

Proposed Agreement #05-10-1146
Saint Cloud Area School District 742

Saint Cloud Area School District 742 (District) submits the following Agreement to the U.S. Department of Education, Office for Civil Rights (OCR) to resolve case number 05-10-1146. The District submits this Agreement to ensure its compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin, with respect to the allegation raised in the complaint. The District agrees to take the following actions:

Action Steps

1. The District will take all steps necessary to ensure that students enrolled in the District are not subjected to a hostile environment on the basis of race, color, or national origin. To this end, the District will promptly investigate all incidents of harassment of students on the basis of race, color, or national origin of which it has notice and will take appropriate disciplinary action against students who violate Board Policy 105 and Procedures 105A (Policy), as amended pursuant to item 6 of this Agreement. The District will take prompt and appropriate responsive action to end the hostile environment if one has been created, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment on the affected students, including by offering counseling and other appropriate services to the affected students.
2. As used in this Agreement, the term “harassment” includes the use of derogatory language (including racial epithets), intimidation, and threats, unwanted physical contact and/or physical violence, and the use of derogatory language and images in graffiti, pictures or drawings, notes, e-mails, postings on internet and social networking sites and/or phone messages, based on race, color, or national origin. The term “harassment,” as used in this Agreement, is governed by federal and state law; federal law takes precedence over state law.
3. By June 30, 2012 for the 2011-12 school year, and annually by the same date in each subsequent school year during the pendency of this Agreement, the District will provide OCR with documentation of the steps it has taken to avert the formation of, or to address the existence of, a hostile environment for students based on race, color, or national origin. Specifically, the District will provide:
 - a. A copy of all written reports, and a written narrative describing all oral reports, of incidents involving allegations of harassment based on race, color or national origin;

- b. A narrative of all actions taken in response to the reports, including any written documentation;
- c. A copy of any and all disciplinary sanctions issued to students and staff for violations of the policies and procedures described in items 6 and 7 of this Agreement concerning harassment on the basis of race, color or national origin;
- d. Documentation demonstrating any remedial efforts offered and provided to the victim(s) of the harassing incidents, such as counseling, tutoring or other appropriate services;
- e. A narrative of all action taken to prevent the recurrence of the harassing incidents, including any written documentation; and
- f. Notification in writing if no reports, as described in item 3(a) of this Agreement, were made during the year in question.

Anti-Harassment Statement

- 4. By November 30, 2011, the Superintendent and School Board will issue a statement to all District students, parents, and staff that will be printed in the newsletter of each District high school, posted in prominent locations at each District high school, and published on the District's website, stating that the District does not tolerate acts of harassment, including acts of harassment based on race, color, or national origin. The statement will encourage any student who believes he or she has been subjected to harassment or a hostile environment based on race, color, or national origin to report the harassment or hostile environment to the District and note the District's commitment to conducting a prompt investigation. The statement will warn that students found to have engaged in acts of harassment or other acts that create a hostile environment based on race, color, or national origin will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension and expulsion. The statement will encourage students, parents and District staff to work together to prevent acts of harassment of any kind.
- 5. By November 30, 2011, the District will provide OCR with a report demonstrating its full implementation of item 4 of this agreement, including a copy of the statement referenced in item 4 and evidence of its distribution in accordance with item 4.

Harassment-Related Policies and Procedures

- 6. The District has in place Board Policy 105 and Procedures 105A (Policy). By November 30, 2011, the District will review and revise its Policy as necessary to ensure it adequately addresses and provides the District sufficient options for

responding promptly and appropriately to incidents of harassment on the basis of race, color, or national origin. At a minimum, the District will include the following in the Policy and associated procedures if they are not already included:

- a. A statement setting forth the District's commitment to having a school environment free from all harassment on the basis of race, color, and national origin. Such statement must explain that the District prohibits race, color, and national origin harassment in the school environment, including all academic, extra-curricular and school-sponsored activities. The statement will encourage students to immediately report incidents of harassment. The statement will emphasize that staff are required to promptly report incidents of harassment. The statement will specify that the District will investigate both formal and informal complaints of harassment.
- b. Examples of the type of conduct and behavior that is covered by the policy, including examples of staff-to-student and peer-to-peer conduct and cyber harassment and its effects.
- c. Identification of the kinds of activities and sites where prohibited conduct could occur.
- d. An explanation of how to report harassment and/or file a complaint (formally or informally).
- e. A description of the District's formal complaint procedures, including a Complaint Form, timeframes for the District's investigation of a complaint and a requirement that written notice of the outcome be provided to the parties.
- f. Specific information as to the name or title and contact information (including office address, email address and telephone number) for the District employee(s) responsible for receiving the Complaint Form and/or investigating reports of harassment.
- g. A requirement that the designated District employee(s) document all reports of incidents of harassment and that the District establish a protocol for recordkeeping.
- h. A recommendation that District staff who observe acts of harassment based on race, color, or national origin intervene to stop the harassment, unless circumstances would make such intervention dangerous.
- i. Prohibition of retaliation against persons who report harassment or participate in related proceedings.

- j. A statement that the District will provide counseling services to any person found to have been subjected to harassment on the basis of race, color, or national origin.
 - k. Identification of the means the District will use to investigate incidents of harassment, including but not limited to the following:
 - i. the various steps the District will take to conduct adequate, reliable and impartial investigations of reported incidents;
 - ii. that the District will take action to stop the harassment, remedy the harassment, and prevent recurrence; and
 - iii. the District's standards for determining whether a hostile environment exists.
7. By November 30, 2011, the District will examine its student code of conduct and employee personnel policy to determine whether they contain sufficient rules of behavior, offense categories, and disciplinary procedures to appropriately address violations of the District's anti-harassment policies, as developed pursuant to item 6. The District agrees that by this same date it will revise the student code of conduct and personnel policy to the extent necessary to ensure they contain such rules of behavior, offense categories, disciplinary procedures, and an explanation of the duty of staff to report harassment and the consequences for not reporting.
8. By November 30, 2011, the District will submit to OCR for review and approval a copy of the Policy as developed in accordance with item 6 of this Agreement and its student code of conduct and personnel policy as developed in accordance with item 7 of this Agreement.
9. Within 15 days of receipt of notice of OCR's approval of the policies and procedures described in items 6 and 7, the District will adopt, implement and publish the policies and procedures. Publication will include written notice of the District's anti-harassment policy and procedures, including its formal and informal complaint procedures, to the school community, including students, parents, and District administrators and staff. The District will make this notification through its website as well as by any other means of notification the District deems effective to ensure that the information is widely disseminated. As necessary, the District will also update its parent, student, and employee handbooks, as well as its website. The District will make these policies and procedures available in languages other than English, including Somali, on its website in a printable version by November 30, 2011 to ensure that all District students and their parents are aware of and understand the policies and procedures.

10. Within 30 days of receipt of notice of OCR's approval of the policies and procedures described in items 6 and 7 of this Agreement, the District will submit documentation to OCR demonstrating its implementation of item 9 of this Agreement.

Staff Training

11. Between September 6, 2011 and January 31, 2012, and between the same time frame of each school year annually thereafter during the pendency of this Agreement, the District will provide training on the policies and procedures referenced in items 6 and 7 of this Agreement to all District personnel charged with supervising students such as teachers, administrators, and staff (including school aides, varsity, junior varsity, freshmen, and middle school coaches paid by the District for coaching school-based athletic and extra-curricular programs, nurses, advocates, cultural navigators, hall monitors, non-police security staff and Nutritional Services personnel). The training will specifically address the responsibility of District personnel to report incidents of possible harassment, the procedures for doing so, and instruction on how to recognize, prevent and respond appropriately to such harassment.
12. By November 30, 2011 for the 2011-12 school year, and at the beginning of each school year annually thereafter for new staff, the District will provide training to all District staff who are directly involved in processing, investigating and/or resolving complaints or other reports of race, color or national origin discrimination, including harassment complaints and any counselors or other District personnel who are likely to receive confidential reports of race, color or national origin harassment. The training will review the District policies and procedures referenced in items 6 and 7 of this Agreement, and will include instruction on how to conduct, and document, reliable and impartial investigations of race, color or national origin discrimination and/or harassment, including the appropriate legal standards to apply in such investigations.
13. By February 7, 2012, the District will submit a report to OCR, with supporting documentation, demonstrating that the training referenced in items 11 and 12 of this Agreement has been provided for the 2011-12 school year. The District will also provide a copy of the materials used in the training.

Student Focused Remedies

14. By November 30, 2011, the District will invite OCR and all Somali students currently enrolled at the District's Apollo High School and Technical High School, and those enrolled at either school during the 2009-10 and 2010-11 school year, to attend a meeting with District officials to discuss any concerns the

students have about incidents of alleged race, color, or national origin harassment. The District will conduct separate meetings with Somali students at each high school. During the meetings, the District will emphasize its commitment to having a school environment free from all harassment, remind attendees of the statement issued by the District in accordance with item 4 of this Agreement and inform attendees about the student committee and working group referenced in items 16 and 17 of this Agreement. If any concerns about race, color, or national origin harassment are expressed or any specific incidents of race, color, or national origin harassment are identified during or after the meeting, the District will take appropriate steps to address the concerns and respond to the incidents. Where specific incidents of race, color, or national origin harassment are identified and the District has not previously conducted an investigation into the incident(s), the District will commence an investigation of each incident as soon as possible, but by no later than the timeframe set forth in the Policy. If the District determines that a hostile environment on the basis of race, color, or national origin occurred, the District will take prompt appropriate responsive action to end the hostile environment, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment on the affected students, including by offering the victim(s) counseling, tutoring or other appropriate services. This action will also include appropriate disciplinary action taken against students or staff who violated the Policy. During the meetings, the District will also remind the Somali students of their right to file a formal complaint of race, color, or national origin harassment at any time they believe they have been subjected to harassment, and will advise the students of the procedure they should follow if they wish to do so. The District will have personnel present during each meeting who can provide Somali-to-English and English-to-Somali translation services as needed for those in attendance.

15. By December 15, 2011, the District will provide OCR with a report demonstrating that the meetings required by item 14 of this Agreement have occurred, summarizing any concerns about race, color, or national origin harassment that were expressed during or after the meetings and describing the actions taken or being taken by the District to address those concerns. If specific incidents of race, color, or national origin harassment were identified during or after the meetings, the District will provide evidence showing that an investigation of each was conducted or is underway. For those investigations that have been completed, the District will provide a copy of any findings made and a description of any remedial actions taken, if applicable. For any investigations that are still pending as of December 15, 2011, the District will submit a separate report on the results of those investigations by January 1, 2011.

Ongoing Improvement of District's Anti-Harassment Program

16. The District will maintain a student committee at each District high school to provide a forum for students to improve cultural awareness, discuss matters concerning harassment on the basis of race, national origin or color, increase student awareness of the District's anti-harassment program, and suggest measures for improving the effectiveness of the District's program. The committee will have the same privileges as other District extracurricular activities, including access to meeting space in the high school and public notice about the committee, its meetings and its activities. Each student committee will select at least one member for appointment to and participation in the working group established pursuant to item 17 of this Agreement.
17. By November 30, 2011, the District will establish a working group of District personnel, community representatives, parents and students to make recommendations to the District regarding the effectiveness of the District's anti-harassment program for all students in the District. The District will designate an employee to coordinate the group's meetings and works. The working group will be asked to provide District officials with input regarding strategies for improving cultural awareness; preventing harassment; ensuring that District students understand their right to be protected from discrimination on the basis of race, color or national origin, including harassment, and to be protected from retaliation for reporting discrimination; and ensuring District students understand how to report possible violations of the Policy and are aware of the District's obligation to promptly and effectively respond to complaints alleging race, color or national origin discrimination, including harassment. The working group will also provide specific suggestions for developing an effective orientation program, as described in item 19 of this Agreement, which promotes respect and tolerance for others and prevents the establishment of a hostile environment based on race, color or national origin for students enrolled in the District. The group will consider how and if outreach efforts to families can be made to garner support for the District's anti-harassment program, and the role students should play in the orientation program. The designated employee will prepare a written summary of the steps the working group has recommended.
18. By November 30, 2011, the District will provide OCR with a report demonstrating that the working group required by item 17 of this Agreement has been established. The report will include a copy of all notices made available to high school students and the public about the working group, and a list of the persons who have joined the working group, including the names of the representatives from the student committee and the name of the person who has been designated to coordinate the working group.

19. By November 30, 2011 for the 2011-12 school year, and annually by September 30 in each subsequent school year during the pendency of this Agreement, the District will provide an age-appropriate orientation program for all students which will address harassment, including, but not limited to, racial harassment, color harassment, and national origin harassment in order to promote respect and tolerance for others and to avert the establishment of a hostile environment based on race, color or national origin for students enrolled in the District. In developing the program for the 2012-13 school year and subsequent school years, the District will take into consideration the recommendations and suggestions made by the student and working groups referenced in items 16 and 17 of this Agreement, including any recommendations relating to outreach to families in the community and student involvement in the orientation program. The District may provide this training as part of each school's Positive Behavior Intervention System ("PBIS"). The District will remind students of its commitment to having a school environment free from all harassment and explain to students what they should do if they believe they or other students are being harassed. The program will include a review of the District's harassment policies and procedures, including an explanation of what harassment on the basis of race, color, or national origin is, and the disciplinary sanctions related to findings of violations of its harassment policies and the policy prohibiting retaliation. The District will also provide students with the name and contact information of a District employee, such as a counselor, that the students may contact if they wish to confidentially discuss any concerns they have, and remind students of the availability of counseling services. The District will distribute written materials (including in languages other than English as necessary) during the program that contain the information discussed.
20. By January 1, 2012 for the 2011-12 school year, and annually by the same date in each subsequent school year during the pendency of this Agreement, the District will submit a report to OCR with supporting documentation demonstrating that the orientation program referenced in item 19 of this Agreement has been delivered. The District will also provide a copy of the materials used in the orientation.
21. By November 30, 2011, the District shall review and revise, as necessary, its school climate survey to be used on an annual basis during the effective period of this Agreement to allow District students and staff to assess the educational environment being provided for District students and the presence and effect of harassment based on race, color, or national origin within the District. By November 30, 2011, the District shall submit the proposed school climate survey to OCR, along with an explanation of how the District intends to implement the school climate survey for the 2011-12 school year and subsequent school years. If OCR has any objections, it shall inform the District of its objections within twenty (20) days after receiving the proposed school climate survey and implementation plan.

22. By May 15, 2012, for the 2011-12 school year, and annually by the same date in each subsequent school year during the pendency of this Agreement, the District shall conduct the survey. By June 15, 2012, and annually by the same date in each subsequent school year during the pendency of this Agreement, the District shall provide a summary of the results of the survey to OCR.
23. The District has established a cabinet-level monitoring program to assess the effectiveness of its anti-harassment efforts. At the conclusion of each school year, the cabinet will conduct an annual assessment of the effectiveness of its anti-harassment efforts. Such assessment shall include:
- a. Review any reports by the committee established pursuant to item 16 of this Agreement and consult with the committee as appropriate;
 - b. Review any reports by the working group developed pursuant to item 18 of this Agreement and consult with the working group as appropriate;
 - c. A review of climate survey results for the applicable school year to identify student and parent concerns and to determine where and when harassment on the basis of race, color or national origin occurs;
 - d. A review of a summary report of harassment and District responses, including the number of complaints, the level of discipline imposed, any complaint patterns at District schools, and the non-disciplinary intervention strategies utilized;
 - e. An evaluation and analysis of the data collected, including an assessment of whether the reported incidents of harassment have increased or decreased in number and severity;
 - f. Proposed recommendations for improvement to the District's anti-harassment program and timelines for the implementation of the recommendations.
24. By November 30, 2011, the District will provide OCR the name and title of each member of the monitoring program referenced in item 23 of this Agreement.
25. By June 30, 2012, and annually by the same date in each subsequent school year during the pendency of this Agreement, the District will provide OCR with documentation of the annual assessment conducted in accordance with item 23 of this Agreement. The report will include copies of the recommendations/suggestions of the working group established in accordance with item 17 of this Agreement.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that, during the

monitoring of this Agreement, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title VI, at §§100.3(a) and (b)(i)-(iii), which were at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title VI, at §§100.3(a) and (b)(i)-(iii), which were at issue in this case.

By entering into this Agreement, the District does not admit any violation of Title VI with regard to the allegations in the complaint. Nothing contained in this Agreement shall be considered, construed, or used as an admission of liability, statutory or regulatory violation, or of any other illegal act, by the District.

Approved and agreed to on behalf of Saint Cloud Area School District 742, Saint Cloud, Minnesota.

/S/

10/31/11

Name and Title

Date