

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

N.N., by his parent, A.N.; T.G., by her parent,  
P.G.; A.H., by her parent, S.H.; T.W., by her  
parent H.M.; Y.R. by her parent, E.R.;  
on behalf of themselves and all persons similarly  
situated,

Plaintiffs,

- vs -

ROCHESTER CITY SCHOOL DISTRICT  
AND THE BOARD OF EDUCATION OF THE  
ROCHESTER CITY SCHOOL DISTRICT,

Defendants.

**STIPULATION AND  
ORDER TO AMEND  
CONSENT DECREE** Civil  
Action No.  
19-cv-6526-DGL-MJP

**WHEREAS**, on November 19, 2020, the Plaintiffs filed their Motion for Class Certification, Approval of the Form of Notice and Approval of a Settlement set forth in a Stipulation of Settlement executed by counsel for the parties in this class action (the “Motion”) [Docket #29];

**WHEREAS**, on December 8, 2020, the Court entered its Order [Docket #34] granting the Plaintiffs’ Motion, and certifying the classes and subclasses described therein;

**WHEREAS**, on February 4, 2021, the Court entered an Order granting Final Approval of the Settlement and a Consent Decree [Docket #38] (“Initial Consent Decree”). The Initial Consent Decree contemplated that the parties would continue to negotiate certain provisions of the Interim Benchmarks and Final Disengagement Goals 1, 8, 10, 11 and 14, set forth as Exhibit E to the Initial Consent Decree, that had not yet been finalized; and that the parties would present an Amended Consent Decree, including an Amended Exhibit E setting forth the final and complete provisions of the Interim Benchmarks and Final Disengagement Goals;

**WHEREAS**, on March 31, 2021, counsel advised the Court that negotiations to revise Interim Benchmark and/or Final Disengagement Goals 1, 8, and 10, had been completed, and the parties were continuing to negotiate Interim Benchmark and Final Goal 11, and requested an extension of time to complete those negotiations and to commence negotiation of Final Disengagement Goal 14, and on April 1, 2021, the Court entered an Order granting that relief;

**WHEREAS**, the parties have now completed their negotiations and reached agreement on the anticipated modifications and revisions to Interim Benchmarks and/or Final Goals 1, 8, 10, 11 and 14, and will seek judicial approval of the same and entry of an Amended Consent Decree incorporating an Amended Exhibit E; and

**WHEREAS**, the parties have also agreed to amend and revise the Stipulation of Settlement in certain respects as expressly set forth herein.

**IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:**

1. The Stipulation of Settlement shall be revised and amended as follows:
  - a. Paragraphs 59, 61, 108, and 111 of the Stipulation of Settlement shall be amended and revised to provide that references to June 30, 2022 will be revised to refer to June 30, 2023 and references to June 30, 2023 will be changed to June 30, 2024.
  - b. Paragraphs 59, 61, 108, and 111 of the Stipulation of Settlement shall be amended and revised to provide that references to the 2021-2022 school year will be changed to the 2022-2023 school year, and references to the 2022-2023 school year shall will be changed to the 2023-2024 school year.
  - c. Paragraph 111 of the Stipulation of Settlement shall be amended and revised to provide that the reference to June 30, 2024 shall be changed to June 30, 2025.
  - d. Paragraph 58 of the Stipulation of Settlement shall be amended and revised to provide as follows:

The District's Consent Decree Coordinator, whose position is detailed in paragraph 65, *infra*, will then present to all staff, through a video message sent

to all District employees, a summary of the Stipulation and Consent Decree, and the actions required by the Stipulation and Consent Decree. Each District building principal, academy director, and program director shall support enthusiastically the District's commitment to addressing the special education needs of all students. The Consent Decree Coordinator will continue to provide updates to all District employees on the District's progress, within ten (10) days after the beginning of the next semester, and on or before the beginning of each subsequent school year, until the final dismissal of the Action. The updates will be provided via video message, Zoom, Teams, or other virtual platform, and the District will post the Coordinator's updates on the District's website, at <https://www.rcsdk12.org/NNvRCSD>.

- e. Paragraph 63 of the Stipulation of Settlement shall be amended and revised to provide as follows:

If the District decides not to implement a Recommendation, or Action Item in the Strategic Plan, it shall notify Plaintiffs' Counsel within ten (10) business days of such decision. The District will explain its reasoning for the decision not to implement the Recommendation or Action Item, and any decision to implement alternative means or methods. If Plaintiffs' Counsel believes that the District's decision will cause the District not to resolve one or more of the areas of concern identified in paragraph 18, or not to meet an Interim Benchmark or Final Goal, it shall notify the District within ten (10) business days. The Parties will meet within ten (10) business days after delivery of said notice to discuss the District's decision and Plaintiffs' Counsel's response. If the Parties are unable to agree, they may attempt to resolve their dispute through mediation as provided in the Alternative Dispute Resolution process set forth herein.

- f. Paragraph 92(b) and (c) of the of the Stipulation of Settlement shall not apply to any noncompliance with the Interim Benchmark for Goal #11 for the 2021-2022 school year only; however, the District shall comply with paragraph 84 of the Stipulation of Settlement and shall provide a Remedial Action Plan ("RAP") by March 31, 2022 to remedy the prospective or actual noncompliance with that Interim Benchmark, and the parties will follow the procedure set forth in paragraphs 85 and 86 of the Stipulation of Settlement regarding such RAP. This modification to the application of paragraphs 92(b) and (c) is not intended and shall not be construed to limit or expand the rights of the parties under any other provision of the Stipulation of Settlement.
- g. Paragraph 101 of the Stipulation of Settlement shall be amended and revised to provide as follows:

When the District has achieved all of the Final Goals; the District's performance has been verified through the process set forth in the Monitoring and Reporting section above; the District has complied with any Orders of

Compliance; and the District has maintained verified compliance with each of the Final Goals for a period of an additional (12) twelve months from the end of the school year in which it achieved such Final Goal (and as to Final Goal 14, has achieved the Strategic Plan KPIs for the succeeding year), the Parties shall file a stipulation to that effect, and request that the Court enter an Order of Full Disengagement, and the Action may be voluntarily dismissed or otherwise dismissed by the Court.

- h. Paragraph 102 of the Stipulation of Settlement shall be amended and revised to provide as follows:

In the event that the District achieves compliance with one or more, but not all, of the Final Goals, and the performance has been verified through the provisions of the Monitoring and Reporting section above, and the District has maintained its compliance for a period of an additional twelve (12) months (or, as to Final Goal 14, has achieved the Strategic Plan KPIs for the succeeding year), the District will be entitled to an Order of Partial Disengagement with regard to the Final Goal(s) that have been achieved and maintained. The District will continue to report performance with regard to Final Goals on which it has been disengaged pursuant to the Monitoring and Reporting provisions.

- i. Paragraph 103 of the Stipulation of Settlement shall be amended and revised to provide as follows:

In the event that the District obtains one or more Orders of Partial Disengagement for all of the Final Goals, and the performance has been verified through the provisions of the Monitoring and Reporting section above, and the District has maintained compliance regarding such Final Goals for a period of an additional twelve (12) months following the filing of the last Order of Partial Disengagement (or, as to Final Goal 14, has achieved the Strategic Plan KPIs for the succeeding year, if any), and the District has complied with any Orders of Compliance, the Parties shall file a stipulation to that effect, whereupon the Court may enter an Order of Full Disengagement, and the Action may be voluntarily dismissed by the Parties or be otherwise dismissed by the Court.

- 2. In all other respects the terms of the Stipulation of Settlement shall remain in full force and effect.
- 3. Exhibit E to the Stipulation of Settlement and the Consent Decree shall be revised, amended and replaced with an Amended Exhibit E, which is attached

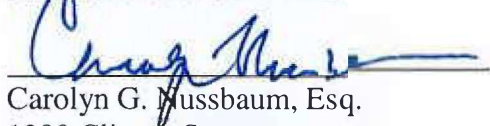


hereto and intended to be incorporated into and made a part of the Stipulation of Settlement, as amended.

4. The parties intend that this Stipulation shall be presented to the Court, along with Amended Exhibit E and, if approved, the terms of this Stipulation and the Amended Exhibit E shall be incorporated into and become a part of the Amended Consent Decree.

DATED: March 4, 2022

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DATED: March 4, 2022

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SO ORDERED:



DAVID G. LARIMER, USDJ

**AMENDED  
EXHIBIT E  
TO STIPULATION OF SETTLEMENT**

**EXHIBIT “E” (as revised March 4, 2022)**

**1. The District will increase the percentage of students with disabilities with Individualized Education Plans (“SWD”) who achieve proficient-level scores on the Grades 3-8 New York English Language Arts (“ELA”) and Mathematics standardized tests.**

**A. The past levels of performance are as follows:**

In the 2017-2018 school year, 2% of District SWD achieved proficient-level scores, i.e., Levels 3 and 4, on the Grades 3-8 ELA and Mathematics standardized tests.

In the 2018-2019 school year, 2.1% of District SWD achieved proficient-level scores on the ELA test, and 3.1% of District SWD achieved proficient-level scores on the Mathematics test.

There were no standardized assessments performed during the 2019-2020 school year as a result of the Covid-19 pandemic and school shutdown.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

Through the exposure to grade level curriculum and rigorous instruction, the District will increase the percentage of SWD in grades 3-8 who demonstrate proficiency in English language arts and mathematics by a minimum of 3%, as indicated by the results of the 2018-2019 New York State ELA and Mathematics tests.

**C. The level of performance that is required by law or regulation is:**

The Every Student Succeeds Act (“ESSA”), the main federal law for K-12 public education, requires that states hold public schools accountable for how students achieve. In 2018, SED established a new set of indicators to measure school performance. The indicators went beyond a narrow focus on measuring achievement in English language arts and mathematics. They included other core subjects, such as science and social studies, and have a much stronger focus on student growth and school progress. Assessments are still an important part, but the new accountability system offers a more complete look at how a school is performing. The new system also includes nonacademic measures of school performance.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

The Rochester City School District – New York State Report Card, on the SED’s data website, indicates the average proficiency of students with disabilities in ELA and Mathematics, grades 3-8. The Northwest Evaluation Association (“NWEA”) benchmark assessment is administered each fall, winter and spring. The assessment is used to progress monitor proficiency rates and predict student performance on the 3-8 New York State tests. Furthermore, the data is monitored by the Department of Special Education through the ROC3D Dashboard after each benchmark assessment.

**E. The parties agree that the following levels of improvement will be achieved:**

The District will increase the percentage of SWD who demonstrate proficiency on ELA and Mathematics tests, during the years in which SED administers ELA and Math tests, up to and including the 2022-2023 school year, to percentages to be negotiated by the parties,<sup>1</sup> as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks				Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024
Percentage of SWD with Proficient-Level ELA Scores	2%	2%	Not reported – no testing	No Benchmark <sup>2</sup>	To Be Negotiated <sup>3</sup>	To Be Negotiated	To Be Negotiated
Percentage of SWD with Proficient-Level Math Scores	2%	3%	Not reported – no testing	No Benchmark	To Be Negotiated	To Be Negotiated	To Be Negotiated

<sup>1</sup> The parties agreed to renegotiate the measurable interim performance benchmark for the 2021-2022 school year, and the final goal disengagement standard due to the effects of the Covid-19 pandemic on education, and planned changes to New York State assessments following the implementation of Next Generation Learning Standards. Negotiations will begin within 30 days after New York State releases its plan for the 2021-2022 Next Generation Learning Standards assessments and will be completed no later than 60 days thereafter.

<sup>2</sup> In February 2021, the United States Department of Education directed states to administer standardized assessments. Many states, including New York State, applied for a waiver. For the 2020-2021 school year, the District will report the outcomes of any assessments that are administered, however, those outcomes will not be used for benchmark purposes.

<sup>3</sup> On December 22, 2021, NYSED again requested a waiver of accountability determinations for data for the 2021-2022 school year. As provided in note 1, the parties will meet within thirty days after New York State releases its plan for the 2021-2022 Next Generation Learning Standards assessments to negotiate Interim Benchmark(s) and the Final Goal Disengagement Standard. If New York State does not release its plan for Next Generation Learning Standards assessments before the end of the 2021-2022 school year, the parties will meet within thirty days to develop a different objective measurement of educational proficiency of SWD and conclude those negotiations before August 15, 2022 so that there will be benchmarks for the 2022-2023 school year.



**2. The District will increase the graduation rate of SWD.**

**A. The past levels of performance are as follows:**

The SWD graduation rate in June 2018 was 36%.

The SWD graduation rate in June 2019 was 42.4%.

New York State did not release data regarding June 2020 SWD graduation rates prior to October 15, 2020. Preliminary internal data suggests that the District's June 2020 SWD graduation rate is approximately 47%.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department ("SED") are:**

The Special Education Strategic Action Plan outlined the District's goal to increase the graduation rate of SWD by a minimum of 5%, from 34.3% to 39.3%, by June 2019.

**C. The level of performance that is required by law or regulation is:**

None.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

The Rochester City School District – New York State Report Card, on the SED's data website, includes high school graduation rate information. Additionally, progress monitoring measures include, but are not limited to student transcripts and ROC 3D dashboard to track credit accumulation for SWD.

FINAL GOAL 2, SECTION "E," CONTINUED ON FOLLOWING PAGE

**E. The parties agree that the following level of improvement will be achieved:**

The District will increase the June graduation rate of SWD by a minimum of 4% per year, and achieve a graduation rate of at least 52% in the 2021-2022 school year, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
SWD June Graduation Rate	36%	42%	Not Reported <sup>4</sup>	Not Reported <sup>5</sup>	52%	52%

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<sup>4</sup> The District will provide any data released from New York State regarding June 2020 SWD graduation rates to Plaintiffs' counsel, for information purposes only, within two weeks of its publication by New York State. As stated above in Section 2(A), the District's unverified June 2020 SWD graduation rate is approximately 47%.

<sup>5</sup> The District will provide any data released from New York State regarding June 2021 graduation rates to Plaintiffs' counsel, for information purposes only, pursuant to the reporting schedule in the Stipulation of Settlement.

**3. The District will reduce the Long Term Suspension (“LTS”) rate for District SWD; eliminate any significant discrepancy in LTS for SWD as compared to general education students; and eliminate any significant discrepancy in LTS for African American and Hispanic SWD as compared to white SWD.**

**A. The past levels of performance are as follows:**

In the 2016-2017 school year, District SWD were subject to LTS at a rate of approximately 4%. The District was cited by New York State regarding State Performance Indicator 4a, for disproportionately suspending SWD, and Performance Indicator 4b, for disproportionately suspending African American SWD as compared to white SWD.

In the 2017-2018 school year, District SWD were subject to LTS at a rate of approximately 4%. African American and Hispanic SWD were suspended at a rate of approximately 3%. White SWD were suspended at a rate of approximately 1%.

In the 2018-2019 school year, the rate of suspensions for SWD of over 10 days was 2.4%. The 2018-2019 racial disparity index of African American and Hispanic SWD LTS rate versus the white SWD LTS rate was 0.98.<sup>6</sup>

New York State has not released Indicator 4 data for the 2019-2020 school year. Preliminary internal data suggests that, for in-district SWD suspensions of greater than 10 days in 2019-2020, the overall rate is approximately 1.8%. The 2019-2020 racial disparity index of African American and Hispanic SWD LTS rate versus the white SWD LTS rate is approximately 1.88.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

The District has received technical assistance from the Technical Assistance Center on Disproportionality (“TAC-D”) through a partnership with New York University. District staff receive training on disproportionality, implicit bias and culturally responsive education. In addition, the Department of Special Education developed a Manifestation Determination Review protocol to ensure that students with disabilities are not suspended disproportionately.

**C. The level of performance that is required by law or regulation is:**

According to the New York State targets, no more than 2.7% of SWD shall be suspended greater than ten days in a school year, and there should be no significant discrepancies in the rates of suspensions of greater than ten days in a school year of SWD by race/ethnicity.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

The Rochester City School District – New York State Report Card, on the SED’s data website, reports the rate of suspension for students with disabilities of ten days or more. Additionally, the Department of Special Education uses ROC3D Dashboard and PowerSchool to monitor suspension rates of students with disabilities.

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<sup>6</sup> An index of 1.0 indicates no disparity. An index number of more than 1.0 indicates a higher rate among African American and Hispanic SWD. An index number of less than 1.0 indicates a higher rate among white SWD.

**E. The parties agree that the following levels of improvement will be achieved:**

The District will decrease the number of SWD subjected to LTS by .5 percentage points per year, bringing the overall SWD LTS rate to 2% by the end of the 2021-2022 school year. Furthermore, the District will eliminate any significant discrepancy between the number of African American and Hispanic SWDs and white SWD who are subject to LTS by the 2021-2022 school year, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
SWD LTS Rate	4%	2.4%	3%	Dependent on school reopening <sup>7</sup>	2%	2%
Racial Disparity Index of African American and Hispanic SWD LTS Rate Versus White SWD LTS Rate	2.5	0.98	1.83	Dependent on school reopening	1.0 or the standard deviation for the LTS Rate as calculated by New York State <sup>8</sup> , whichever is higher.	1.0 or the standard deviation for the LTS Rate as calculated by New York State <sup>7</sup> , whichever is higher.

<sup>7</sup>There will be no reporting to the Court on the 2020-2021 benchmark if in-person learning does not resume during the 2020-2021 school year. While there is no reporting to the Court, the District will provide internal data on the SWD LTS rate, for information purposes only, pursuant to the reporting schedule in the Stipulation of Settlement.

If school resumes in person, full-time, five days per week, for all students in one or more grade levels, at any time during the 2020-2021 school year, for at least 60 consecutive school days, the District will report to the Court regarding the SWD LTS rate, and the Racial Disparity Index for SWD LTS suspension rates among African American and Hispanic SWD versus white SWD, during that period. The benchmark for 2020-2021 for SWD LTS rate is 2.5%. The benchmark for 2020-21 for the Racial Disparity Index is 1.42.

<sup>8</sup> New York State standard for deviation for LTS rate is calculated yearly by New York State based on the statewide average for suspensions. The standard deviation is included in the State's report on State Performance Plan Indicator 4, Rates of Suspension and Expulsion, in the table titled "Relative Risk Calculations for Suspension of Students with Disabilities (SWD) for More than Ten Days" at Column E "Standard Deviation for Suspension Rate (all races)" and is stated in "Criteria for Notification and Explanation of Data Used for State Performance Plan Indicator 4 High Rates of Suspension and Expulsion." In the 2018-2019 Indicator 4 Report and Criteria for Notification, dated November 23, 2018, the standard deviation was 1.149%.

**4. The District will increase the percentage of SWD who are receiving their instruction in settings with students without disabilities.**

**A. The past levels of performance are as follows:**

In the 2017-2018 school year, the rate of SWD in general education settings for more than 80% of the school day was 51.8%. The rate of SWD in general education settings for less than 40% of the school day was 23.6%.

In the 2018-2019 school year, the rate of SWD in general education settings for more than 80% of the school day was 49.8%. The rate of SWD in general education settings for less than 40% of the school day was 22.1%.

In the 2019-2020 school year, the rate of SWD in general education settings for more than 80% of the school day was 57.2%. The rate of SWD in general education settings for less than 40% of the school day was 19.8%.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department ("SED") are:**

The Department of Special Education has increased inclusive programming on the continuum of services to enable students with disabilities to access to the general education setting.

**C. The level of performance that is required by law or regulation is:**

According to New York State targets, at least 59% of SWDs should receive their instruction in the general education setting for at least 80% of the day. There is no state target for SWDs who receive their instruction in the general education setting for 40-79% of the day. The state target for SWDs who receive their instruction in the general education setting less than 40% of the general education program is 20%.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

The Rochester City School District – New York State Report Card, on the SED's data website, reports the percentage of SWD receiving instruction in general education classrooms.

FINAL GOAL 4, SECTION "E," CONTINUED ON FOLLOWING PAGE

**E. The parties agree that the following levels of improvement will be achieved:**

The District will increase the number of SWD who receive their instruction in general education classrooms for at least 80% of their day by 3.3% each year, bringing the total percentage of SWD who receive their instruction in general education classrooms more than 80% of the day to 65% by the end of the 2021-2022 school year. The District will also decrease the number of SWD who receive their instruction in general education classrooms less than 40% of their day by 1.5% a year, bringing the total percentage of students who receive their instruction in general education classrooms less than 40% of their day to 17.6% by the end of the 2021-2022 school year, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
In Gen. Ed. setting more than 80%	51.8%	49.8%	58.4%	Dependent on school reopening <sup>9</sup>	65%	65%
In Gen. Ed. setting less than 40%	23.6%	22.1%	20.6%	Dependent on school reopening	17.6%	17.6%

<sup>9</sup> There will be no reporting to the Court on the 2020-2021 benchmark if in-person learning does not resume during the 2020-2021 school year. While there is no reporting to the Court, the District will provide internal data on LRE, for information purposes only, pursuant to the reporting schedule in the Stipulation of Settlement.

If in-person learning resumes in person, full-time, five days per week, for all students, in one or more grade levels, at any time during the 2020-2021 school year, for at least 60 consecutive school days, the District will report to the Court regarding the LRE benchmarks during that period. The benchmark for 2020-2021 for SWD in the Gen. Ed. setting more than 80% is 61.7%. The benchmark for 2020-2021 for SWD in the Gen. Ed. setting less than 40% is 19.1%.



**5. The District will decrease the percentage of current District SWD who are changed or transferred from the school they are attending because of lack of necessary classrooms or programs recommended by the Committee on Special Education (“CSE”).**

**A. The past levels of performance are as follows:**

Prior to the 2018-2019 school year, a data measure did not exist to track current District SWD who were changed or transferred from the school they are attending because of lack of necessary classrooms or programs that are recommended by the CSE. The number of SWD who changed schools during the 2017-2018 school year under the code designations of ‘change due to special education service available’ and ‘transfer within the District’ was 463. As of May 2019, the number of students who changed schools during the 2018-2019 school year under those same code designations was 353.

In the 2018-2019 school year, the rate of SWD changing schools following a CSE recommendation was 4%.

In the 2019-2020 school year, prior to the Covid-19 school shutdown, the rate of SWD changing schools following CSE recommendation was approximately 3.7%.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

The Department of Special Education has developed a continuum plan to increase the equity across the District. In increasing equity, schools will be able to provide more programs in buildings and as a result student will have to move less for services/programs.

**C. The level of performance that is required by law or regulation is as follows:**

The Individuals with Disabilities Education Act (“IDEA”) requires that, where possible, students should attend the school they would have attended if they were not classified with a disability.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

New York State has no state target or other data measures. A code designation will be created in Frontline for SWD who are changed or transferred from the school they are attending because of lack of necessary classrooms or programs that are recommended by the CSE.

FINAL GOAL 5, SECTION “E,” CONTINUED ON FOLLOWING PAGE

**E. The parties agree that the following level of improvement will be achieved:**

The District will decrease the percentage of current District SWD who are changed or transferred from the school they are attending because of lack of necessary classrooms or programs recommended by the CSE from approximately 7.3% to 1%<sup>10</sup> by the end of the 2021- 2022 school year, by efforts including having a continuum that is inclusive of Consultant Teacher and Resource Room Services, Integrated Co-teaching, Special Class options and related services.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Percentage of SWD changing schools following CSE recommendation	7.3%	4%	4%	Dependent on school reopening <sup>11</sup>	1%	1%

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<sup>10</sup>District SWDs who have high or very specialized needs, or who change schools or transfer programs to attend the following programs, will not be included in the reported percentage: Autism Spectrum Disorder ("ASD") 6:1+4, ASD 6:1+2, ASD 6:1+1, ASD Connect, Social Communication 12:1+3, Social Communication 12:1+1, Language Enriched Integrated Co-Teaching, School to Employment Programs ("STEPS"), New York State Alternate Assessment ("NYSAA") 12:1+1, NYSAA 8:1+2, NYSAA 12:1+3, Diagnostic Transition Program 8:1+3, Growth and Education for Students with Multiple Disabilities ("GEM") 12:1:(3:1), and all bilingual special education programming.

<sup>11</sup>If in-person learning for all students does not resume for the 2020-2021 school year, there will be no reporting to the Court on a 2020-2021 benchmark. While there is no reporting to the Court, the District will provide data on transfers of SWD students following a CSE recommendation pursuant to the reporting schedule in the Stipulation of Settlement, for information purposes only. In the event that full-time, five days per week, in-person learning, for all students, does resume for at least 60 consecutive school days, the District will report to the Court on the benchmark for that period. The 2020-2021 benchmark for SWD changing schools following CSE recommendation is 2%.

**6. The District will increase the percentage of SWD who have legally compliant Transition Plans.**

**A. The past levels of performance are as follows:**

In the 2017-2018 school year, 63.3% of Individualized Education Plans (“IEP”) for SWDs ages 15 and older included legally compliant transition plans according to New York State Indicator 13.

In 2018-2019, no data was provided to New York State under Indicator 13. A self-review of a random sample of transition plans demonstrated that, upon initial review, 71.3% were legally compliant. After corrections were made to the transition plans by CSE Chairs, upon a second review 100% of SWD had legally compliant transition plans.

In the 2019-2020 school year, prior to the Covid-19 school shutdown, the Department of Special Education conducted three internal transition plan reviews, consisting of a review of 30 IEPs from each quarter. During the February 2020 review, 20 out of 30, i.e., 67%, of the IEPs contained legally compliant transition plans. After corrections were made by CSE chairs, 100% of the reviewed transition plans met regulatory compliance.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

In the fall of 2018, all Special Education administrators and teachers attended a professional learning series designed to provide information and resources on a series of transition topics. The topics shared during these sessions included; The Transition Timeline and Regulations, Transition Assessments and Documenting Transition in the IEP, the Career Development and Occupational Studies (“CDOS”) Standards, the CDOS and Skills Credentials, Graduation Requirements and Safety Net Options and Community Resources. In addition, in the 2018-2019 school year all IEPs of students fifteen and older will have a transition plan uploaded the document repository in Frontline IEP.

**C. The level of performance that is required by law or regulation is:**

Pursuant to the Individuals with Disabilities Education Act (“IDEA”) and New York State Commissioner’s Regulations including Part 200.4(d)(2)(ix), beginning with the first IEP to be in effect when the student turns age 15 (and at a younger age, if determined appropriate) and updated annually, the IEP must include: a statement (under the student’s present levels of performance) of the student’s needs, taking into account the student’s strengths, preferences, and interests, as they relate to transition from school to post-school activities; appropriate measurable postsecondary goals; a statement of needed transition services; needed activities to facilitate the student’s movement from school to post-school activities; and a statement of the responsibilities of the school district and, when applicable, participating agencies for the provision of services and activities that promote movement from school to post-school opportunities, or both, before the student leaves the school setting.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

Frontline will be used to determine if a SWD who is 15 years of age and older has a transition plan uploaded to the document repository. New York State's Quality Assurance Protocol, as modified by the District, will be used to assess high quality legally compliant Transition Plans.

In the school year(s) where data is not provided to New York State under Indicator 13, the District will continue to conduct three internal transition plan reviews of at least 30 IEPs. The District will report the percentage of compliant transition plans among those reviewed IEPs. The data for the Benchmark(s) and/or Final Goal for the school year(s) not subject to Indicator 13 reporting will be calculated based on the average of the percentage of legally compliant transition plans identified during the District's IEP three internal transition plan reviews conducted during that school year.

**E. The parties agree that the following level of improvement will be achieved:**

The District will increase the percentage of SWDs with legally compliant transition plans by 8% per year, bringing the overall number of transition plans to 95.3% by the end of the 2021-2022 school year, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Percentage of SWD with Transition Plans	63.3%	71.3%	78.3%	87.3%	95.3%	95.3%

**7. The District will increase its timely completion of CSE meetings.**

**A. The past levels of performance are as follows:**

In the 2017-2018 school year, out of 6,100 total initial, annual, or reevaluation review meetings for SWD, 1,712 (28%) were not timely completed.

In the 2018-2019 school year, the rate of overdue initial, annual, and reevaluation review CSE meetings was 15%

In the 2019-2020 school year, prior to the Covid-19 school shutdown, the estimated rate of overdue initial, annual, and reevaluation review CSE meetings was approximately 11.9%.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department ("SED") are:**

The District will use its fully-functioning CSE process in order to reach full compliance with respect to: Annual Reviews, Reevaluations, and Initial Referrals for Special Education across all District schools and programs. The District has hired an Associate Director of Special Education Compliance.

**C. The level of performance that is required by law or regulation is:**

New York State Commissioner's Regulations including Part 200.4, *et seq.*, require that 100% of SWDs have timely initial, annual, and reevaluation review meetings.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

Frontline will be used to measure compliance.

FINAL GOAL 7, SECTION "E," CONTINUED ON FOLLOWING PAGE

**E. The parties agree that the following level of improvement will be achieved:**

The District will decrease the percentage of overdue initial, annual, and reevaluation review meetings from 28% to 5% by the end of the 2021-2022 school year. By the end of the 2021-2022 school year, 95% of SWDs will have timely initial, annual, and reevaluation review meetings.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020 <sup>12</sup>	2020-2021	2021-2022	2022-2023
Percentage of Overdue Meetings	28%	15%	16%	10%	5%	5%

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<sup>12</sup>Due to the COVID-19 pandemic, the data used to calculate the 2019-2020 benchmark was measured from July 1, 2019 to March 1, 2020. The data used to calculate the 2020-2021 benchmark will be measured from September 8, 2020 to June 30, 2021. The past performance data and the data used to calculate the 2021-2022 benchmark were measured, and will be measured, from data from July 1 to June 30.



**8. The District will timely deliver programs and services required by the CSE.**

**A. The past levels of performance are as follows:**

In the 2017-18 school year, 42 variances were submitted to the New York State Education Department (“SED”) to allow SWD be placed in a program for which the District lacked capacity. Regarding services being reported, 69% of required Occupational Therapy, 79% of required Physical Therapy, and 65% Speech/Language Therapy sessions were reported as having been provided in Frontline by related service providers, for an overall average of 71% of sessions reported to have been delivered by the related services providers.

In the 2018-2019 school year, the number of variances requested due to lack of capacity was 7. The 2018-2019 actual performance for the rate of providers reporting that they have provided related services was approximately 72%.

In the 2018-2019 school year, prior to the Covid-19 school shutdown, the number of variances requested due to lack of capacity was 1. Preliminary internal data suggests that the rate of providers reporting related services in Frontline was approximately 70%.

**B. The commitments that have already been made to improve performance to external parties like the SED are:**

In the 2017-2018 school year, the District was placed under a Corrective Action Plan from the State Education Department due to the high number of variances. The District has committed to creating the necessary special classes needed as recommended by the CSE.

**C. The level of performance that is required by law or regulation is:**

New York State Commissioner’s Regulations including Part 200.4, *et seq.*, require that SWD placement and services must begin within 60 school days of the receipt of consent to evaluate for a student not previously identified with a disability, or within 60 school days of the referral for review of a student with a disability. If such recommendation is for placement in an in-state or out-of-state private school, the board shall arrange for such program and services within 30 school days of the board’s receipt of the recommendation of the committee.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

Frontline will be used to track Related Service delivery by provider, in the Related Services Log. The District will count the number of variances requested from the State.

FINAL GOAL 8, SECTION “E,” CONTINUED ON FOLLOWING PAGE

**E. The parties agree that the following levels of improvement will be achieved:**

The District will decrease the number of variances by Commissioner approval by at least 50% each year, bringing the overall number of variances due to the District's lack of capacity to a maximum of two variances by the end of the 2021-2022 school year. The District will also increase the percentage of related services reported in Frontline IEP by 4% each year, ending in 87% of services provided by the 2021-2022 school year, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020 <sup>13</sup>	2020-2021	2021-2022	2022-2023
Number of Variances by Commissioner Approval Due to Lack of Capacity	41	6	10	5	2	2
Percentage of Providers Reporting Services in Frontline	71%	72%	79%	83%	87%	87%

<sup>13</sup> Due to the COVID-19 pandemic, the data used to calculate the 2019-2020 benchmark was measured from July 1, 2019 to March 1, 2020. The data used to calculate the 2020-2021 benchmark will be measured from September 8, 2020 to June 30, 2021. The past performance data and the data used to calculate the 2021-2022 benchmark were measured, and will be measured, from data from July 1 to June 30.

**9. The District will increase parental participation in CSE meetings.**

**A. The past levels of performance are as follows:**

In the 2017-2018 school year, parents participated in 1,213 (19%) out of 6,400 Annual Review ("AR") meetings held.

In the 2018-2019 school year, the percentage of AR meetings with parent participation was 46.7%.

In the 2019-2020 school year, prior to the Covid-19 school shutdown, the percentage of AR meetings with parent participation was 59.8%.

**B. The commitments that have already been made to improve performance on that goal to external parties like the New York State Education Department ("SED") are:**

The Department of Special Education has an accountability protocol to ensure that meeting notices are mailed out in a timely fashion, as indicated by the Department's Strategic Action Plan in the 2017-2018 school year. In addition, the Department determined schools in need of technical assistance in the area of compliant CSE process. One area of data included the number of CSE Meeting Notices that were mailed out less than five days before the meeting.

**C. The level of performance that is required by law or regulation is:**

New York State Commissioner's Regulations Part 200.5(d) provides that school districts must take steps to ensure parents' presence and participation at meetings.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

Frontline will be used to track the data and monitor this goal.

FINAL GOAL 9, SECTION "E," CONTINUED ON FOLLOWING PAGE

**E. The parties agree that the following level of improvement will be achieved:**

The District will increase the percentage of parent participation at AR meetings by 8% per year, bringing the parent participation rate to at least 51% by the end of the 2021-2022 school year, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020 <sup>14</sup>	2020-2021	2021-2022	2022-2023
Percentage of AR Meetings with Parent Participation	19%	47%	35%	43%	51%	51%

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<sup>14</sup>Due to the COVID-19 pandemic, the data used to calculate the 2019-2020 benchmark was measured from July 1, 2019 to March 1, 2020. The data used to calculate the 2020-2021 benchmark will be measured from September 8, 2020 to June 30, 2021. The past performance data and the data used to calculate the 2021-2022 benchmark were measured, and will be measured, from data from July 1 to June 30.

**10. The District will increase the bilingual programming offered for Spanish-speaking SWD.**

**A. The past levels of performance are as follows:**

In the 2017-2018 school year, the District offered 24 bilingual special education programs.

In 2018-2019, the District offered 26 bilingual special education programs.

In 2019-2020, the District offered 29 bilingual special education programs.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

The District opened the Bilingual Language and Literacy Academy to begin the 2018-2019 school year with Consultant Teacher and Resource Room Services.

**C. The level of performance that is required by law or regulation is:**

New York State Commissioner’s Regulations Part 154 provides that students who are English Language Learners (“ELL”) must receive education supports in their native language, and ELL students have rights to Bilingual education if it is offered by a school district.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

The District’s continuum of services will reflect the increase in bilingual programming, including specialized programming options. Frontline and PowerSchool will be used to provide program data.

FINAL GOAL 10, SECTION “E,” CONTINUED ON FOLLOWING PAGE

**E. The parties agree that the following level of improvement will be achieved:**

Conditioned on annual enrollment of Spanish-speaking ELL SWDs, the District will increase bilingual programming offered in the special education continuum, increasing the total number of bilingual programs (not including Consultant Teacher Services and Resource Room) by the end of 2021-2022 school year to 51, conditioned on enrollment, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Bilingual Programs	24	26	29	39	51 <sup>15</sup>	51 <sup>14</sup>

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<sup>15</sup> If enrollment of Spanish-speaking ELL SWDs declines so that 51 programs are unnecessary, the parties will meet, determine what other number of programs is sufficient to meet the needs of Spanish-speaking ELL SWDs, and the Interim Benchmarks and final goal disengagement standard will be changed accordingly. If the parties are unable to agree on the number of programs during renegotiation, the parties may proceed with the Alternative Dispute Resolution procedures set forth in the Stipulation of Settlement



**11. The District will decrease the number of uncertified or otherwise unqualified necessary Special Education teachers.**

**A. The past and current levels of performance are as follows:**

During the 2018-2019 school year, there were uncertified individuals utilized for 46 full-time equivalent (“FTE”) Special Education teacher positions.<sup>16</sup>

As of March 13, 2020, the number of necessary Special Education teachers not certified in New York in Special Education was 38.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

The District is offering a permanent salary step increase at the time of new hire for certified Special Education teachers in grades 7-12. Through the Teachers of Tomorrow Grant, a stipend is available for those certified teachers in identified shortage areas (i.e. Special Education 7-12).

**C. The level of performance that is required by law or regulation is:**

New York State provides that every child is entitled to receive instruction by an appropriately certified teacher in accordance with their IEP.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

New York State has no state target or other data measures. The District will use its Human Resources databases, including Peoplesoft, to provide information on this goal.

FINAL GOAL 11, SECTION “E,” CONTINUED ON FOLLOWING PAGE

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<sup>16</sup>The term “uncertified” as used here includes teachers who lack New York State Special Education certification; those who are certified in another state, territory, commonwealth or country; retired teachers without a Special Education certification serving as substitutes; and substitutes who are not certified to teach in any state, territory, commonwealth or country.

**E. The parties agree that the following level of improvement will be achieved:**

The District will decrease the number of necessary Special Education teachers not certified in New York, as set forth in the table below.

	Past Performance	Current Performance		Current Performance/ Interim Benchmark	Final Goal (Disengagement Standard)
School Year	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Special Education Teachers Not Certified in Special Education in New York State	46	38	26	21 <sup>17</sup>	21

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<sup>17</sup> The parties had negotiated a Final Goal for the 2021–2022 school year of 21, which was approved by the Board of Education. Thereafter, the District became aware that the number of Special Education teachers who were not certified in New York Special Education was actually 38 as of BEDS Day 2021, which would not meet that metric, whether set as an Interim Benchmark or Final Goal. As set forth in the Amended Consent Decree, the parties have agreed that paragraphs 92(b) and (c) of the Settlement Stipulation will not apply to the failure to achieve this metric, now revised to be an Interim Benchmark, for the 2021-2022 school year only. The parties have further agreed that, in the event that the District determines that it will not meet the revised Interim Benchmark or Final Goal, the District retains the right to exercise the remedies available under the Amended Consent Decree to modify that Interim Benchmark or Final Goal.

**12. The District will reduce any significant discrepancy that exists in the classification of African American/black and Hispanic SWD, as compared to white SWD.**

**A. The past levels of performance are as follows:**

In the 2017-2018 school year, 18% of white students were reported as SWD. 20% of African American/black students were reported as SWD. 23% of Hispanic students were reported as SWD. Overall, there was a 1.17 disparity between African American SWD and Hispanic SWD as compared to white SWD.

In the 2018-2019 school year, racial disparity index of African American and Hispanic SWD who were newly- classified as SWD versus the number of newly-classified white SWD was 0.90.<sup>18</sup>

In 2019-2020, prior to the Covid-19 school shutdown, the racial disparity index of African American and Hispanic SWD who were newly-classified as SWD versus the number of newly-classified white SWD was approximately 0.57.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

The District is engaged in ongoing technical assistance with New York University’s Technical Assistance Center on Disproportionality (“TAC-D”) to address disproportionality District-wide. In addition, the District has begun to offer District-wide trainings to address implicit bias.

**C. The level of performance that is required by law or regulation is:**

According to SED Indicator 10A, no school district should have a significant discrepancy in the classification of students that is the result of inappropriate policies, practices and procedures.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

The Rochester City School District – New York State Report Card, on the SED’s data website, reports the total number of students and the number of SWD categorized by race/ethnicity. Powerschool and Frontline will be used to determine the rates of students who are newly-classified as SWD.

FINAL GOAL 12, SECTION “E,” CONTINUED ON FOLLOWING PAGE

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<sup>18</sup> An index number of more than 1.0 indicates a higher rate of new classifications among African American and Hispanic SWD. An index number of less than 1.0 indicates a higher rate of new classifications among white SWD.

**E. The parties agree that the following level of improvement will be achieved:**

The District will reduce any significant discrepancy between the number of African American and Hispanic students who are newly-classified as SWD and white students who are newly-classified as SWD, due to any inappropriate policies, practices, and procedures by the District, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Racial Disparity Index of Newly-Classified African American and Hispanic SWD Versus White SWD	1.17	0.90	1.10	1.05	1.0	1.0

**13. The District will increase the number of mandatory Special Education-related professional development trainings for Special Education teachers, Special Education administrators, and other individuals acting as the Local Education Agency (“LEA”) for Committee on Special Education (“CSE”) meetings.**

**A. The past levels of performance are as follows:**

In the 2018-2019 school year, all special education teachers and special education administrators participated in one half-day professional development training on Specially Designed Instruction, Transition in the Individualized Education Plan (“IEP”), and Disproportionality. The total number of Professional Development (“PD”) trainings for special education teachers and administrators was 2.

In 2019-2020, the total number of PD trainings for special education teachers and administrators was 3.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

The Department of Special Education holds bi-weekly professional development for Special Education administrators aligned with the District Special Education Strategic Action plan and goals. Special Education administrators are required to turn-key information from bi-weekly meetings to their Special Education staff in their buildings on (at least) a monthly basis.

**C. The level of performance that is required by law or regulation is:**

Currently in New York State, holders of a professional certificate who are practicing in a New York Public School or BOCES to complete 100 hours of professional development during each five year registration period.

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

The Special Education Strategic Action Plan will be used to provide information on professional development trainings of special education teachers and special education administrators.

FINAL GOAL 13, SECTION “E,” CONTINUED ON FOLLOWING PAGE

**E. The parties agree that the following level of improvement will be achieved:**

The District will increase the number of mandatory, high quality professional trainings required for all special education teachers, special education administrators, and other individuals acting as the LEA for CSE meetings, bringing the overall number of such trainings to eight by the end of the 2021-2022 school year, as set forth in the table below.

	Past Performance	Past Performance	Interim Benchmarks			Final Goal (Disengagement Standard)
School Year	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Mandatory PD Trainings	1	2	3	5	8	8



**14. The District will decrease the number of Special Education teachers, psychologists and social workers who are assigned to bilingual positions who are not both appropriately certified in New York State and bilingual in Spanish, by developing and implementing a strategic plan to increase the recruitment, education, and certification of bilingual individuals for positions including bilingual Special Education teachers, bilingual Special Education administrators, and bilingual Special Education social workers and psychologists.**

**B. The past levels of performance are as follows:**

During the 2018-2019 school year, there were uncertified individuals utilized for 19 FTE bilingual Special Education teacher positions, 3.5 FTE bilingual social worker positions, and 1 FTE bilingual psychologist position.

For the 2019-2020 school year, the District projected that there would be uncertified individuals utilized for 25 FTE bilingual Special Education teacher positions, 2.5 FTE bilingual social worker positions, and 1 FTE bilingual psychologist position.

**B. The commitments that have already been made to improve performance to external parties like the New York State Education Department (“SED”) are:**

The District is offering a permanent salary step increase at the time of new hire for certified Special Education teachers in grades 7-12 and certified bilingual Special Education teachers in grades K-12 with a bilingual extension. Through the Teachers of Tomorrow Grant, a stipend is available for those certified teachers in identified shortage areas (i.e. Special Education 7-12), and to all certified teachers with a bilingual extension working in bilingual positions.

**C. The level of performance that is required by law or regulation is:**

New York State provides that every child is entitled to receive instruction by an appropriately certified teacher in accordance with their IEP. New York State requires that each school district provide English Language Learners (“ELL”) with appropriate English as a New Language (“ENL”) supports adopted by New York State under New York State Education Law Section 3204 2-a; New York State Commissioner’s Regulations Part 154-2. ENL supports must be designed to provide content instruction for children of limited English proficiency using the child’s native language and English; provide native language instruction; and provide English as a second language instruction. New York State Education Law Section 3204 2-a (4).

**D. The data measures that are available or will be created with reasonable effort to measure performance are:**

New York State has no state target or other data measures. The District will use its Human Resources databases, including Peoplesoft, to provide information on this goal.

**E. The parties agree that the following improvement will be achieved:**

**STRATEGIC PLAN OBJECTIVE**

The Superintendent will convene a planning group to develop a five-year strategic plan, with an aspirational goal to fill all bilingual Special Education positions in the District with certified teachers or other Special Education related service providers who are both certified in New York State for Special Education and bilingual in Spanish by the beginning of the 2025-2026 school year. To be classified as bilingual, teachers must possess or be actively pursuing a bilingual extension; other Special Education related service providers must demonstrate functional bilingual fluency sufficient to deliver professional services in Spanish.

**STRATEGIC PLANNING GROUP COMPOSITION**

The planning group will be chaired by the Deputy Superintendent, or a person designated by the Superintendent with equivalent stature.

The Superintendent will consult with counsel for the Plaintiffs and select planning group members from the community with knowledge about education of students with disabilities who are Spanish language dominant.

The District will engage a consultant with knowledge of strategies for recruiting and developing bilingual professional staff from a public or private entity (such as a university), or a think tank (such as New America), or another consultant, to assist the group to develop the strategic plan.

The District will involve the community and stakeholders, including Empire Justice and Special Education Parent Advisory Council ("SEPAC") in all substantive aspects of the development of the plan.

**WORK OF THE STRATEGIC PLANNING GROUP**

The planning group will examine the historic nationwide shortage of bilingual educators, including of bilingual Special Education teachers and related service providers in New York State, and research efforts school districts across the country have made to address the shortage. The planning group will identify efforts made by school districts that have been successful in addressing the shortage.

The planning group will develop innovative strategies and actions to:

- Assist in the education and certification of bilingual individuals;
- Recruit and retain bilingual Special Education teachers, Special Education administrators, and Special Education related service providers including bilingual social workers, and bilingual psychologists;
- Develop ways to incentivize current certified employees who are bilingual, but who have chosen not to work in bilingual positions to accept bilingual positions; and

- Obtain a waiver, or amend, adopt, and enact a sub-part to Part 80 of the Commissioner Regulations, *Requirements for Teachers' Certificates and Specialized Credentials*, to allow the Rochester City School District to hire Special Education teachers, Bilingual teachers, and Bilingual related services providers who do not hold a New York State Certification or Bilingual Extension, but who hold a certification or license from another State or Territory, or who have a Bilingual Extension from another State or Territory or who are otherwise certified, licensed, or permitted to educate Spanish-speaking students and/or who are fluent in Spanish, and permit those educators – without additional testing or coursework, without unreasonable cost, or other unreasonable burden – to hold a Provisional or Temporary Certificate and/or Provisional or Temporary Bilingual Extension, so that those educators may be employed by the Rochester City School District in the same manner as New York State Certified Special Education teachers, Certified Special Education teachers with Bilingual Extension, and Certified Related Services Providers with Bilingual Extension, for a minimum of three (3) years.

The plan will specifically provide Action Items the District will enact or complete each year of the plan. The plan will contemplate the need for the District to establish measurable Interim Performance Benchmark(s) and Final Disengagement Goal(s) for bilingual staffing under the consent decree and will provide a framework and recommendations for how this might reasonably be achieved.

#### IMPLEMENTATION OF THE STRATEGIC PLAN

The District will complete the plan on or before January 15, 2021, so that steps in the plan related to recruiting can be implemented on a timely basis to assist in recruiting for the 2021-2022 school year.

The parties did meet within thirty (30) days of delivery to the Board of Education of a strategic plan, but in no event later than April 15, 2021, to negotiate Final Disengagement Goal(s) for the 2021-2022 School Year, after the completion of the planning process described above. The parties will also negotiate additional Key Performance Indicators (“KPIs”) in the Strategic Plan through the 2025-2026 school year.

The parties have negotiated objective Strategic Plan Final Disengagement Goals for the 2022-2023 School Year based on the reasonable projected number of necessary bilingual positions, if any, that will not be filled in the District (as measured on Basic Educational Data System (“BEDS”) Day<sup>19</sup> for the 2022-2023 school year) by teachers or other Special Education Providers who are both certified in New York State and bilingual in Spanish, as defined above.

After the District has achieved the Strategic Plan Final Disengagement Goals, it shall maintain compliance for a period of an additional twelve (12) months as set forth in Paragraphs 101-107 of the Stipulation of Settlement. For this Goal, maintaining compliance means that the District will maintain the trajectory projected in the Strategic Plan, i.e., achieve the KPIs for the following (2023-2024) school year.

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<sup>19</sup> BEDS Day is a date set by the New York State Education Department (“NYSED”) as the deadline for submission for data from school districts to the NYSED’s online BEDS IMF Application. BEDS Day for the 2018-2019 school year was October 3, 2018. See *gen.* <http://www.p12.nysed.gov/irs/beds/IMF/home.html>.

The District presented the plan, along with the Final Disengagement Goals for the 2022-2023 School Year, to the Board during a public meeting of the Board on November 18, 2021.

The District will commit to carry out the Action Items set forth in each year of the Strategic Plan, including those years that occur following disengagement from Court supervision.

The Action Items shall be treated in the same way as the Recommendations offered by the Special Committee, in Paragraphs 62-63 of the Stipulation of Settlement. If the District decides not to implement any Action Item, the procedures set forth in Paragraph 63 of the Stipulation of Settlement shall apply.

While the parties are subject to the Consent Decree, the District will provide notice of no less than thirty (30) days to the Plaintiffs' counsel of any meeting of the Board during which any modification, amendment or change to the Strategic Plan is scheduled to be discussed.

FINAL GOAL 14, PROPOSED STRATEGIC PLAN, CONTINUED ON FOLLOWING PAGE

## [PROPOSED] BILINGUAL SPECIAL EDUCATION STRATEGIC PLAN

**This strategic plan** aims to recruit, develop, support, and retain the most effective, diverse bilingual special educators.

**Our aspirational goal** is to fill all bilingual Special Education positions in the District with certified teachers or other Special Education related service providers who are both certified in New York State for Special Education and bilingual in Spanish by the beginning of the 2025-2026 school year.

This plan's priorities and goals were developed through the collaboration of a strategic planning committee. The plan will be implemented by the District's Office of Human Capital. The Chief of Human Capital presented the plan to the Board of Education.

Priorities	Action Items
<b>Recruit</b>	<ol style="list-style-type: none"> <li>1. By 2025-2026, refine our hiring practices to recruit employees that are representative of the diversity of our school district and increase employees of color in all areas.</li> <li>2. By 2021-2022, develop a strong RCSD brand identity that captures the hearts and minds of prospective employees and staff.</li> <li>3. By 2022, increase strategies to recruit new employees including through social media and virtual fairs, ensuring local, regional, statewide, and national reach.</li> <li>4. By 2021-2022, build recruitment-focused profiles for high-needs schools, as defined by NYSED and/or for those schools with unique bilingual programs.</li> <li>5. By 2021-2022, train and develop existing bilingual educators and leaders to serve as recruiters and utilize them to engage candidates in future recruitment activities.</li> <li>6. By 2021-2022, Identify and recruit support staff who are bilingual but who lack certification and incentivize them to obtain bilingual certification.</li> <li>7. By 2022, develop relationships with Big 5, other Districts, state leaders and/or other organizations to advocate for the submission of a waiver, or amendment, adoption, and enactment a sub-part to Part 80 of the Commissioner Regulations.</li> <li>8. By 2022-2023, create at least one bilingual special educator recruitment pipeline, with colleges/universities.</li> <li>9. By 2022-2023, request funding for financial incentives to assist prospective candidates in obtaining appropriate certifications to serve as bilingual special educators.</li> <li>10. By 2022-2023, request funding for financial incentives to recruit and retain bilingual special educators.</li> <li>11. By 2021-2022, redesign and launch a new Office of Human Capital website, with a focus on brand, highlighting living in Rochester, recruitment, and information for prospective employees and as a resource for current staff.</li> <li>12. By 2021-2022, establish process for life-cycle recruitment for the hiring of new teachers by April 1.</li> <li>13. By 2021-2022, make the hiring process user-friendly and fast for applicants and hiring managers.</li> <li>14. By 2021-2022, create pathways to teaching by growing our own through the creation of middle school programs to attract students to teaching and into high school career and technical education (CTE) programs in urban teacher preparation.</li> </ol>

	15. By 2021-2022, create annual pathways for Bilingual Paraprofessionals-to-Teacher Program.
<b>Develop</b>	<ol style="list-style-type: none"> <li>1. By 2021-2022, provide training to human capital office staff on anti-racism learning, racial consciousness and implicit bias and expand opportunities for anti-racism and culturally responsive learning for all staff.</li> <li>2. By 2022-2023, train principals and assistant principals in human capital recruitment and retention strategies focused on mindsets, levers, and processes to implement in their schools.</li> <li>3. By 2022-2023, train leaders in conducting stay interviews and require annual survey and focus groups for this purpose at the school level.</li> </ol>
<b>Support</b>	<ol style="list-style-type: none"> <li>1. By 2021-2022, improve systems and structures to provide the high-quality customer service and support to assist educators in obtaining certification—both those who aspire to serve in new bilingual special education roles and to retain current bilingual special educators.</li> <li>2. By 2022-2023, engage new staff early in ways, including school-based onboarding, that connect them to their school, the District and each other.</li> <li>3. By 2022-2023, establish partnership with four (4) community-based organizations or community-based entities to assist our efforts to recruit, develop, support, and retain our bilingual educators.</li> </ol>
<b>Retain</b>	<ol style="list-style-type: none"> <li>1. By 2021-2022, implement a <i>RCSD Cares</i> staff wellness program to develop more positive work environments and conduct a related annual survey. Annually report disaggregated results and plan for improvements from the resulting data.</li> <li>2. By 2021-2022, coordinate staff recognition opportunities to celebrate years of service benchmarks, retirement and tenure and bilingual teacher of the year.</li> <li>3. By 2021-2022, establish and coordinate related affinity groups (e.g., bilingual, LatinX, special education) to bring together people of like backgrounds to ensure advocacy, relationships, and retention toward a healthy and thriving workplace culture.</li> <li>4. By 2021-2022, annually report on disaggregated recruitment and retention data related to bilingual special education staff and efforts.</li> </ol>

### Key Performance Indicators

1. Percentage of bilingual special educators filled with a fully certified educator and educators working on certification extension on BEDS Day and first day of second semester.

2020-2021 Interim Benchmark	2021-2022 Interim Benchmark	2022-2023 <sup>20</sup> Final Goal	2023-2024	2024-2025	2025-2026
33%	33	35	39	44	48

<sup>20</sup> This Key Performance Indicator will be the Final Disengagement Goal in the *N.N. v. RCSD* Consent Decree.

2. Percentage of bilingual special education school vacancies known by July 15 filled on Day One with a fully certified educator and educators working on certification extension.

2020-2021 Interim Benchmark	2021-2022 Interim Benchmark	2022-2023 Final Goal	2023-2024	2024-2025	2025-2026
31%	31	32	36	40	48

3. Percentage of effective, as defined by APPR, bilingual special education educators retained in their roles as of first day of school, who worked in the previous year (exclusive of those who are terminated, relocate out of the Rochester Standard Metropolitan Statistical area, are promoted within RCSD or retire.

2020-2021 Interim Benchmark	2021-2022 Interim Benchmark	2022-2023 Final Goal	2023-2024	2024-2025	2025-2026
100%	95	95	95	95	95