

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is executed by the Metropolitan School District of Pike Township (“MSD Pike” or the “District”). The United States Department of Education, Office for Civil Rights (“OCR”), and MSD Pike collectively are “the Parties.” This Settlement Agreement is effective upon execution by MSD Pike and premised upon the following recitals, which are incorporated into this Agreement.

RECITALS

A. The OCR commenced a compliance review (#05-08-5002) of MSD Pike during the year 2008.

B. The compliance review addresses whether African American students are provided equal access to rigorous college preparatory courses within the meaning of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.*, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin (“Title VI”), specifically the International Baccalaureate (IB), Advanced Placement (AP) and honors courses at Pike High School, the District’s only high school.

C. The OCR has not made any findings with respect to the compliance review.

D. MSD Pike denied and continues to deny any and all liability under Title VI and is entering into this Agreement solely to avoid the expense and uncertainty of potentially protracted litigation. Nothing in this Agreement shall be construed as an admission of liability or fault by MSD Pike.

E. As a result of the District’s entering into this Agreement, OCR considers the compliance review resolved.

F. After consultation with and negotiations through their respective attorneys, the Parties have concluded that it would be appropriate to settle this review in the manner hereinafter provided.

AGREEMENT

NOW THEREFORE, MSD Pike enters into the following agreement to resolve compliance review #05-08-5002. The review addressed whether African American students are provided equal access to rigorous college preparatory courses, specifically the IB, AP and honors courses at Pike High School, the District's only high school. The District enters into this Agreement to ensure its compliance with Title VI. The District agrees to take the following actions:

PLANNING COMMITTEE

1. By December 17, 2012, the District will create a College Preparatory Course committee ("Committee") that will include, but not be limited to, teachers of high ability, IB, AP and honors courses at the District elementary and middle schools and at the high school, parents/guardians of District middle school and high school students, one or more District administrators, the District's College Board representative, students who participate in IB, AP and honors courses, and any other individuals identified by the District or other committee members. The purpose of the Committee, will be to review, assess and make recommendations, as detailed below, relating to access to and enrollment in the high school's rigorous college preparatory courses to ensure all students have an equal opportunity to participate in such courses at the high school. The District will consider whether to hire a qualified third-party consultant to consult with the District to study and determine what measures the District needs to

take to complete the review, assessment, recommendations and the effective implementation of any recommendations developed as well as the terms of this Agreement.

2. By February 1, 2013, the Committee will complete a review and assessment of the District's rigorous college preparatory courses, specifically access to and enrollment in the High School's IB, AP and honors courses. As part of its review and assessment, the Committee will, at a minimum:

a. review the District's enrollment data for IB, AP and honors courses, including trend data, beginning with the 2008-09 school year;

b. review the District's enrollment data, including trend data, beginning with the 2008-09 school year for its middle school foreign language, honors, and algebra courses, and its elementary and middle school high ability program; this review will specifically consider relationship between these courses and enrollment in rigorous college preparatory courses at high school;

c. review and assess the following potential barriers to increased student participation in rigorous college preparatory courses: the number and subject matter of such course offerings; participation (or lack of participation) in courses identified in 2.b.; any District enrollment, registration or other policies and procedures related to enrollment in the courses identified in 2.b.; teacher training and incentives to teach rigorous college preparatory courses; communication and outreach to students and parents/guardians about these courses; advertisement of the District's rigorous college preparatory program; peer pressure; lack of requirement that parents approve student course selection(s) at the high school; early awareness on the part of parents/guardians/students of the relationship between the elementary school/middle school curriculum and the high school curriculum;

and support services for students taking rigorous college preparatory courses or preparing to take such courses;

d. identify any other potential barriers to increased student participation in rigorous college preparatory courses;

e. review and assess which methods undertaken by the District to date have been effective (or ineffective) for early awareness and in encouraging student participation in rigorous college preparatory courses;

f. host a meeting with District parents/guardians and a meeting with 8th grade and high school students to share information about rigorous college preparatory courses, identify any perceived barriers to increased enrollment of District students in such courses and solicit recommendations for increasing enrollment. To ensure optimal participation, the District will ensure that it effectively and widely disseminates notice of the meetings in appropriate language(s) and will hold the meetings at a time and place that has been identified to be most convenient for parents/guardians and will work with parents/guardians and community leaders to encourage attendance; and

g. consult with other urban school districts as well as education and other experts concerning effective methods for increasing student enrollment in rigorous college preparatory courses.

3. By February 1, 2013, the Committee will also prepare a list of recommended actions for the District to implement to increase student participation in rigorous college preparatory courses. The District may consider and implement others actions not otherwise described in the agreement in an effort to increase student participation in rigorous college preparatory courses, including race-targeted recruitment and outreach efforts to directly

encourage African American students to consider participation in rigorous college preparatory courses.

4. By March 1, 2013, the District will consider and, as appropriate, take action with respect to the Committee recommendations referenced in Paragraph 3,¹ with all changes to take effect as soon as practicable but no later than the registrations for courses for the 2013-2014 school year.

5. By December 17, 2012, the District will develop a monitoring program to assess the effectiveness of its efforts to increase participation in rigorous college preparatory courses. The District will implement this program in the 2012-2013 and 2013-2014 school years and will use this program to assess the effectiveness of its efforts to increase participation in rigorous college preparatory courses. Such monitoring and assessment shall include:

- a. consultation with the Committee;
- b. consultation with parents and students, through such means as surveys or meetings;
- c. review of the District's enrollment data for rigorous college preparatory courses during the most recent school year; and
- d. evaluation and analysis of the information collected, including any proposed recommendations for improvement.

ADVERTISEMENT OF RIGOROUS COLLEGE PREPARATORY COURSES

6. By December 17, 2012, and on an ongoing and continuing basis, the District will take the following steps to ensure that it effectively and widely disseminates to students and parents detailed information regarding its rigorous college preparatory course offerings, the

¹ Paragraph followed by a number makes reference to this Agreement.

benefits to students of taking a rigorous college preparatory curriculum in high school (and specifically the benefits of IB, AP and honors courses), and the importance of early planning in the elementary and middle school years and the need to take certain prerequisite courses to prepare students for a successful transition into rigorous college preparatory courses in high school:

- a. develop and provide a program for parents and middle and high school students focused on the District's rigorous college preparatory courses, which includes at a minimum, testimonials from a diverse group of students enrolled in rigorous college preparatory courses and from their parents/guardians, as well as from AP teachers and principals at all of the high school;
- b. prominently display information about rigorous college preparatory courses and tips on how to best prepare to succeed in the program on the District's website and all individual middle school and the high school's websites;
- c. prominently display a link to the College Board's listing of AP exams on the District's and high school's websites, along with notification of any available payment subsidies for AP test fees;
- d. publish updated information regarding course sequencing, including required prerequisites, for the District's IB, AP and honors courses offerings on the District high school and middle school websites, in all student handbooks or other publications including publications distributed to students in middle school; and
- e. disseminate information regarding the District's rigorous college preparatory courses to the community, such as advocacy organization offices,

churches, libraries, community centers, and any other location that requests such information or is suggested as a recipient by the Committee described above; and

f. include information about rigorous college preparatory courses in annual mass mailings to all parents/guardians of students who are enrolled in the District.

INDIVIDUAL COURSE SELECTION PLANNING

7. By January 15, 2013, and again seven (7) days before registration for high school courses for ensuing school years, the District will notify in writing parents of all middle and high school students regarding the benefits of taking rigorous college preparatory courses, the criteria for enrollment in each of these classes, and the course sequence necessary at the middle and high schools to maximize preparation for enrollment in rigorous college preparatory courses at the high school.

8. By December 17, 2012, the District will evaluate its academic counseling services at the middle school and high school level and make changes to ensure that all students, especially from underrepresented populations in IB, AP and honors courses, receive counseling that:

a. informs each student of all available program and course options, including course progression; this will include individual counseling as well as inclusion of information on the District's rigorous college preparatory courses in any information sessions provided to students about high school enrollment and/or the college application process; these sessions may include presentations by a College admissions coordinators, testimonials from a diverse group of students enrolled in rigorous college preparatory courses and from their

parents/guardians, as well as from teachers of rigorous college preparatory courses and principals;

b. allows each student to meaningfully consider enrollment in the programs or courses that are most likely to meet their educational needs and objectives;

c. advises students of the significance given to rigorous college preparatory courses and all of their course selections by colleges in the admissions process and of the opportunity to receive college credit for certain AP courses; and

d. directly and personally encourages each student to enroll in programs or courses that are appropriately challenging and that will appropriately prepare the student for postsecondary level education.

9. By February 1, 2013, and after completion of the steps outlined in Paragraph 8, the District will develop written recommendations based on its evaluation of its counseling services and implement the recommendations, as appropriate as soon as practicable but no later than registration for the 2013-2014 school year.

10. The District will include an ongoing evaluation of its academic counseling services in its annual assessment described above in Paragraph 5.

FEEDER SCHOOL PROGRAMS

11. By February 1, 2013, the District will review and if applicable, revise the enrollment criteria for the elementary and middle school “high ability” program and middle school honors, foreign language, and algebra courses to ensure: (a) that they are educationally justifiable and predictive of students’ ability to succeed in the program or courses; (b) that, if the District uses teacher recommendation as one criterion for enrollment in the program and/or courses, the District provides educationally justified standards and guidance for teachers in

identifying students whom they believe would be successful in the program and/or course; and
(c) that there is a means by which a parent can petition to have their child included in the program and/or courses.

PEER SUPPORT PROGRAM

12. By December 17, 2012, the District will ensure that each of its middle schools and its high school have a peer support program. The District may tailor the peer support program to the specific needs of each individual school, so long as every program has a component that encourages students to consider taking the more academically challenging courses at the middle schools and at the high school, including IB, AP and honors courses, and to address any student perceptions or misperceptions regarding the prerequisites and demands of these courses.

DATA MAINTENANCE

13. On an annual basis, the District will maintain the following data:
- a. the number of students, by race, enrolled in each District school in the just completed school year;
 - b. the number of students, by race, enrolled in each rigorous college preparatory courses including IB, AP and honors courses in the District's high school in the just completed school year; and
 - c. the number of students, by race and school, in its elementary and middle school "high ability" program and middle school honors, foreign language, and algebra courses.

REPORTING REQUIREMENTS

14. By February 1, 2013, the District will submit documentation to OCR showing implementation of the specific actions required by Paragraph 1, including a list of the members

of the committee and their relationship to the District, the name, specific responsibilities (including term of any contract) and qualifications of the consultant retained by the District, or if applicable, the District reason(s) for its decision not to retain a consultant.

15. By March 1, 2013, the District will submit documentation to OCR showing implementation of the specific actions required by Paragraph 2, including trend data in IB, AP and honors courses, middle school foreign language, honors, and algebra courses, and its elementary and middle school high ability program, barriers to student participation identified by the Committee, a description of the effectiveness of methods undertaken by the District to encourage participation in rigorous college preparatory courses, documentation of the notices provided regarding student and parent meetings, notes of the meetings, and notes of consultations with other urban school districts.

16. By March 1, 2013, the District will submit documentation to OCR containing the list of actions recommended by the Committee as described in Paragraph 3.

17. By March 1, 2013, July 16, 2013, and July 15, 2014, the District will submit documentation to OCR showing implementation of the specific actions required by Paragraph 4, including its specific actions taken to date to implement the recommendations, specific plans and timeframes for implementing the remaining recommendations, and an explanation of its reason(s) for rejecting any of the recommendations.

18. By September 16, 2013, and September 15, 2014, the District will submit documentation showing implementation of the specific actions required by Paragraph 5 and Paragraph 10, including documentation of consultation with the Committee, parents, and students, results of the review of enrollment data, a copy of the evaluation and analysis of information and recommendations for improvement, and a description of any changes it plans to

make to rigorous college preparatory courses (and timeframe for changes) for the current school year based on the assessment.

19. By March 1, 2013, the District will submit documentation to OCR showing implementation of the specific actions required by Paragraph 6. By July 1, 2013, and July 1, 2014, the District will submit documentation showing ongoing implementation of the specific actions required by Paragraph 6.

20. By March 1, 2013, by July 1, 2014, and by July 1, 2015, the District will submit documentation to OCR showing implementation of the specific actions required by Paragraph 7.

21. By February 1, 2013, the District will submit documentation to OCR showing implementation of the specific actions required by Paragraph 8.

22. By March 1, 2013, the District will submit to OCR a copy of the written recommendations required by Paragraph 9 and an explanation as to which recommendations the District will implement, including the timeline for implementation, and an explanation of its reason(s) for rejecting any of the recommendations. By March 16, 2013, and July 14, 2014, the District will submit documentation to OCR regarding its implementation of the recommendations.

23. By March 1, 2013, the District will submit documentation to OCR showing implementation of the specific actions required by Paragraph 11, including a copy of the review, a description of its plans to change any criteria as a result of the review, an explanation of its reason(s) for its determination that the criteria selected are appropriate, a copy of the guidelines and standards provided to teachers, a description of the means by which parents may petition for their child's inclusion, and a copy of notices provided to parents of the opportunity to petition for their child's inclusion in the program and/or courses.

24. By February 1, 2013, and September 16, 2013, the District will provide documentation showing implementation of Paragraph 12, including a description of the program's activities relating to this agreement, with the dates of the activities and description of the participants.

25. By July 1, 2013, July 1, 2014, and July 1, 2015, the District will provide to OCR the data referenced in Paragraph 13(a), (b), and (c).

MISCELLANEOUS

26. The District understands that by signing this Agreement, it agrees to provide data and other information to the OCR in a timely manner in accordance with the reporting requirements set forth in Paragraphs 14-25.

27. The District understands that during the monitoring of this Agreement, if necessary, after providing seven (7) days' written notice, the OCR may visit the District, interview staff and students, and request such additional reports or data in order for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq., and its implementing regulation at 34 C.F.R. §§100.3(a) and (b), which were at issue in this case.

28. The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. In the event that the OCR decides to initiate administrative enforcement proceedings pursuant to 34 C.F.R. §§100.9, 100.10, or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

29. No waiver, modification or amendment of any term, condition or provision of this Agreement shall be valid or have any force or effect unless made in writing and signed by the Parties.

- a. Pursuant to Section 307(c) of the OCR Case Processing Manual, OCR may agree to modify or terminate this Agreement if it learns that circumstances have arisen that fully resolve, or render moot, some or all of the compliance concerns that were addressed by this Agreement. OCR will agree to modify the agreement in response to changes in controlling case law, statutes, regulations or agency policy that make some or all of the provisions contained in the Agreement no longer legally required.

30. OCR will conclude the monitoring of this case when it determines that the recipient has fully implemented the terms of the Agreement, including any subsequent modifications, and is in compliance with the regulation implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq., and its implementing regulation at 34 C.F.R. §§100.3(a) and (b), which were at issue in this case. The recipient will be promptly notified in writing of this decision. The letter informing the parties that monitoring is concluded will be reviewed and approved by the Office Director and Chief Attorney or their designees.

31. The Parties agree that this Agreement shall not be used as evidence in a subsequent proceeding except as described in Fed. R. Evid. 408(b) and Paragraph 28.

32. The Parties acknowledge that each has had an equal role in drafting the Agreement, such that it shall not be construed against either Party as the drafter.

UNITED STATES DEPARTMENT OF
EDUCATION OFFICE FOR CIVIL RIGHTS

By: /s/ Algis Tamosiunas
Date: December 5, 2012

METROPOLITAN SCHOOL DISTRICT
OF PIKE TOWNSHIP

By: /s/ Nathaniel Jones
Date: November 12, 2012