

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

GILBERTO LOPEZ, by and through the)
CUMBERLAND TRUST &)
INVESTMENT COMPANY as next friend)
and trustee of The Gilberto Kelly Lopez)
Irrevocable Trust,)

Plaintiff,)

UNITED STATES OF AMERICA,)

Plaintiff-Intervenor,)

v.)

METROPOLITAN GOVERNMENT OF)
NASHVILLE AND DAVIDSON)
COUNTY; and GENESIS LEARNING)
CENTERS,)

Defendants.)

NO. 3:07-CV-799

Judge Echols

Magistrate Judge Griffin

CONSENT DECREE

This case originated on July 30, 2007, when Plaintiff Kimberly Lopez filed a complaint against the Metropolitan Government of Nashville and Davidson County (hereafter “Metropolitan Government”). The complaint alleged that on May 7, 2007, Plaintiff’s son, Gilberto Lopez, was sexually assaulted while riding a special education school bus operated by the Metropolitan Nashville Public Schools (hereafter “MNPS”). On April 30, 2008, Plaintiff amended her complaint to inter alia join Genesis Learning Centers (hereafter “Genesis”) as a defendant, and add a sex discrimination claim against the Metropolitan Government and Genesis pursuant to Title IX of the Education Amendments of 1972 (hereafter “Title IX”), 20 U.S.C. § 1681 (2000).

On September 10, 2008, the United States moved to intervene in this case and filed a

proposed Title IX complaint-in-intervention against the Metropolitan Government. Recognizing the United States' substantial interest in ensuring that recipients of federal funds do not discriminate on the basis of sex in violation of Title IX, the Court granted the United States' motion to intervene and directed the Clerk to file the United States' complaint-in-intervention on November 4, 2008.

On January 15, 2009, all parties cross-moved for summary judgment. On July 7, 2009, the Court denied the motions of all parties for summary disposition of the Title IX claims filed by Plaintiff and the United States.

The United States and the Metropolitan Government Board of Public Education have conferred in good faith and have negotiated the terms of this Consent Decree to resolve the Title IX claim raised by the United States.¹ This Consent Decree is entered in full and final settlement of the civil claims alleged in the United States' complaint-in-intervention. After reviewing the terms of this Consent Decree, the Court finds them to be fair, just, reasonable, and consistent with the requirements of Title IX. Accordingly, the Court **ORDERS, ADJUDGES, and DECREES** the following:

I. JURISDICTION

This Court has jurisdiction over the subject matter herein pursuant to 28 U.S.C. §§ 1331 and 1345. The United States' complaint-in-intervention states claims upon which relief may be granted against the Metropolitan Government for an injunctive remedy. The Metropolitan Government agrees not to contest the jurisdiction of the Court to enter and enforce this Consent

¹ The United States and the Metropolitan Government of Nashville and Davidson County are the only two signatories who are authorized to enforce this Consent Decree. Nothing in this Consent Decree shall be construed to in any way limit the claims or relief sought by Plaintiffs Gilberto Lopez and Cumberland Trust & Investment Company.

Decree.

II. DEFINITIONS

- A. "Bus Monitor" refers to an adult, other than the bus driver, hired by MNPS to ride a MNPS-operated school bus for the purpose of monitoring and supervising the student-passengers while they are on the bus.
- B. "Bus Transportation Order" refers to a transportation order generated by the IEP Process that outlines the special transportation needs of a student with a disability. The Bus Transportation Order can include bus safety measures, as appropriate.
- C. "Contract school" refers to any school that MNPS contracts with to provide educational services to students with a disability. As of the entry date of this Consent Decree, the only contract school MNPS contracts with is Genesis Academy.
- D. "Cumulative Education File" refers to the file established by MNPS as the repository of all educational records for a particular student.
- E. "Department of Special Education" refers to MNPS's Department of Exceptional Education.
- F. "Department of Transportation" refers to MNPS's Department of Transportation.
- G. "IEP" refers to an Individualized Education Program, which is defined by federal statute to mean a written statement for each student with a disability that is developed, reviewed, and revised in accordance with the provisions set forth in the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et. seq* (hereafter "IDEA").
- H. "IEP process" refers to the federally mandated procedures set forth in the IDEA for developing, reviewing and/or revising an IEP for a particular student. See generally 20 U.S.C. § 1414(d).

- I. "Mainstream bus" refers to any MNPS-operated school bus, irrespective of size, that does not provide transportation exclusively to students with disabilities.
- J. "MNPS school" refers to any school, whether operated directly by MNPS or through a contractor or charter, that provides educational services to students enrolled in MNPS.
- K. "MNPS operated school" refers to any school that is directly operated by MNPS-employed personnel. This term is defined to exclude contract schools.
- K. "SBI school" refers to any MNPS-operated school or any contract school that provides educational services to students through a Severe Behavior Intervention ("SBI") program. As of the entry date of this Consent Decree, the SBI schools (also referred to by MNPS as "special day schools") include Cora Howe - Madison School, Genesis Academy, Murell School, Harris-Hillman School and Johnson School.
- L. "Sexual harassment," for purposes of this consent decree, is defined to include any verbal, non-verbal, or physical conduct of a sexual nature that is unwelcome and that can deny or limit, on the basis of sex, a student's ability to participate in or to receive educational benefits, services, or opportunities. *See Revised Sexual Harassment Guidance: Harassment Of Students By School Employees, Other Students, Or Third Parties*, United States Department of Education (2001).
- M. "Special education bus" refers to any MNPS-operated school bus, irrespective of size, that provides transportation exclusively to students with disabilities.
- N. "Student with a disability" is defined to include any student enrolled in MNPS who receives services or accommodations through an IEP.
- O. "Video file" refers to the video recording of the interior of a school bus during a particular trip, as created and stored by the video monitoring equipment on the school

bus.

III. GENERAL REQUIREMENTS

- A. As required by Title IX, MNPS shall take appropriate action to eliminate any and all known unreasonable risk of sexual harassment to students with disabilities who attend MNPS schools. See 20 U.S.C. § 1681(a); Davis v. Monroe County Board of Education, 526 U.S. 629 (1999).
- B. The Superintendent of MNPS shall designate one official who reports directly to the Superintendent as the official responsible for ensuring that MNPS complies with the provisions of this Consent Decree (hereafter “Designated Official”).
- C. MNPS shall provide the name, title, and contact information of the Designated Official to the United States. If at any time during the period this Consent Decree remains in effect MNPS designates a new Designated Official to perform this function, MNPS shall inform the United States in writing via electronic mail within five (5) days.

IV. SPECIFIC REQUIREMENTS

A. BUS MONITORS

- 1. MNPS shall ensure that all special education buses are equipped with properly functioning video monitoring equipment. For each bus trip, this equipment shall record all students on the bus from the time the first student boards the bus to the time the last student departs. Each digital recording from a special education bus shall be retained and stored by MNPS for a period of no less than ten (10) business days. Each digital recording from a mainstream bus transporting at least one student with a disability shall be retained and stored by MNPS for a period of no less than twenty (20) business days. Each VHS recording from a mainstream

bus transporting at least one student with a disability shall be retained and stored by MNPS for a period of no less than five (5) days.

2. MNPS shall assign a bus monitor to every special education school bus, and every bus that transports any student to an SBI school. Any student with a disability riding a mainstream bus who is determined by the Department of Special Education to pose an unreasonable risk of sexually harassing another student shall be transferred to a special education bus. Any student without a disability who is determined to pose an unreasonable risk of sexual harassing another student shall not be allowed to ride any MNPS school bus.
3. MNPS shall develop a policy that states the circumstances in which students with disabilities shall have a bus monitor assigned to his/her bus as an accommodation or related service. The Metropolitan Government must submit this policy to the United States for approval within thirty (30) days of the entry date of this Consent Decree. The policy shall be deemed approved unless the United States raises objections to the Metropolitan Government within forty five (45) days of receipt. Any such students may be transferred to a special education bus that has a bus monitor already assigned pursuant to MNPS policy.
4. MNPS shall supplement the *Prior Written Notice* mailed to parents in advance of IEP meetings to include language that expressly notifies parents that MNPS provides bus monitors as an optional related service to students with disabilities. The Metropolitan Government must submit this supplement to the United States for approval within thirty (30) days of the entry date of this Consent Decree. The supplement shall be deemed approved unless the United States raises objections

to the Metropolitan Government within forty five (45) days of receipt.

5. Any request for a bus monitor shall be documented in writing in the student's IEP, regardless of whether the student is ultimately provided with a bus monitor.
6. Every bus driver who operates a special education bus or a mainstream bus that transports at least one student with a disability shall be notified verbally and in writing that he or she may initiate a request to the Department of Special Education for a bus monitor, which will be considered by the Department as a request for an optional related service for a student with a disability. If the Department of Special Education determines that a bus monitor is necessary as an optional related service, the student shall be assigned to a bus with a bus monitor pursuant to Paragraph IV.A.3.
7. MNPS shall ensure, to the extent feasible, that substitute bus monitors are available to staff school buses in the event that the regularly-assigned monitor is absent from work.

B. BUS ROSTERS AND TRANSPORTATION ORDERS

1. MNPS shall create a roster for every special education bus transporting students to a MNPS school (hereafter "Bus Roster").
2. The Bus Roster for each special education bus shall reflect the date it was created and state the following information for each student assigned to the bus:
 - a. The student's name;
 - b. The student's gender;
 - c. The student's age;
 - d. The school where the student is currently enrolled;

- e. The student program code reflecting the particular student's disability; and
 - f. The student's Bus Transportation Order, if one exists.
3. Each Bus Roster shall also reflect whether a permanent bus monitor is assigned to the bus.
 4. The Bus Rosters shall be maintained in a format accessible to the Department of Transportation, the Department of Special Education, and the principal.
 5. An official in the Department of Transportation shall be appointed by MNPS as the custodian of the Bus Rosters (hereafter "Bus Roster Custodian").
 6. Every bus driver and bus monitor shall be provided a copy of the Bus Roster for his or her bus, and shall be required to familiarize themselves with the information in the Bus Roster. Bus drivers and bus monitors shall be informed both verbally and in writing that the information on the Bus Rosters is confidential, that the information should not be disclosed or disseminated to any third parties, and that drivers and monitors should take all necessary precautions to ensure that the information reflected on the Bus Rosters is not disclosed to students on the bus or to other third parties.
 7. Any time a substitute bus driver or substitute bus monitor is assigned to a special education bus (either permanently or temporarily), the substitute bus driver or bus monitor shall be provided a copy of the Bus Roster for the bus he or she is assigned to drive or monitor. The substitute bus driver or bus monitor shall be instructed to familiarize himself or herself with the information on the Bus Roster, that the information on the Bus Rosters is confidential, that the information

should not be disclosed or disseminated to any third parties, and that drivers and monitors should take all necessary precautions to ensure that the information reflected on the Bus Rosters is not disclosed to students on the bus or to other third parties.

8. Any time a student assigned to a special education bus is arrested in connection with a confirmed or suspected act of sexual harassment and the Metropolitan Police Department has informed MNPS of the arrest, or anytime MNPS has probable cause to believe that a student assigned to a special education bus has committed an act of sexual harassment, or has been disciplined at school in connection with a confirmed act of sexual harassment, the school principal shall contact the Special Education Transportation Coordinator. Within five (5) business days the Special Education Transportation Coordinator, in consultation with the principal, shall:
 - a. Input a temporary emergency Bus Transportation Order for the student into MNPS's HELPSTAR electronic data base; and
 - b. Disseminate the Bus Transportation Order to the bus driver and bus monitor.
9. Any time a student with a disability requests transportation services, or requests a transfer from one MNPS-operated bus to another, the Special Education Transportation Coordinator shall make the requested assignment unless the Route Coordinator, in consultation with the principal, determines that the student is not an appropriate match for the bus requested.
 - a. In determining whether the student is an appropriate match, the Route

Coordinator shall consider:

- (1) The requesting student's age, gender, disabilities, and behavioral history;
 - (2) The age, gender, disabilities, and behavioral history of the current student-passengers;
 - (3) For special education buses, the information reflected on the Bus Roster and any accompanying Bus Transportation Orders; and
 - (4) Whether a bus monitor is permanently assigned to the bus.
- b. The Route Coordinator shall assign the student to the bus unless a review of this information indicates that:
- (1) The student would pose an unreasonable threat of sexual harassment to other students on the bus, or that the student himself or herself would be at an unreasonable risk of being sexually harassed; and
 - (2) There is no monitor assigned to the bus.
- c. In the event that the Route Coordinator determines that a student with disabilities is not an appropriate match for a particular bus, MNPS may choose to either:
- (1) Staff the bus with a permanent monitor, in which case the student may be assigned to the bus;
 - (2) Place the student on another bus for which he or she is an appropriate match under the criteria set forth in Paragraph

IV.B.9.a. Metro shall ensure, to the extent feasible, that such placements do not impose an unreasonable inconvenience on the student being placed; or

- (3) Leave the student on his or her original assigned bus, if that bus is appropriate for the student given the criteria set forth in Paragraph IV.B.9.a.

10. When a student is added to a special education bus, the Bus Roster shall be modified to reflect this change as well as the date of modification, and the modified Bus Roster shall be distributed to the bus driver and bus monitor within ten (10) business days.
11. Every Bus Roster, and accompanying Bus Transportation Order(s) (if they exist) shall be reviewed at least twice per school year by the Special Education Transportation Coordinator and principal to verify that the information documented on the Bus Roster and accompanying Bus Transportation Orders does not reveal an unreasonable risk of sexual harassment to a student-passenger on a special education school bus. If this review reveals an unreasonable risk of sexual harassment on the school bus, the Special Education Transportation Coordinator shall either:
 - a. Assign a monitor to the bus in question; or
 - b. Transfer students as appropriate to eliminate the known threat of sexual harassment, pursuant to the criteria set forth in Paragraph IV.B.9.a.MNPS shall ensure, to the extent feasible, that such transfers do not impose an unreasonable inconvenience on the students subject to the

transfers.

C. COMPLAINTS TO MNPS'S CUSTOMER SERVICE CENTER

1. While state law requires that all reports of a sexual assault of a child be reported not only to the local law enforcement agency, the Tennessee Department of Children Services and the principal, MNPS shall create protocols to ensure that complaints of sexual harassment on special education buses, or on mainstream school buses transporting students with disabilities, that are reported to MNPS's Customer Service Center (hereafter "CSC"), are then communicated to appropriate officials at the Department of Transportation within twenty-four (24) business hours of the time the complaint is received. These protocols shall specify a point of contact in the Department of Transportation to whom CSC employees or the student's principal can report these complaints, and establish a system for CSC employees to log complaints of sexual harassment. The Metropolitan Government must submit these protocols to the United States for approval within thirty (30) days of the entry date of this Consent Decree. The protocols shall be deemed approved unless the United States raises objections to the Metropolitan Government within forty five (45) days of receipt.
2. All parents and/or guardians of a student with a disability transported to school on a MNPS-operated school bus shall be notified verbally and in writing about the methods for contacting the student's principal, which is MNPS's preferred first point of contact for the parent or guardian, or how to communicate with the CSC to report an alleged incident of sexual harassment. MNPS's *Ride Guide For Metropolitan Nashville Public Schools Special Needs and Special Services*

Students, will be amended within thirty (30) days of entry of this Consent Decree to provide this notification to parents. The notification shall be deemed approved unless the United States raises objection to the Metropolitan Government within forty five (45) days of receipt.

3. MNPS shall post on MNPS's website (www.mnps.org) a clearly-identified link to the procedures for reporting all complaints of harassment, including alleged incidents of sexual harassment on a MNPS-operated school bus. These procedures shall include:
 - a. Contact information for the CSC;
 - b. Contact information for MNPS employee charged with coordinating the school district's Title IX compliance, see 34 C.F.R. § 106.8(a); and
 - c. Grievance procedures for resolving Title IX complaints required by federal regulations. See 34 C.F.R. § 106.8(b).

4. On a weekly basis, the Designated Official shall review all complaints received by the CSC regarding special education buses to determine if, in his or her opinion, there is a known unreasonable risk of sexual harassment by any student-passenger or to any student-passenger on a special education bus. If this weekly review indicates such unreasonable risk and the principal, Special Education Department or Transportation Department has not taken appropriate action, then the Designated Official shall direct the Special Education Coordinator to:
 - a. Assign a monitor to the bus in question, or
 - b. Transfer students as appropriate to eliminate the threat of sexual harassment, pursuant to the criteria set forth in Paragraph IV.B.9.a.

D. INCIDENT RESPONSE

1. Every bus monitor and every MNPS-employed bus driver who operates a special education bus, or a mainstream bus that transports at least one student with a disability and has a video camera, shall be trained and required to immediately request a download of the video file from any shift where the monitor or driver determines or suspects that an incident of sexual harassment may have occurred.
2. If any student, parent, guardian, bus driver, bus monitor, or other individual alleges that a student with a disability was sexually harassed on a special education bus or a mainstream bus with a video camera, MNPS officials shall download and review the video file for the respective bus shift within one (1) business day of the initial request or allegation.
3. If the review of the video file indicates that there is probable cause to believe that a student with a disability may have been sexually harassed, MNPS shall take the following steps within two (2) business days of reviewing the video file:
 - a. Notify the parents of the alleged victim(s);
 - b. Interview the victim(s), bus driver, bus monitor, and other witnesses to the alleged incident as appropriate;
 - c. Remove the alleged perpetrator(s) from the bus, if such action is deemed necessary to ensure that similar harassment will not recur while the investigation is pending;
 - d. Inform officials at the school attended by the victim(s) and perpetrator(s);
 - e. Inform the bus driver and the bus monitor (if a monitor is assigned to the bus);

- f. Inform the Designated Official;
 - g. Inform the Special Education Transportation Coordinator. If subsequent investigation reveals that the alleged perpetrator(s) committed an act of sexual harassment, then the Special Education Transportation Coordinator, in consultation with the principal, shall, pursuant to Paragraph IV.B.8, update the student's Bus Roster entry and circulate a new or modified Bus Transportation Order to reflect this information;
 - h. Retain and archive the video file of the incident. This video file shall not be destroyed, overwritten, or altered in any fashion until a copy has been provided to the United States pursuant to Paragraph V.B.4.c.
 - i. Review the perpetrator's cumulative education file to determine whether the student should be referred for evaluation pursuant to the school district's child-find obligations under the IDEA. See 34 C.F.R. § 300.111.
4. MNPS shall take all reasonably necessary steps to minimize the likelihood that similar acts of harassment will recur.

E. TRAINING

1. Every (1) bus monitor, (2) substitute bus monitor, (3) bus driver, and (4) substitute bus driver who operates a special education bus or mainstream bus that transports at least one student with a disability, shall annually complete a comprehensive professional development training program (hereafter "Training Program") on the unique challenges, considerations, concerns, and skills required to transport students with disabilities on MNPS-operated buses.
2. The Training Program shall educate all attendees on the following topics:

- c. The characteristics of particular disabilities with significant incidence in MNPS's student population (including, but not limited to, autism, autism spectrum disorder, visual impairment, hearing impairment, emotional disturbance, mental retardation, speech or language impairment, traumatic brain injury, and other health impairments);
 - b. The unique challenges presented by students with these disabilities, as set forth in MNPS's training materials;
 - c. The laws that govern the transportation of students with disabilities, including: Title IX; the IDEA; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12134;
 - g. Nonviolent crisis intervention;
 - h. The policies and protocols for requesting a bus monitor; and
 - i. The student information reflected on their specific Bus Roster. See Paragraph IV.B.2-3.
3. The Metropolitan Government must submit MNPS's training materials to the United States for approval within thirty (30) days of the entry date of this Consent Decree. The materials shall be deemed approved unless the United States raises objections to the Metropolitan Government within forty five (45) days of receipt.
4. All bus monitors and bus drivers who are required to complete the Training Program shall document their presence at the Training Program on sign-in sheets provided by MNPS. MNPS shall retain these sign-in sheets. Additionally, these bus monitors and bus drivers shall certify in writing that they have completed the

Training Program.

5. All operators who staff the CSC shall be trained on the protocols developed by MNPS, pursuant to Paragraph IV.C.1, for reporting alleged incidents of sexual harassment on MNPS-operated school buses.

F. CUMULATIVE EDUCATION FILES

1. Metro shall create a form entitled “Cumulative Education File Certification Form” (hereafter “File Certification Form”). The Metropolitan Government must submit this File Certification Form to the United States for approval within thirty (30) days of the entry date of this Consent Decree. The form shall be deemed approved unless the United States raises objections to the Metropolitan Government within forty five (45) days of receipt.
2. Whenever MNPS transfers a student with disabilities from one MNPS school to any other MNPS school, the principal at the receiving school shall review the student’s complete cumulative education file within ten (10) business days of the student’s enrollment. The principal shall then certify on the File Certification Form that he or she reviewed the student’s cumulative education file within the required time period.
3. Whenever a student with disabilities enrolls in an MNPS school after attending a school outside MNPS, the principal at the receiving school shall, within five (5) business days, request the student’s cumulative education file from the sending school district, and review the student’s complete cumulative education file within ten (10) business days of receiving the cumulative education file from the sending school district. The principal shall then certify on the File Certification

Form that he or she reviewed the student's cumulative education file within the required time period.

4. Whenever a student with disabilities transfers from one MNPS school to another MNPS school without prior approval from MNPS, the principal at the receiving school shall request the student's cumulative education file from the sending school within five (5) business days of the student's enrollment.
 - a. Once the sending school receives this request from the principal of the receiving school, it shall forward the student's complete cumulative education file to the receiving school within ten (10) business days.
 - b. Within ten (10) business days of receiving the student's complete cumulative education file from the sending school, the principal shall review the student's complete cumulative education file, and certify on the File Certification Form that he or she reviewed the student's cumulative education file within the required time period.
5. The original version of all completed File Certification Forms shall become part of the student's cumulative education file.
6. If any information in the student's cumulative education file indicates to the principal at the receiving school that the student poses an unreasonable risk of perpetrating an act of sexual harassment or being sexually harassed, the receiving school shall immediately alert the Special Education Transportation Coordinator. The Coordinator, in consultation with the principal, shall carry out the procedures set forth in Paragraph IV.B.8. above.
7. IEPs, including Transportation Orders, shall be maintained electronically (through

EZ IEP and HELPSTAR) so that they are immediately accessible to approved MNPS personnel.

8. Before any principal approves an IEP, they shall attest to the fact that they have reviewed the student's cumulative file on the IEP. If the IEP team determines that the student poses an unreasonable threat of sexually harassing another student or determines that the student is at an unreasonable risk of being sexually harassed, then the IEP team shall issue a Bus Transportation Order and instruct the Special Education Transportation Coordinator to either assign the student to a bus with a monitor, or to transfer students as appropriate to eliminate the threat of sexual harassment, pursuant to the criteria set forth in Paragraph IV.B.9.a.

V. ANNUAL REPORTING TO THE UNITED STATES

- A. MNPS shall provide to the United States annual reports that fully detail its efforts to comply with the provisions of this Consent Decree, any acts of non-compliance, and the remedial efforts undertaken to address those acts of non-compliance. MNPS shall submit the annual reports outlined herein each year by July 15, with the first report due July 15, 2010.
- B. The annual reports shall include the following information from the school year preceding each annual report:
 1. All written certifications generated in connection with the assignment or transfer of a student to a special education bus, created pursuant to Paragraph IV.B.9.a;
 2. All sign-in sheets and written certifications reflecting a MNPS employee's annual completion of the Training Program, as required by Paragraph IV.E.4;

3. Behavior incident reports, CSC complaint logs, and any other educational record reflecting an alleged incident of sexual harassment on a special education bus, or on a mainstream bus where the alleged victim or perpetrator was a student with a disability. The documents produced pursuant to this sub-section shall contain no redactions other than the name of the individual(s) who reported the incident unless required by federal law;
4. A list of every bus (either special education or mainstream) that transports at least one student with a disability on which there was an alleged or verified incident of sexual harassment during the preceding school year and;
 - a. Whether a permanent monitor was assigned to the bus;
 - b. A description of each alleged or verified incident of sexual harassment on the bus during the school year;
 - c. A copy of the videotaped recording of each alleged or verified incident of sexual harassment on the bus during the school year, if the recording exists; and
 - d. A description of how the alleged incident was investigated by MNPS and/or resolved.

VI. ENFORCEMENT

- A. The Court shall retain jurisdiction to enforce the provisions of this Consent Decree.
- B. If at any point during the duration of this Consent Decree MNPS chooses to modify or use a different version of any document template generated for the purpose of this Consent Decree, MNPS must submit the proposed new document to the United States for approval. The proposed new document shall be deemed approved unless the United

States raises objections to MNPS within forty-five (45) days of receiving the document from MNPS. If the United States raises objections that the parties are unable to resolve, MNPS shall not be permitted to use the new document unless MNPS receives permission to do so from the Court.

- C. In the event of a dispute between the United States and the Metropolitan Government, the parties shall confer and attempt to reach an agreement on the disputed issue. If the parties are unable to reach a resolution, then either party may petition the Court for relief. The Metropolitan Government understands and acknowledges that in the event of a breach of this Consent Decree, the United States may petition the Court to enforce the specific commitments and obligations set forth in this Consent Decree.
- D. MNPS shall permit agents or representatives of the United States to periodically assess the safety and security of special education buses and mainstream buses transporting at least one student with a disability. Upon reasonable notice to MNPS, these agents or representatives shall be permitted to inspect the cumulative education files of students with disabilities, ride any special education bus or mainstream school bus transporting at least one student with a disability as observers, and to interview any bus driver, bus monitor, and/or any MNPS official with responsibility for implementing the provisions of this Consent Decree.
- E. MNPS shall maintain records of all information identified in this Consent Decree as information pertinent to compliance with the terms of this Consent Decree while this Consent Decree is in effect and shall provide such information to the United States upon request, unless the information has already been provided to the United States. The Metropolitan Government understands and acknowledges that the United States,

consistent with its responsibility to enforce Title IX, retains the right to investigate and, where appropriate, to participate in judicial proceedings regarding any future alleged violations of Title IX by MNPS.

VII. JUDICIAL TERMINATION

- A. This Consent Decree shall become effective on the date of its entry and shall remain in effect until the date the Court orders its termination.
- B. Metropolitan Government may move for termination of this Consent Decree no sooner than ten (10) days after the United States receives the annual report for the 2013-14 academic year. The Metropolitan Government is permitted to file this report anytime between June 1, 2014 and July 15, 2014.
- C. Nothing in this Consent Decree shall be construed to preclude the Metropolitan Government from moving the Court to modify the Consent Decree pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.

VIII. COMPENSATION OF THE PRIVATE PLAINTIFF

- A. As provided in a separate settlement agreement between the private plaintiff and the Metropolitan Government, the sum of \$1,475,000 shall be paid to the private plaintiff by or on behalf of the Metropolitan Government.

SO ORDERED, this _____ day of _____, 2010.

THE HONORABLE ROBERT L. ECHOLS
United States District Judge

APPROVED:

For Plaintiff-Intervenor United States of America:

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