, agents, representatives, or other persons acting on its behalf.
  - d. “Employee” means any person who is hired by the District as part of the Executive Level Staff, or Superintendent’s Staff.
  - e. “Staff” means any person carried on the payroll of the District, who is not part of the Executive Level Staff or the Superintendent’s Staff, and includes salaried and hourly employees, full-time or part-time employees, temporary, probationary or permanent employees, principals, teachers, teacher’s aides and assistants, and secretaries.
  - f. “School” means any elementary, K-8, middle, secondary schools, innovation zone schools or alternative education programs currently or formerly open in the District.

- g. “School Resource Officer” or “SRO” means any personnel that provide the District with security services on school grounds.
- h. “Code of Conduct” or “Code” means the District-level policy governing student behavior and discipline.
- i. Terms of construction:
  - i. “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the meaning inclusive rather than exclusive.
  - ii. “All” means “any and all” and “any” means “any and all.”
  - iii. “Concerning” means relating to, referring to, describing, evidencing, regarding, reflecting, or constituting.
  - iv. “Day” refers to a calendar day, not a business day.
  - v. “Including” means without limitation.
  - vi. The singular of any word includes the plural; the plural of any word includes the singular.

## **PART TWO: FINDINGS**

### **The Syracuse City School District**

- 2. The Syracuse City School District has over 20,000 students.<sup>1</sup> In previous years, African-American students made up over fifty percent of overall enrollment, while white students made up twenty-five percent, and Hispanic students made up fifteen percent of total enrollment.
- 3. The District is a recipient of federal funds, including but not limited to, funds received pursuant to Title I of the Elementary and Secondary Education Act.

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<sup>1</sup> When used throughout this Assurance, “student” means any person below the age of twenty-one (21) currently or formerly enrolled in a District School.

4. The District is supervised by a Superintendent, Sharon Contreras, and a seven member Board of Education (the “Board”) led by President Michelle Mignano. The Superintendent serves as the chief executive officer of the Board and is responsible for implementing Board policies, as well as advising and recommending action to the Board. The Board has several responsibilities, including carrying out duties imposed by state law, providing and organizing personnel, maintaining sufficient resources for the school system, and establishing policies and procedures necessary for the District.

### **The OAG’s Investigation**

5. In 2013, the OAG received information alleging that the District was failing to provide students with procedural safeguards as required by state and federal law and was disproportionately disciplining black students.
6. The OAG conducted an investigation that included interviews of multiple parents, student advocates, and other witnesses; review of documents, including those produced by the District, concerning pertinent policies, procedures, and practices of the District; and analysis of data regarding the District’s discipline practices.

### **The District’s Disciplinary Process**

7. The District has a disciplinary process currently in place to address student misconduct. Initially, Staff may remove students from the classroom for violations of the Code of Conduct and refer that student to the School’s administration for further disciplinary action.<sup>2</sup>

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<sup>2</sup> When used throughout this Assurance, “referrals,” “teacher referrals,” and “referred” means a consequence for violations of the Code of Conduct that removes a student from his or her regular classroom and school pursuant to N.Y. Educ. Law §3214(3-a).

8. Then, the administration, led by the School's principal, evaluates the student's conduct and determines whether to take further action. The principal may discipline the student through an in-school or out-of-school suspension. During an in-school suspension, a student continues to attend school; however, he or she remains excluded from his or her regular classroom. Out-of-school suspensions exclude students not only from his or her regular classroom, but also from the school altogether in all but a limited set of circumstances.
9. The principal has the authority to suspend students out of school for not more than five (5) days ("Short-Term Suspension"). Only the Superintendent can suspend students for longer than five (5) days ("Long-Term Suspension"). Principals may recommend students to the Superintendent for a Long-Term Suspension, and he or she will, in turn, conduct a formal hearing to determine whether the Long-Term Suspension is justified ("Superintendent's Hearing").
10. The OAG investigation revealed that the District lacks sufficient training for Staff and adequate oversight and accountability in the disciplinary process.

#### **Current Levels of Discipline Administered**

11. The OAG's investigation revealed that Staff in the District disciplined students at high rates at every stage in the disciplinary process.
  - a. Data produced by the District for the 2011-12 school year revealed that 35% of all students in all grades received at least one teacher referral—that is, more than one third of students are removed from class and sent to the principal to be disciplined. In middle school grades, more than half of all students received at least one such teacher referral.

- b. More than one in five students received at least one in-school suspension, as did more than one in three middle school students.
- c. Nearly one fifth of all students in the district were suspended out of school at least once. For students in middle school grades, more than one-third were suspended out of school at least once.
- d. Overall, during the 2012-13 school year, 30% of all students in the District were suspended at least once. The District's suspension rate is among the highest rates in the nation.

### **Racial Disparities in Discipline**

- 12. Further, racial disparities exist throughout the disciplinary process, as black students are disciplined at higher rates than white students. Overall, during the 2011-12 school year, almost 44% of black students received at least one teacher referral, while the figure for white students was nearly 26%. For in-school suspensions, nearly 27% of black students received at least one in-school suspension, while 15% of white students received such a suspension. Finally, 25% of black students received at least one suspension out of school, while 12% of white students received at least one such suspension. For black students in middle school grades, 62% received at least one teacher referral, 44% received at least one in-school suspension, and 42% received at least one out-of-school suspension, compared to figures of 41%, 26% and 28% for white students, respectively.
- 13. Black students were recommended for Superintendent's Hearings—a necessary precursor to Long-Term Suspensions—at twice the rate as white students. During

the 2012-13 school year, one in every ten black students in secondary school (grades 6-12) was recommended for Superintendent's Hearings, whereas one in every twenty white students in secondary school received such a recommendation.

14. Black students are also more likely to be disciplined for non-violent conduct relative to white students. For instance, Staff routinely referred and suspended students for "Other Disruptive Incidents." The OAG's investigation revealed that this is a largely undefined nonviolent offense that can be interpreted broadly and almost always results in an out-of-school suspension. During the 2011-12 school year, black students were twice as likely as white students to receive a teacher referral, an in-school suspension, or an out-of-school suspension for conduct labeled as an "Other Disruptive Incident."

### **Short-Term Suspensions**

15. **Legal Requirements:** In implementing out-of school suspensions of any length, New York State law requires that a school provide students and/or parents with notice of the charges and an opportunity to be heard.<sup>3</sup> The nature of the notice and the hearing required depend on the length of the suspension. For Short-Term Suspensions, District policy required administrators to provide a written description of the conduct to parents within twenty-four (24) hours of the decision to suspend the student, in accordance with N.Y. Educ. Law §3214. As defined by law, the hearing for Short-Term Suspensions need only be an informal conference

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<sup>3</sup> When used throughout this Assurance, "parent" means any person in parental relation to a student, including the student's father or mother, by birth or adoption, step-father or step-mother, legally appointed guardian, or custodian.

between the principal and the student's parents where the parent has an opportunity to question the complaining witness and provide the student's version of events ("Informal Conference").

16. **Delivery of Notice:** The investigation revealed that, until recently, students and parents were generally not receiving notice of Short-Term Suspensions as required by law. While the District's data was incomplete, it suggested that several schools did not regularly provide written notice after suspending students. In particular, data from Nottingham High School indicated that it provided notice by phone for over 90% of suspension incidents over three school years; however, it provided the required written notice for less than 20% of suspension incidents. Data from Danforth Middle School and Edward Smith K-8 School also documented notice by phone for over 80% of their suspension incidents over three school years and only confirmed written notice about half of the time, in the case of Danforth, and less than 30% of the time for Ed Smith.
17. **Content of Notice:** The investigation also revealed that administrators were routinely failing to adequately describe the charges when providing written notice to parents. Notice letters from several schools up to the current school year contained only a reference to the incident category in the Code of Conduct, such as "Minor Altercation," "Other Disruptive Incidents," or "Disruptive" conduct, without identifying the underlying misconduct. Moreover, administrators often failed to provide adequate notice letters in the dominant language of the parent, as required by state law. The OAG reviewed Spanish language notice letters from the current school year that did not advise parents of the right to question



complaining witnesses and did not adequately describe the charges against the student.

18. **Language of Notice:** Notwithstanding recent efforts made by the District to address these laws, including training administrators on the requirements of N.Y. Educ. Law §3214, creating adequate notice of suspension letters in several languages, and developing checklists for principals investigating incidents and informing parents of suspensions, information received by the OAG reveals that the procedural problems persist across the District.
19. **Informal Conferences:** The investigation also revealed that administrators at some schools were not offering parents and students an Informal Conference as required by N.Y. Educ. Law §3214. Specifically, administrators, including several School principals, were unaware of the requirement to offer an Informal Conference and were unfamiliar with the purpose of such Conferences.

### **Long-Term Suspensions**

20. **Legal Requirements:** For Long-Term Suspensions, state law requires the Superintendent to hold a Superintendent's Hearing, in which the student has an opportunity to question witnesses and present a case in his or her defense before an impartial hearing officer. The Superintendent's Hearing must be divided into two phases. During the first phase, the impartial hearing officer attempts to determine whether the student is guilty of the conduct at issue. During the second phase, the impartial hearing officer determines the proper penalty for the student's actions. Impartial hearing officers may only consider anecdotal evidence of past student misconduct at this penalty stage of the hearing, and not as evidence of

student guilt during the first phase. Moreover, impartial hearing officers may not impose transfers as a penalty during a Superintendent's Hearing.

21. **Superintendent's Hearings:** The OAG found that the District's Superintendent's Hearings did not comply with state law, as the Hearings were not neutral and impartial as required by law. Specifically, (a) the District often failed to require the attendance of complaining witnesses, such as teachers, and instead relied on statements read by assistant principals as sufficient evidence; (b) impartial hearing officers often considered irrelevant evidence during the guilt stage of hearings, including evidence of the academic performance of students; and (c) the District often transferred students as a penalty during Superintendent's Hearings. The District has made preliminary attempts to address these violations during the 2013-2014 school year, the most significant of which was to hire and train a new cadre of impartial hearing officers.

### **Alternative Education**

22. Under state law, the District has an obligation to offer alternative education services to students serving suspensions of any length. Prior to the current year, the District did not provide any alternative education to many students serving Short-Term Suspensions. Specifically, the District had no program for providing alternative education to suspended elementary school students prior to the 2013-14 school year. The District has taken preliminary steps to address this concern by offering at least one hour of instruction for suspended elementary school students.

### **Discipline of Students with Disabilities**

23. **Legal Requirements:** In addition, the OAG found that the District failed to provide adequate procedural safeguards for children with disabilities.<sup>4</sup> Both state law and the Individuals with Disabilities Education Act (“IDEA”) require the District to protect children with disabilities from discrimination in the application of school discipline policies. Specifically, schools are required not to discipline students based on conduct that stems from the child’s disability. When a District’s discipline of a child with disabilities constitutes a change of placement, the District must review the discipline to ensure that it has not been imposed for conduct that is a manifestation of the student’s disability or results from a failure of the District to provide the child with the services he or she needs to participate in the academic curriculum. The review meeting (the “manifestation determination review” or “MDR”), must take place when suspending a child for ten (10) or more consecutive days, or when, cumulatively, the student’s suspensions of ten (10) days or more form a pattern that constitutes a change in placement.
24. **Manifestation Determination Reviews:** The OAG found that, during the 2012-13 school year, only 5.3% of manifestation determination reviews (“MDRs”) resulted in the finding of a “nexus” between the behavior underlying a suspension and the student’s disability. This low rate is likely attributable to certain procedural deficiencies identified by the OAG during its investigation. Notably, during MDRs, District officials failed to review personalized knowledge of the

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<sup>4</sup> When used throughout this Assurance, “child with disabilities,” “children with disabilities,” and “child” means a student who, by reason of a physical, mental or emotional impairment as listed in 20 U.S.C.S. § 1401(3) needs special education and related services.

child's disability and his or her conduct. That is, the District failed to ensure that Staff with personal knowledge of the child, including teachers and school psychologists who worked closely with the child, attended in person or at all. Moreover, the OAG found that District officials often failed to consider a student's Individualized Education Plan when making its determination. As a result, decisions made during MDRs failed to consider whether the child's conduct was a manifestation of his or her actual disability.

25. **Assessments and Plans:** Under federal and state law, if a District finds a nexus between a child's misconduct and his or her disability, the District must conduct an assessment (the "functional behavioral assessment" or "FBA") of the student's behavior to determine the underlying causes and triggers of the student's misbehavior and create a plan (the "behavior implementation plan" or "BIP") on the basis of that assessment, which implements a solution to address the identified causes. The OAG's investigation found that on several occasions the District had no record of an FBA or a BIP after a nexus was found during an MDR. For instance, during the 2012-13 school year, the District found a nexus between the student's misconduct and his or her disability on only 13 occasions; of those, five had no record of an FBA or a BIP.

### **School Resource Officers**

26. The OAG's investigation also revealed that school resource officers ("SROs") staffed by the Syracuse Police Department ("SPD") currently provide security at Schools throughout the District. The District does not have a Memorandum of Understanding with the SPD that specifies the nature of the relationship between

the District and the SPD or details the duties of SROs on School grounds. SROs do not receive training on the Code of Conduct, disciplinary procedures, or appropriate ways to address juvenile misconduct. Moreover, SRO activity is largely unaccountable, as the SPD does not currently share data on SRO activity with the District.

### **Data Retention Policies**

27. Finally, the OAG's investigation revealed the absence of effective data-maintenance and record-keeping policies and practices. In general, the District did not have a centralized system for the collection and retention of discipline data.

### **PART THREE: PROSPECTIVE RELIEF**

WHEREAS, the District is subject to N.Y. Educ. Law §3214, which requires school districts to observe student procedural safeguards when making a decision to remove a student from the education program; the Individuals with Disabilities Education Act, 20 U.S.C. §1415 et seq., which prohibits Districts from disciplining students with disabilities on the basis of a student's disability; and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., which prohibits the District from denying the benefits of its educational program to any student on the basis of that student's race or ethnicity;

WHEREAS, the OAG's investigation included interviews of multiple parents, student advocates, and other witnesses; review of documents, including those produced by the District, concerning pertinent policies, procedures, and practices of the District; and analysis of data regarding the District's student disciplinary practices;

WHEREAS, the District neither admits nor denies the OAG’s findings set forth in Paragraphs 2-27;

WHEREAS, the Parties share a commitment to ensuring that the educational environment is safe and conducive to learning, seek to reduce the total number of suspensions and the amount of time students spend out of the classroom while serving suspensions, and agree that misbehavior should be addressed through restorative justice practices;

WHEREAS, the District has demonstrated a commitment to addressing the stark disparities in suspension rates among students that exist along lines of race and disability status while ensuring that all students in the District have equal access to educational opportunity;

WHEREAS, the Parties are willing to accept the terms of this Assurance to resolve the investigation into the District’s discipline policies and practices; and

WHEREAS, the Parties believe that the obligations imposed by this Assurance are prudent and appropriate;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the District and the OAG, as follows:

**PART FOUR: LEGAL COMPLIANCE AND GENERAL PRINCIPLES**

28. The District agrees to comply with the obligations, terms, and conditions of New York Education Law § 3214; 20 U.S.C. §1415 et seq. of the Individuals with Disabilities Education Act (“IDEA”); and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.

29. Specifically, the District shall seek to provide all students with schools that are safe and conducive to learning by implementing the following General Principles:
- a. Adopting fair and appropriate student discipline policies that provide students with the procedural safeguards mandated by law, as well as policies that protect students from disciplinary action taken on the basis of race, national origin, or disability status;
  - b. Utilizing preventative strategies that both teach and reinforce appropriate behavior and ensure that students remain in the District's education program rather than the disciplinary system; and
  - c. Ensuring that Staff utilize a range of corrective measures before removing a student from the educational program, except when it can be documented that the safety of students and/or Staff is threatened, the behavior in question is such that the disruption to the educational environment can only be remedied by such a referral, or as required by law.

**PART FIVE: RETENTION OF AN INDEPENDENT MONITOR**

30. Within thirty (30) days of the Effective Date, the District shall retain, at its own expense, a qualified individual or organization to serve as an Independent Monitor ("Monitor") who shall be primarily responsible for monitoring the District's compliance with the terms of this Assurance. Before selecting the Monitor, the District shall develop a proposed description of duties and responsibilities of the Monitor, subject to the approval of the OAG. The District shall retain the

Monitor for at least four (4) complete school years.<sup>5</sup> The Monitor shall have sufficient experience in the subject matter of school discipline and the development and use of alternatives to suspensions. The Monitor shall have unrestricted access to the District's files and records in order to audit compliance with this Assurance. The selection of the Monitor shall be subject to OAG review and approval.

31. The Monitor shall create a plan to conduct periodic reviews of the data, files, and records to assess compliance with the District's policies and with this Assurance, subject to OAG approval. If the District is unable to implement a particular recommendation set forth by the Monitor, the District shall submit its reasoning along with a proposed written alternative to the OAG for its review and consideration within thirty (30) days of receipt of the recommendation. In such instances, the District shall implement the recommendation in accordance with the OAG's final determination.
32. The Monitor shall be in regular contact with the OAG regarding any concerns about compliance with this Assurance and shall submit quarterly annual reports to the OAG and the Board outlining the District's compliance with each provision of this Assurance.

#### **PART SIX: DESIGNATION OF INTERNAL OMBUDSMAN**

33. Within thirty (30) days of the Effective Date, the District shall designate or retain an Employee to serve as the Ombudsman of Discipline ("Ombudsman"). The selection of the Ombudsman shall be subject to OAG review and approval, and

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<sup>5</sup> For the purposes of this Assurance, a complete school year means a year of schooling beginning on the first day of school, ending on the last day of school, and excluding summer school.



the Ombudsman shall have sufficient experience in the subject matter of school discipline and the development and use of alternatives to suspensions. The Ombudsman shall be responsible for ensuring compliance with state and federal laws regarding school discipline, ensuring that the implementation of the District's policies concerning discipline is fair, equitable, and in compliance with this Assurance, and communicating with students, parents and Staff about issues relating to the District's discipline policies and the implementation of this Assurance. The Ombudsman shall report to the Superintendent.

34. Within sixty (60) days of the Effective Date, the District shall appoint a member of the administrative Staff at each School to serve as the Coordinator of Student Behavior ("Coordinator"). The Coordinator shall work with the Ombudsman to ensure compliance at his or her School with the District's policies and this Assurance. The Coordinator shall be available to work with the Staff at his or her School to help determine appropriate discipline in specific cases and shall also work in coordination with and seek guidance from the Ombudsman.
35. Within sixty (60) days of the Effective Date, the District shall post job announcements to ensure it has an adequate number of Employees to organize and analyze the District-wide data, including the data collected pursuant to Part Fourteen, on disciplinary actions taken in the District and at each School (the "Data Review Team"). This Team will work under the direction and supervision of the Ombudsman. The District shall fill those positions within one hundred and twenty (120) days of the Effective Date.

36. The obligations of Part Six of this Assurance shall remain in effect for at least four (4) complete school years after the Effective Date.

**PART SEVEN: PREVENTATIVE STRATEGIES**

37. The District shall create Preventative Strategies Plans for the four (4) levels of Schools: Elementary School, K-8 School, Middle School, and High School. The Plans must develop, expand, and implement age-appropriate strategies for teaching that encourage and reinforce positive student behavior and do not require engagement with the discipline system. The Plans must extend for at least four (4) complete school years after the Effective Date. The District shall submit its High School and Middle School Plans to the Independent Monitor for its review prior to October 15, 2014. The District shall submit its Elementary School and K-8 School Plan for review by the Independent Monitor prior to January 1, 2015. Once the Independent Monitor determines that the Preventative Strategies Plans are in compliance with this Assurance, the Independent Monitor shall inform the OAG, and the District may begin implementation of the Plans.
38. The strategies in the Preventative Strategies Plan shall be designed to prevent the occurrence of student infractions, provide constructive feedback, teach alternative or replacement behaviors, and motivate students to comply with established School expectations. The Preventative Strategies Plans shall include, without limitation, the following strategies and elements:
- a. **Classroom Management and Behavioral Support for Staff:** The District shall implement a requirement that Staff utilize a range of corrective measures before referring a student to disciplinary authorities

and/or law enforcement, including, but not limited to, behavior contracts, reflective writing assignments, conflict resolution, and restorative justice practices. When making referrals, Staff must provide documentation of any corrective measures attempted for the student and the results of those measures. Staff may refer students to the administration without the use of corrective measures only where the safety of students and/or Staff is threatened, the behavior in question is such that the disruption to the educational environment can only be remedied by such a referral, or the referral is required by law. In this event, Staff must provide documentation of the safety threat, disruptive behavior, or legal requirement justifying immediate referral. In addition, the District shall ensure that Staff continue to have available to them appropriate resources and support in order to provide effective classroom management, including, but not limited to, consultations with the Coordinator and additional trainings.

- b. **Rewarding Positive Behavior:** The District shall have in place, at every School, a system for positively encouraging and reinforcing appropriate student behavior.
- c. **Supports for Struggling Students:** If, after the corrective measures have been fully implemented, a student is referred for discipline more than once in a school year for behavior that disrupts their education and/or the education of other students, the District will provide one or more of the

following school-based supports to assist the student. These supports may include, but need not be limited to, the following:

- i. adult in-school mentoring;
- ii. peer in-school mentoring;
- iii. access to guidance counselors, student support Staff, social workers, or student advocates as appropriate;
- iv. involvement of parents in the discipline process;
- v. the development and implementation of a behavior management plan;
- vi. assistance with learning appropriate behavior and developing self-management skills; and
- vii. referral for educational services, where indicated and appropriate.

d. **Training:** The District shall require all relevant Staff to attend annual trainings on classroom management techniques, on rewarding positive behavior, and on cultural competence and culturally relevant pedagogy as required by Paragraph 59.

e. **Monitoring:** The Ombudsman, in consultation with the Superintendent, shall create a reporting schedule with each Coordinator to update the District on the progress of implementation of the Preventative Strategies Plan at each School. The Ombudsman shall determine what information is necessary to include in such progress reports. In addition, the Ombudsman shall determine whether and when to make site visits to each

School to evaluate the implementation of the Preventatives Strategies Plan.

- f. **Amendments:** The District may amend the Preventative Strategies Plans at any time. Any such changes must be evaluated by the Ombudsman and the Superintendent to determine whether the change complies with this Assurance.
39. The Monitor may, at any time, review the information or reports collected and produced pursuant to this Part or make site visits to any School upon one week's notice to measure the effectiveness of the Preventative Strategies Plans. The Monitor shall document his or her findings and recommendations resulting from such reviews or site visits and submit them to the OAG and the District. The District shall implement any recommendations made by the Monitor within ninety (90) days of receiving them.

**PART EIGHT: DUE PROCESS SAFEGUARDS**

40. Within sixty (60) days of the Effective Date, the District shall post job announcements to ensure it has an adequate number of Employees and/or independent contractors providing advocacy services to students facing suspensions. The number of Employees and/or independent contractors shall be tied to the District's population and other indicators of need. In addition, the District shall make best efforts to work with the local bar association or non-profit organizations to set up a pro bono program, whereby local attorneys will represent students in the disciplinary process.

41. The District shall ensure that impartial hearing officers and individuals conducting MDRs are Employees and/or independent contractors subject to oversight by the Ombudsman. At the end of each school year, the Ombudsman shall evaluate the performance of impartial hearing officers and Employees conducting MDRs based on climate assessments of students and parents pursuant to Part Twelve, data collected and reviewed pursuant to Part Fourteen, and feedback from advocates employed pursuant to Paragraph 40. The Ombudsman's review of the impartial hearing officers and the Employees conducting MDRs will be conducted consistently with the Requirements of N.Y. Educ. Law § 3214 and IDEA, respectively. Where an impartial hearing officer or an Employee responsible for conducting MDRs has failed to perform his or her duties in accordance with these laws, the Superintendent or Ombudsman shall take appropriate corrective action. The District shall provide assurances that appropriate remedial actions have been taken pursuant to this Part to the Monitor.

#### **PART NINE: POLICIES AND PROCEDURES**

42. **Student Code of Conduct:** Within thirty (30) days of the Effective Date, the District shall revise and submit for OAG approval its disciplinary policies, including its Code of Conduct, to implement the General Principles set forth in Paragraph 28.
43. The District shall ensure that the revised policies (a) clearly communicate the positive behaviors expected of students; (b) adopt objective definitions of behavioral infractions and develop a progressive system of discipline as described in Paragraph 44; (c) incorporate corrective measures developed pursuant to

Paragraph 38 as alternatives to suspensions and require Staff to utilize such measures before making referrals; (d) limit the use of suspensions and the involvement of law enforcement to the most severe and disruptive behaviors that threaten school safety or violate criminal codes; (e) offer suspended students alternative education services, including an opportunity to complete their regular academic work and work with qualified Staff, as appropriate; (f) incorporate the guidelines regarding Alternative Education Programs described in Paragraph 45; (g) require administrators to work with parents to assist students' transitions back to school after serving suspension; (h) protect students with disabilities as outlined by federal and state law; (i) implement the procedural safeguards guaranteed to all students under state law, and as specified under Paragraph 46; and (j) provide Staff with guidelines on when to involve SROs in discipline and when to refer students to law enforcement for misbehavior as described in Paragraph 47.

44. **Progressive Discipline System:** The District shall provide its own objective definitions of behavioral infractions and organize infractions into progressive tiers in the order of severity. The District shall ensure that the possible consequences for each type and tier of infraction are clearly stated, and that out-of-school suspension is not an available disciplinary action for the lower tiers. Specifically, the revised Code of Conduct shall prohibit out-of-school suspension as discipline for students under the age of 10, except for situations involving a serious and immediate threat to student, teacher, or public safety.

45. **Alternative Education Programs:** The District currently operates several programs that provide students serving Long Term Suspensions with alternative education (“Alternative Education Programs”). The District shall develop policies and procedures for the placement of students in Alternative Education Programs, including, but not limited to, guidelines on (a) the criteria for determining whether the District may assign a student to a given placement; (b) the appropriate length of placements; (c) the provision of mental health or rehabilitation services; (d) the review of student behavior progress; and (e) the prompt transition of students back to home school environments and the application of any relevant intervention strategies to the home school environment.
46. **Due Process:** The District shall develop policies to ensure that it provides students with due process in accordance with N.Y. Educ. Law § 3214, including but not limited to, the notice and hearing requirements for Short and Long Term suspensions.
47. **SROs and Law Enforcement:** The District shall develop policies regarding involvement of SROs and local law enforcement in addressing school-based conduct and policies concerning the selection of SROs. The policy shall be consistent with the job description of SROs, including the description of roles, duties and limits placed on SROs by the Memorandum of Understanding entered into pursuant to Paragraph 67. Principals may make referrals to local law enforcement after receiving authorization from the Superintendent or his/her designee. Staff may refer students, without authorization, under the following



circumstances: in an emergency situation involving a serious and immediate threat to students, school personnel, or public safety, or where the staff member is the victim of a crime. Any involvement of SROs or law enforcement must be reported to the Ombudsman and the Monitor.

48. The District may amend its Code of Conduct at any time. Any changes made to the Code of Conduct during the first four (4) school years after the execution of this Assurance shall be subject to OAG approval.

#### **PART TEN: PUBLIC NOTICE**

49. Within ninety (90) days of the Board's approval of the Code of Conduct, the District shall develop an informational program to be offered to parents that will explain the policies referenced in this Agreement in an easily understood manner, including a description of what is expected of students under those policies and a description of the District's efforts in achieving fair discipline of all students. The program shall provide parents with the opportunity to raise concerns or suggestions regarding the improvement of the District's disciplinary policies, including any issues in connection with fairness and non-discrimination.
50. The District shall ensure that the informational program is offered in such a manner as to ensure the maximum possible participation by parents. This may include offering the program in conjunction with other programs or at multiple times in various locations and will include providing the materials developed by the District in association with the program to parents who are unable to attend the program. The District shall also offer the program and the program materials

in high-incidence languages within the District, including Spanish, Karen, and Somali.

51. The informational program shall include:
  - a. a statement regarding the District's commitment to using policies that will ensure a safe and orderly educational environment and ensure the fair and equitable treatment of all students when making disciplinary referrals and imposing disciplinary sanctions;
  - b. a description of resources that are available to students to assist them in developing self-management skills;
  - c. a summary of students' due process rights under state law, including the right to notice of the charges and an opportunity to be heard;
  - d. detailed explanations of the Code of Conduct, including the definitions of behavioral infractions, the specific manner in which progressive disciplinary consequences will be employed, and the circumstances under which deviations from established policies may be justified; and
  - e. information on the District's complaint procedures and the contact information for Staff responsible for receiving parent comments and questions regarding the implementation of the District's discipline policies and assistance in addressing student behavioral problems.
  
52. Within sixty (60) days of the Board's approval of the Code, the District shall develop strategies to implement a program to be delivered annually during the beginning of each school year to all students that will explain the policies referenced in this Assurance and what is expected of the students under those

- policies in an age-appropriate, easily understood manner. The program will include, but not be limited to:
- a. a statement regarding the District’s commitment to using policies that will ensure a safe and orderly educational environment and ensure the fair and equitable treatment of all students when making disciplinary referrals and imposing disciplinary sanctions;
  - b. a description of student rights to appropriate due process protections in connection with any disciplinary action taken or proposed by the District;
  - c. detailed explanations of the discipline code, including the definitions of offense categories, the specific manner in which progressive disciplinary consequences will be employed, and the circumstances under which deviations from established policies may be justified; and
  - d. an emphasis on not only the consequences and procedures associated with non-compliance with the disciplinary code, but also guidance and information regarding appropriate behavioral standards, including resources to assist struggling students.
53. The District will publish its Code of Conduct and distribute it in hard copy to every student in middle or secondary School and to the families of all other students at the beginning of the school year. The District shall, within fifteen (15) days of the Board’s approval of the Code, publish the Code on its website and link to it from the homepage.
54. The District shall create resources to provide guidance and education to parents and students on the Code. Specifically, the resources will provide information on

the new definitions for behavioral infractions, the progressive system of discipline, positive alternatives and corrective measures, and the procedure due each student facing suspension. The resources shall include, but not be limited to, online materials and parent coordinators assigned to each school.

55. At any time during this Assurance, the Monitor may review the available resources provided by the District and determine the effectiveness of such resources. The Monitor shall document any recommendations he or she makes and submit them to the OAG and the District. The District shall make any changes recommended by the Monitor within ninety (90) days of receiving them.
56. The obligations of this Part shall remain in effect for at least four (4) complete school years following the Effective Date.

#### **PART ELEVEN: STAFF TRAINING**

57. Within sixty (60) days of the OAG's approval of changes to the Code of Conduct, the District shall develop an annual training program on the policies contained in the Code. Staff involved in the disciplinary process, including teachers and administrators, as well as SROs, must participate in the training at the beginning each school year. The training shall include, but not be limited to:
  - a. an emphasis on the District's commitment to the General Principles and the importance of ensuring to the maximum extent possible that misbehavior is addressed in a manner that does not require removal from the educational program;
  - b. detailed explanations of the discipline code, including the objective definitions of behavioral infractions, the specific manner in which

progressive disciplinary consequences will be employed, and the circumstances under which deviations from established policies may be justified;

- c. the documentation that must be used by all Staff who make referrals or impose disciplinary sanctions; and
  - d. information about trainings and other resources for Staff on classroom management techniques, encouraging positive behavior, and additional supports for struggling students.
58. Within thirty (30) days of the OAG's approval of the Code, the District shall revise its existing disciplinary process in the District to align it with the requirements of the revised Code and this Assurance. Relevant Staff, including all administrators, must participate in the training at least once per school year.
59. The District shall develop a training program to implement the classroom management techniques and the techniques for rewarding positive behavior developed pursuant to Paragraph 38(a)-(b), as well as techniques for cultural competence and culturally relevant pedagogy, and offer the program semi-annually. The training will specifically emphasize the approaches and strategies for student development outside the disciplinary system. Relevant Staff, including all teachers, shall attend at least one session of the program.
60. Following the trainings, the District shall provide employees with contact information for the Ombudsman to ensure that employees have the opportunity to raise concerns or suggestions regarding the District's disciplinary policies,

including any issues in connection with fairness and non-discrimination on the basis of race or ethnicity.

61. The District shall maintain attendance sheets at each training mandated by this Assurance.
62. The Monitor may, at any time, review the training materials, training sessions, and attendance sheets of any training offered by the District pursuant to this Part for compliance with this Assurance. Upon conducting any review, the Monitor shall document his or her findings and recommendations and submit them to the OAG and the District. The District shall implement any recommendations made by the Monitor within ninety (90) days of receiving them.
63. The obligations of this part shall remain in effect for at least four (4) complete school years following the Effective Date.

#### **PART TWELVE: CLIMATE ASSESSMENTS**

64. **Climate Surveys:** The District shall utilize an annual climate survey for students (grades 3-12), Staff, and parents to measure perceptions of relationships among the school community members (teacher-student, teacher-parent, and student relationships), school safety, fairness and clarity of rules, and behavioral expectations. To the extent that the New York State Education Department (“NYSED”) conducts assessments of the school climate for students (grades 3-12), Staff, and parents, the District may utilize those assessments in lieu of creating its own survey. The Ombudsman shall create and submit annually to the OAG and the Monitor a summary report of the substance of the responses on the

NYSED climate assessments or any other climate survey developed pursuant to this Assurance.

65. **Student Forums:** In order to raise awareness of discipline issues, each School in the District shall conduct an annual forum during regular school hours that provides the opportunity for students to discuss with faculty and administrators any matters specifically relating to discipline and provide their input for any improvements in the District's discipline policies. The Coordinator of each School shall attend each forum session. The District will select an appropriate format for each session based on the age/grade levels of students and the particular needs of each school. The Coordinator of each school shall create a summary report of the student forums to submit and review with the Ombudsman. The Ombudsman may attend any student forums as necessary to assess school climate. The District shall share summary reports of student forums, with any redactions necessary to maintain student confidentiality, to the Monitor upon request.
66. **Staff Forums and Communication:** In order to communicate with Staff about discipline issues, the Ombudsman shall conduct forums for Staff that provide the opportunity for administrators and teachers to discuss any matters specifically relating to discipline and to give their input for any improvements in the District's discipline policies. The Ombudsman shall create a summary report of each forum and provide the summaries to the Monitor, with any redactions to maintain Staff confidentiality, if so requested. In addition, the Ombudsman and the Coordinators

shall be available, in person or by phone, to field inquiries, comments and concerns from Staff regarding the District's disciplinary policies.

67. The District shall conduct climate surveys, student forums and staff forums for at least four (4) school years following the Effective Date.

**PART THIRTEEN: SCHOOL RESOURCE OFFICERS**

68. The District shall execute a Memorandum of Understanding ("MOU") with any office, agency, or organization that provides School Resource Officers (SROs) to serve in District schools. The MOU shall delineate authority and specify procedures to be followed by SROs on school grounds. The MOU shall be subject to the OAG's review and approval, which shall not be unreasonably withheld. The MOU shall:

- a. clearly specify the roles, duties, and limitations of SROs;
- b. specify limitations on SROs' activities with and access to student level data, records, and information;
- c. require use of youth-appropriate and age-appropriate policing techniques;
- d. provide procedures for reviewing the use of force on District property, including procedures for review of every instance where an SRO uses a Taser on school property;
- e. set forth the District's requirements and criteria for the designation and selection of personnel to serve as SROs;
- f. delineate the District's role in the final selection of SROs;
- g. provide training requirements;



- h. provide procedures for receiving and responding to complaints regarding SROs;
  - i. require, to the extent that the local police department staffs SROs, that police only arrest students on school grounds for crimes committed on school property, or where it is making an arrest pursuant to a warrant for a violent crime; and
  - j. require the collection, analysis, and use of data regarding SRO activity in the District, including, to the extent that the local police department staffs SROs, all police reports concerning arrests on school property.
69. Within thirty (30) days of entering into the MOU, the District shall develop pre-service and in-service trainings for SROs, subject to the approval of the OAG. The trainings shall specifically include information on working with youth, including de-escalation techniques, conflict resolution, child and adolescent development, and age-appropriate responses; practices proven to improve school climate; mentoring, counseling, and classroom presentation skills; working with children with disabilities; the consequences of student involvement in the criminal and juvenile justice systems; and working collaboratively with school administrators.
70. The District will conduct a comprehensive review of SRO interventions and practices annually to assess their effectiveness and identify any changes that should be made to ensure that they align with the goals and objectives set forth in this Assurance.

71. The District shall comply with the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, when disclosing student education records, including student disciplinary records to a local law enforcement agency without first seeking parental consent. In addition, the District shall treat all directory information and photographs of students in the possession of the District as education records and shall not disclose such information without first obtaining parental consent. The District may release education records, directory information or student photograph under the conditions specified in 34 CFR § 99.31.
72. The Monitor may, at any time, review the data on SRO interventions or the training materials for SROs, as well as attend training sessions to determine whether the District is complying with this Assurance. Upon conducting any such review, the Monitor shall document his or her findings and recommendations and submit them to the OAG and the District. The District shall implement any recommendations made by the Monitor within ninety (90) days of receiving them.
73. The obligations of this Part shall remain in effect for at least four (4) school years following the Effective Date.

#### **PART FOURTEEN: DATA COLLECTION AND REVIEW**

74. Within ninety (90) days of the Board’s approval of the Code, the District shall establish uniform standards for the content of student discipline files at all District schools. The standards will be designed, with input from the Ombudsman, to ensure that the District keeps accurate and complete records of all discipline

incidents, including those that do not result in the imposition of disciplinary sanctions.

75. The District shall collect and the Data Review Team shall evaluate data regarding all referrals for student discipline, including those referrals to school administrators that did not result in the imposition of disciplinary sanctions, the imposition of disciplinary sanctions by school administrators, referrals to law enforcement, and suspension and expulsion at all District schools. The data collected will include, but not be limited to, the following:

- a. The name/identification number, race, ethnicity, sex, age, disability and/or ELL<sup>6</sup> status, and grade level of each student referred for discipline;
- b. For each referral, the name/identification number, race, ethnicity, sex, age, grade level, disability and/or ELL status, as applicable, and grade level of all other students alleged to be complicit in the incident, including whether those students were referred for discipline;
- c. A detailed description of the misconduct;
- d. A description of all approaches that were attempted in order to address the behavior at issue prior to referral for discipline;
- e. The date of the referral;
- f. The specific Code violation for which the referral was made;
- g. The referring Staff member (by Staff identification/employee number);
- h. The school and type of class from which the referral was made or other specific settings (e.g. bus referral, hallway referral);

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<sup>6</sup> As used throughout this Assurance, “ELL” means a student who is English Language Learner status.

- i. Whether there were any student and/or adult witness(es) of the incident; names of witness(es); and number of witnesses;
- j. The specific Code violation for which the student was punished and the penalty/sanction imposed or, if no violation was charged or penalty/sanction imposed, the reason for declining to discipline;
- k. Whether the student was referred for a Long-Term Suspension and when a Superintendent's Hearing was held;
- l. Whether the parents were notified in writing prior to the imposition of the sanction, including whether such notice was translated as necessary, and whether parents were notified of Superintendent's Hearings or MDRs;
- m. Whether the School provided an opportunity to contest the charges in an Informal Conference or Superintendent's Hearing;
- n. The date the penalty/sanction was imposed and, if at a Superintendent's Hearing, the disposition of the Hearing;
- o. The length of the penalty/sanction imposed;
- p. Whether an MDR was held, if applicable, and the result of the MDR;
- q. Whether District conducted an FBA or BIP, if applicable;
- r. The actual date of return from a suspension, including suspensions resulting from Superintendent's Hearings;
- s. The Staff member who assigned the penalty/sanction (by Staff identification/employee number);
- t. Whether the student was offered alternative education during the suspension;

- u. Whether the student was referred to an alternative education placement or transferred to a different School site;
  - v. Whether school-based or local law enforcement were involved (e.g. whether law enforcement was notified of the offense); and
  - w. Any other non-punitive outcomes arising out of each referral incident, including, but not limited to, referral for homebound services or disability evaluation.
76. Prior to the beginning of the 2014-15 school year, the District shall develop a technology plan with an implementation schedule, subject to the approval of the OAG. The plan shall include enhancements or updates to the District's technology infrastructure and programs as needed in order to collect and accurately record the disciplinary data required by this Assurance.
77. The District shall retain all records collected under this Assurance, whether in hard copy or electronic format.
78. The District shall analyze the data collected pursuant to this Part and produce reports at the conclusion of each school year that summarize the results of such analysis across the District and at each School (the "Data Reports"). The District shall continue to produce Data Reports for the District and each School for at least four (4) school years after the Effective Date. Such Reports will include:
- a. goals and benchmarks for measuring the District's efforts at implementing its student discipline policies and practices in a non-discriminatory manner;
  - b. changes in rates of suspensions disaggregated by race;

- c. to the extent possible, student scores on state exams disaggregated by race and any correlation with suspension rates, in accordance with the timelines in which such data is made available to the District;
  - d. information on persistent problems;
  - e. recommendations for any changes to District or School student discipline policies and practices that should be made in light of the team’s findings; and
  - f. identification of disproportionate discipline of particular groups.
79. The District shall establish protocols and procedures that ensure District-level and School-level review of disciplinary actions. These protocols and procedures must remain in effect for at least four (4) school years after the Effective Date. Such procedures shall include:
- a. District-level review meetings between the Ombudsman and School administrators to discuss Data Reports for each administrator’s School. The District must ensure that District-level review meetings include:
    - i. analysis of how discipline referrals and disciplinary sanctions imposed at each school compare to those at other Schools and, if applicable, to schools outside the District;
    - ii. analysis of any data suggesting failures to follow District policies and review of the District’s resources that are available to teachers to assist them in managing their classrooms and reinforcing positive student behavior; and

- iii. recommendations for additional training if the data or other information suggests that the principal or other School Staff are failing to adhere to the District's student discipline policies or disproportionately disciplining students of a particular group.
- b. School-level review meetings between administrators and Staff at each School to discuss strategies for teaching, encouraging and reinforcing positive student behavior that do not require engagement with the discipline system and to discuss the discipline of students for that semester. Minutes of these meetings will be kept and submitted to the Ombudsman. The District shall seek to ensure that School-level review meetings include:
  - i. analysis of the data gathered by the District and the School's Data Report;
  - ii. analysis of any disproportionate discipline of particular groups identified by the Data Review Team, and discussion of how to address these disproportionalities;
  - iii. analysis of how discipline referrals and disciplinary sanctions imposed at the school compare to those at other schools and consideration of any data or other information suggesting a failure to follow the District's policies;
  - iv. reminders to Staff of District resources that are available to assist them in managing their classrooms and reinforcing positive student behavior; and

- v. recommendations of additional training for Staff responsible for a disproportionate number of referrals or who disproportionately refer members of any particular group to meet privately with administrators to explore potential solutions.
80. The Monitor may, at any time, review the Data Reports, as well as the data review procedures and practices at each school required by this Part, to determine whether the District is complying with this Assurance. Upon conducting any such review, the Monitor shall document his or her findings and recommendations and submit them to the OAG and the District. The District shall implement any recommendations made by the Monitor within ninety (90) days of receiving them.

#### **PART FIFTEEN: COMPLAINTS**

81. Prior to the beginning of the 2014-15 school year, the District shall publish the process for filing complaints about the discipline process on its website and in hard copy. The District shall distribute the hard copy notice to all parents. The notice shall include the name and contact information of the Ombudsman, whom the complainant can contact with questions, and with whom the complainant should file his or her complaint.
82. The District shall keep a log of all complaints (“Complaint Log”), including information on any subsequent investigation and the resolution. The District shall also retain any documentation of subsequent investigations, responses, and resolutions.
83. The Ombudsman shall review the Complaint Log semi-annually to ensure that the District is promptly and adequately responding to complaints. If the Ombudsman



finds any evidence that the District is not adequately responding to Complaints, or if the Ombudsman finds any evidence of non-compliance with the District's policies or this Assurance, the Ombudsman shall take the immediate corrective action that the Ombudsman deems necessary. Upon request, the District shall share the Complaint Log with the Monitor.

84. The obligations of this Part shall last for at least four (4) years after the Effective Date.

**PART SIXTEEN: REPORTING AND MONITORING**

85. The District shall retain, for at least four (4) years after the Effective Date, all documents pertaining to this Assurance, including but not limited to:
- a. The Preventative Strategies Plans created pursuant to Paragraph 37, and any reporting schedules, progress reports, or documentation of site visits created pursuant to Paragraph 38(e);
  - b. Individual student referral forms, notices of suspensions and records of informal conferences;
  - c. Records of Superintendent's Hearings, including audio or visual records of the Hearing, impartial hearing officer's recommendations, and Superintendent's decisions;
  - d. Records of MDRs, including attendance lists, information considered, decisions rendered, and whether FBAs were subsequently conducted and BIPs created;
  - e. The reports of evaluations of impartial hearing officers and Employees conducting MDRs pursuant to Paragraph 41;

- f. The revised Code of Conduct adopted pursuant to Part Nine and the Training materials developed pursuant to Part Ten, including attendance lists of each Training Session;
  - g. Summary reports of climate surveys pursuant to Paragraph 64, reports of student forums pursuant to Paragraph 65, and reports of staff forums pursuant to Paragraph 66;
  - h. The MOU and any changes to the MOU pursuant to Paragraph 68;
  - i. Any Data Reports produced pursuant to Paragraph 78; and
  - j. Complaint Logs and documentation of any investigations into complaints filed with the District pursuant to Paragraph 82.
86. The District shall prepare a report and provide it to the OAG at the close of each school year, for at least four (4) school years after the Effective Date. The reports shall contain the following information from the prior school year:
- a. The summary reports of climate surveys pursuant to Paragraph 64;
  - b. The MOU and any changes to the MOU pursuant to Paragraph 68;
  - c. Data Reports pursuant to Paragraph 78; and
  - d. Complaint logs with students' information redacted pursuant to Paragraph 82.
87. The District shall ensure that any information, documents or data maintained under the terms of this Assurance, shall be available for review by the New York State Department of Education ("NYSED"). Upon written notice from NYSED requesting any such information, documents, or data, the District must produce the requested information, documents or data within fourteen (14) days.

88. As part of this Assurance the District shall cooperate with the Monitor, the OAG, and NYSED in their monitoring efforts.

**PART SEVENTEEN: SCOPE OF THE ASSURANCE, JURISDICTION, AND  
ENFORCEMENT PROVISIONS**

89. The OAG has agreed to the terms of this Assurance based on, among other things, the representations that The District and its counsel made to the OAG and the OAG's own findings from the factual investigation as set forth in Findings outlined in Paragraphs 2 - 27 above. To the extent that any material representations are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.
90. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by the District in agreeing to this Assurance.
91. Upon execution by the Parties to this Assurance, the OAG shall discontinue the instant investigation except as otherwise related to the enforcement of the terms of this Assurance.
92. The District represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. The District agrees not to take any action or make any statement denying, directly or indirectly, the propriety of this Assurance or expressing the view that this Assurance is without factual basis. Nothing in this paragraph affects the District's (i) testimonial obligations or (ii) right to take legal or factual positions in defense of litigation or other legal proceedings to which

OAG is not a party. This Assurance is not intended for use by any third party in any other proceeding and is not intended, and should not be construed, as an admission of liability by the District.

93. This Assurance may not be amended except by an instrument in writing signed on behalf of all the Parties to this Assurance.
94. This Assurance shall be binding on and inure to the benefit of the Parties to this Assurance and their respective successors and assigns, provided that no party, other than the OAG, may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.
95. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.
96. No provision of this Assurance shall be interpreted to require the disclosure of student education records where prohibited by the Family Educational Rights and Privacy Act.
97. To the extent not already provided under this Assurance, the District agrees to, upon request by the OAG, provide all documentation and information necessary for the OAG to verify compliance with this Assurance.
98. All notices, reports, requests, and other communications to any party pursuant to this Assurance shall be in writing and shall be directed as follows:

OAG  
Ajay Saini  
Office of the Attorney General  
Civil Rights Bureau

120 Broadway  
New York, New York 10271  
(212) 416-8250  
(212) 416-8074 (fax)  
Civil.Rights@ag.ny.gov (email)

The District  
Eric Wilson  
Ferrara Fiorenza Larrison Barrett & Reitz, P.C.  
5010 Campuswood Drive  
East Syracuse, NY 13057

Any changes in the person to whom communications should be specifically directed shall be made in advance of the change.

99. Acceptance of this Assurance by the OAG shall not be deemed approval by the OAG of any of the practices or procedures referenced herein, and the District shall make no representation to the contrary.
100. If a court of competent jurisdiction determines that the District has breached this Assurance, The District shall pay to the OAG the cost, if any, of such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.
101. Nothing contained herein shall be construed so as to deprive any person of any private right under the law.

IN WITNESS THEREOF, this Assurance is executed by the parties hereto on July 10, 2014.

Dated: New York, New York  
July 10, 2014

**SYRACUSE CITY SCHOOL DISTRICT**

By: Sharon L. Contreras  
Sharon Contreras  
Superintendent  
Syracuse City School District

By: Michelle Mignano  
Michelle Mignano  
President  
Board of Education Commissioners  
Syracuse City School District

CONSENTED TO:

Dated: New York, New York  
July 10, 2014

**ERIC T. SCHNEIDERMAN**  
Attorney General of the State of New York

By: Kristen Clarke  
Kristen Clarke  
Bureau Chief

Ajay Saini  
Ajay Saini  
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