

ATTORNEY GENERAL OF THE STATE OF NEW YORK
CIVIL RIGHTS BUREAU

In the Matter of
**Investigation by Letitia James,
Attorney General of the State of New York, of**

Assurance No. 23-032

Mamaroneck Union Free School District,

Respondent.

ASSURANCE OF DISCONTINUANCE

The New York State Office of the Attorney General (“OAG”) has completed its investigation into allegations regarding the Mamaroneck Union Free School District’s (“District”) response to race-based bullying, harassment, and discrimination in its schools. This Assurance of Discontinuance (“Assurance”) briefly summarizes the findings of the OAG’s investigation, its conclusions of law, and the relief agreed to by OAG and the District (collectively, the “Parties”).

DEFINITIONS

1. As used throughout this Assurance, the terms set forth below shall have the following meanings.
 - (i) “Assurance” means this Assurance of Discontinuance.
 - (ii) “Effective Date” means the date this Assurance is executed by the Parties hereto.
 - (iii) “Mamaroneck Union Free School District” includes its Board of Education, all of its schools, its employees and agents.
2. Terms of construction:
 - (i) “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the meaning inclusive rather than exclusive.
 - (ii) “All” means “any and all” and “any” means “any and all.
 - (iii) “Concerning” means relating to, referring to, describing, evidencing, regarding, reflecting, or constituting.

- (iv) “Day” refers to a calendar day, not a business day.
- (v) “Including” means without limitation.
- (vi) The singular of any word includes the plural; the plural of any word includes the singular.

THE OAG’S FINDINGS

The Mamaroneck Union Free School District

- 3. The District is located in Westchester County. Its elementary schools include Central Elementary School, Chatsworth Avenue School, Mamaroneck Avenue School, and Murray Avenue School. The District has a single middle school, Hommocks Middle School, and one high school, Mamaroneck High School.
- 4. The District is a recipient of federal funds, including but not limited to, funds received pursuant to Title I of the Elementary and Secondary Education Act.
- 5. The District is supervised by a Superintendent, Dr. Robert Shaps, and a Board of Education led by Ariana Cohen. The Superintendent serves as the chief executive officer of the Board and is responsible for implementing Board policies, as well as advising and recommending action to the Board. The Board has several responsibilities, including carrying out duties imposed by state and federal law and establishing policies and procedures necessary for the District.

The OAG Investigation

- 6. In mid-2020, the OAG opened an investigation of the District following receipt of allegations that the District failed to appropriately respond to race-based bullying and harassment (the “OAG Investigation”).

7. The OAG Investigation included interviews of multiple parents, students, and other witnesses, as well as a review of documents and information produced by the District and obtained through other sources.
8. The District cooperated with the OAG Investigation throughout the process to the extent requested by the OAG.

Allegations

9. The OAG Investigation included interviews with students, their families, and alumni who alleged they had experienced or were familiar with incidents of bullying and harassment at various schools in the District, as well as a review of documentary evidence reflecting individuals' experiences with the District's response to incidents of bullying and harassment. These individuals reported to the OAG instances of white and other non-Black students using racial epithets towards or about Black and other minority students, students making inappropriate references to skin color or complexion, and other instances in which sexually offensive terms were used to degrade a student's perceived sexual orientation and which were interlaced with racial epithets.
10. According to students and recent alumni, the use of racial epithets was not isolated to a particular time-period or school building.
11. Multiple interviewees alleged to the OAG that District personnel did not adequately investigate complaints in accordance with the Dignity for All Students Act ("DASA").¹

¹ New York State's Dignity for All Students Act was established with the broad legislative intent to provide a school environment free of discrimination and harassment. The goal of the Act is to create a safe and supportive school climate where students can learn and focus, rather than fear being discriminated against and/or verbally and/or physically harassed. The Dignity Act states that no student shall be subjected to harassment or discrimination by employees or students on school property or at a school function based on their actual or perceived race, color, weight,

12. Certain of the family members and alumni interviewed alleged that the bullying and harassment experienced by students impacted school climate and interfered with students' abilities to learn and develop social and emotional skills.

The OAG's Review of the District's Policies Regarding Bullying, Discrimination, and Harassment

13. The OAG Investigation also included a comprehensive review of the District's Policies and Practices regarding bullying, discrimination, and harassment
14. The OAG reviewed the District's Code of Conduct (the "Code"), which sets forth policies and procedures to respond to incidents of bullying and harassment. A student that violates the Code is subject to progressive discipline based on several defined factors. These factors include: the student's age; the nature of the offense and circumstances that led to the offense; the student's prior disciplinary record; the effectiveness of other forms of discipline; information from parents, teachers, and/or others, as appropriate; and other extenuating circumstances. Consistent with these factors, the Code authorizes disciplinary actions that include: warnings (oral or written), detention, suspension from privileges such as extracurricular activities, in-school suspension, suspension from school for up to five (5) school days, suspension from school in excess of five (5) school days, and permanent suspension (expulsion).
15. The OAG also reviewed the District's DASA policy, which requires the assignment of DASA coordinators to each school, establishes specialized training for DASA

national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex. Under DASA a District is required to develop policies that implement DASA and that required the investigation of incidents of bullying, discrimination, or harassment and reporting of verified incidents to NYSED. N.Y. Education Law ("Educ. Law") §13; 8 NYCRR §100.2(jj); 8 NYCRR §100.2(kk).

coordinators, and mandates all personnel to affirmatively report incidents of bullying to a building's DASA coordinator. The District's DASA coordinators are the assistant principals and are involved in responses to verified bullying incidents.

16. The OAG acknowledges that since 2020, the District convened a workgroup of District administrators and educators to study and develop a plan implementing NYSED's culturally responsive sustaining framework. Those efforts culminated in a July 2021 Board approval and adoption of the District Equity and Work Plan ("DEP"), which calls for professional development, programs, and initiatives that aim to realize NYSED's responsive-sustaining framework, to positively impact school climate, and to deter incidents of bullying, harassment, and discrimination.
17. As a result of this process, the District revised its Code of Conduct to include restorative practices, retained consultants to assist the District assess the school's climate, developed curriculum that fosters social awareness, and aligned its professional development with the District's goal of ameliorating its school climate. The implementation of these and other features of the DEP will occur over the course of three years and that at the three-year mark the District will re-evaluate the DEP.

Legal Standards

18. Under Title VI of the Civil Rights Act of 1964 ("Title VI") as a recipient of federal funds the District must adequately address peer-on-peer harassment on the basis of race, color, and national origin.² Under Title IX of the Education Amendments of 1982 ("Title IX"), the District must also address sex-based bullying and harassment, including bullying and

² 42 U.S.C. 2000d et seq.; *Zeno v. Pine Plains Cent. School Dist.*, 702 F.3d 655, 664-665 (2d Cir. 2012) ("[A] school district is liable for intentional discrimination when it has been deliberately indifferent to teacher or peer harassment of a student" (internal quotations omitted)).

harassment on the basis of sexual orientation or gender identity.³ The standards for evaluating claims under Title VI and Title IX are the same and outlined below.⁴ Analysis of liability under the New York State Human Rights Law (“NYSHRL”) is similar to Title VI and Title IX.⁵

19. Under the controlling legal standards, a school district is liable under Title VI and Title IX for race or sex-based bullying and harassment if it (1) has the requisite control, (2) the harassment was severe and discriminatory, (3) it had knowledge, and (4) it responded inadequately to the harassment.⁶
20. The Office of Civil Rights (“OCR”) in the United States Department of Education has issued guidance regarding the obligations of school districts under Title VI and Title IX to identify and address racial and sex-based harassment.⁷ Consistent with this guidance and controlling case law, a school district is liable for intentional discrimination when it’s “deliberately indifferent” to teacher or peer harassment of a student.⁸ School Districts must first take immediate action “to investigate and determine what occurred.”⁹ If a school district identifies harassment, it must take “prompt and effective steps reasonably

³ *Videckis v. Pepperdine University*, 150 F.Supp.3d 1151, 1161 (C.D.Cal. 2015).

⁴ *See, e.g.*, *Murrell*, 186 F.3d at 1250–51; *Bryant v. Independent Sch. Dist. No. I-38*, 334 F.3d 928, 934 (10th Cir. 2003) (directing district court to apply the Title IX deliberate indifference standard to Title VI claim); *Sturdivant v. Blue Valley Unified Sch. Dist.*, USD 229, No. 18-CV-2661-JWL, 2020 WL 3545650, at *6 (D. Kan. June 30, 2020) (relying on *Murrell* and *Bryant* to find that the deliberate indifference standard is the same under the Equal Protection Clause, Title VI, and Title IX), appeal docketed, No. 20-3147 (10th Cir. July 22, 2020).

⁵ *See Ruiz v. Cnty. of Rockland*, 609 F.3d 486, 491 (2d Cir. 2010); *Weinstock v. Columbia Univ.*, 224 F.3d 33, 42 n.1 (2d Cir. 2000).

⁶ *Zeno*, 702 F.3d 666.

⁷ U.S. Dep’t of Ed., Dear Colleague Letter: Harassment and Bullying, October 26, 2010, <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>. (“OCR Guidance”).

⁸ *Zeno*, 702 F.3d at 665.

⁹ U.S. Dep’t of Ed., Dear Colleague Letter: Harassment and Bullying, at 2-3.

calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.”¹⁰

21. Depending on the circumstances, the District must also provide additional “training or other interventions not only for the perpetrators, but also for the larger school community, to ensure that all students, their families, and school staff can recognize harassment if it recurs and know how to respond.”¹¹
22. DASA and implementing regulations of the Commissioner of Education require districts to annually report to NYSED the number of material incidents of discrimination, harassment, and/or cyberbullying.¹²
23. DASA defines harassment and bullying as the creation of a hostile environment by conduct or by threats, intimidation, or abuse, including cyberbullying. This includes threats, intimidation, and abuse that occurs verbally, non-verbally, or any other form of electronic communication.¹³
24. DASA and its implementing regulations also require school districts, to: (1) modify their Codes of Conduct to include prohibitions on harassment, bullying, and discrimination, and distribute such Codes to students and their parents; (2) train school employees on topics of bullying, harassment, and discrimination; (3) designate DASA Coordinators for each school; and (4) provide students with instruction that supports the development of a school environment free of discrimination and harassment.¹⁴

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² *See* N.Y. Educ. Law (“Educ. Law”) § 15; Regulations of the New York State Commissioner of Education (“Commissioner’s Regulations”) Part 100, 8 NYCRR § 100.2(kk).

¹³ *See* Educ. Law §§ 10-18, 801-a, 2801; Commissioner’s Regulations Part 100, 8 NYCRR §§ 100.2(c), (l), (jj).

¹⁴ *Id.*

25. DASA also requires responses to bullying that are “reasonably calculated to end the harassment, bullying, and/or discrimination, prevent recurrence, and eliminate the hostile environment.”¹⁵

Application

26. The OAG has determined that during the relevant period, that is, between the 2015-2016 and 2019-2020 school years, the District failed to adequately address bullying and harassment, in violation of Title VI, Title IX, and the New York State Human Rights Law, N.Y. Exec. Law § 290 *et seq.*
27. First, the OAG Investigation concluded that certain of the alleged incidents of race-based bullying and harassment were credible and that the District’s response to those incidents was ineffective.
28. The OAG has determined that the District had the requisite control because the harassment complained of occurred during school hours, on school grounds, and by fellow students and teachers over whom the District had disciplinary oversight.¹⁶
29. Second, the OAG has determined that the harassment interfered with students’ abilities to learn.¹⁷
30. Third, the OAG has determined that the District had actual knowledge of the harassment.
31. Lastly, while the District promptly investigated and responded to several complaints of bullying, harassment and/or discrimination, the OAG finds that, in certain instances, the

¹⁵ Commissioner’s Regulations Part 100, 8 NYCRR §§ 100.(2)(ii)(h).

¹⁶ *Pine Bush*, 58 F.Supp. 356 (2014)(citing *Davis*, 526 U.S. at 646).

¹⁷ *See Monteiro*, 158 F.3d at 1034 (“It goes without saying that being called [the n-word] by your white peers . . . exposes Black children to a risk of discrimination that is so substantial and obvious that a failure to act can only be the result of deliberate indifference.”)

District did not take adequate measures to address bullying and harassment in its schools, despite having the relevant information and awareness of the school climate.

32. Although the OAG acknowledges that District engaged in various forms of non-punitive responses, including apology notes from the offenders, conducting mediations, workshops on the significance of the N-word, sending parent notifications, arranging counseling for the victims, requiring counseling for the offenders if there was nexus between disability and offensive conduct, giving detentions, or suspending offenders, as well as other responses pursuant to the District's Code of Conduct and DASA Policy, the OAG Investigation concluded that the District's approach should be revisited to improve consistency and efficacy.
33. Since the commencement of the OAG Investigation, the District has taken steps to address school climate through its promulgation of the DEP. The OAG recognizes these steps as they are further reflected in this Assurance and commends the District, but finds that additional steps are necessary to ensure compliance with relevant laws and regulations.
34. Accordingly, the OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

Recitals

35. WHEREAS, in September 2019, upon recognition by the District that a broad coalition of stakeholders was required to implement the New York State Culturally Responsive-Sustaining Frameworks and to continue to enhance school-level focus on systemic racism, bias, and inclusion, the District sought buy-in to transform the District's Program

Alignment Team for Hispanic Students (“PATHS”) Committee into a District Equity Team; and

36. WHEREAS, by February 2020, the PATHS Committee was transformed into a District Equity Team (“DET”), with 35 staff members and several community organizations involved; and
37. WHEREAS, during the Summer of 2020, the District Equity Team drafted and finalized an Equity in Education Policy and Strategic Plan (“DEP”), which the District published on its website (<https://www.mamkschools.org/district/district-vision-for-equity>); and
38. WHEREAS, in October 2020, the District held a series of virtual forums with students, faculty, and the broader community to discuss the DEP; and
39. WHEREAS, the District’s Board of Education adopted a District Equity Policy in April 2021 confirming its commitment to creating and maintaining a positive and inclusive learning environment where all students, regardless of race, ethnicity, gender, religion, sexual identity or orientation, ability or disability, country of origin or other identity category or characteristics, feel safe, included, welcomed, and accepted; and experience a sense of belonging and academic success;
40. WHEREAS, during the 2021-2022 school year, the District continued to update and implement the DEP;
41. WHEREAS, as of July 1, 2022, the District hired a full time Director of Diversity, Equity, Inclusion and Belonging to oversee and lead the District’s Diversity, Equity and Inclusion (“DEI”) initiatives, policy, goals and objectives;
42. WHEREAS, during the 2022-2023 school year, the District continued to update and implement the DEP;

43. WHEREAS, the District denies the OAG’s factual or legal conclusions, but enters into this Assurance in the interest of resolving this matter; and
44. NOW, THEREFORE, in consideration of the mutual promises set forth herein, the OAG and the District agree as follows:

General Injunction

45. The District agrees to comply with Title VI, Title IX, the NYSHRL, DASA, and these statutes’ implementing regulations, to the extent applicable to the District, including those on the reporting of verified incidents of harassment, bullying and discrimination.

Revision of Policies, Procedures, and Training

46. The District shall, in accordance with Title VI, Title IX, DASA, and these statutes’ implementing regulations, as well as the United States Department of Education Office of Civil Rights (“OCR”) Guidance, take steps to eliminate and prevent future instances of racist or race-based harassment in its education programs and activities.
 - a. As required more specifically, herein, the District agrees to make all necessary and appropriate revisions to its harassment policies, appropriately and immediately respond to all conduct that may constitute racist or race-based harassment, ensure it promptly, and thoroughly investigates reported and observed conduct that may constitute unlawful harassment, escalate remedial efforts by instituting additional measures when students are harassed on a repeated basis, and mitigate the effects of harassment that occurs;
 - b. The policies and/or regulations to be reviewed, and, as necessary, revised shall include: Policy 0120/0120-R – Anti-Harassment in the School

District; Policy 0116/0016R – Dignity for All Students Act Policy; Policy 5300 – the District’s Code of Conduct; and Policy 0105 - Board of Education Equity Policy; and

- c. Consistent with District policies and the District’s current priority goal set forth in the DEP, the District will review and revise, when necessary, any relevant policies to ensure that curricular goals include the promotion of diversity, equity and inclusion.

47. The District will review and revise, when necessary, any relevant policies regarding discrimination, bullying and anti-harassment, to ensure that they include the following:

- a. specifying that all harassment, including racist and race-based harassment, is prohibited in the District;
- b. that all District personnel are responsible for taking action if they become aware of any bullying, harassment, discrimination, or retaliation against a student;
- c. that emails from a parent to District staff relating to racist, race-based, and/or other forms of bullying or harassment will receive prompt responses within, whenever practicable, two school days;
- d. the District’s response to bullying, harassment, or discrimination will not be retaliatory against the victim(s), employees, peers or discourage parent(s), guardian(s), student(s), or staff from reporting subsequent incidents; and
- e. the District’s response to racist and/or race-based harassment will not be retaliatory or cast blame on the victim and /or victim’s family and, if it does occur, the District will impose consequences for the offender.

District's Equity Work Plan ("DEP")

48. The District has committed to the continuation of the DEP. The DEP (Enclosed herewith as **Exhibit A**) is a material term of this Assurance and incorporated here as is fully set forth herein. To that end, the parties acknowledge that the DEP is a living document and may be subject to change. "Material Term" is not intended to mean that any change to the DEP would constitute a breach of this Assurance. Rather, "material term" is intended to define the District's commitment to continue the work pursuant to the DEP during the term of this Assurance.
49. Currently, the DEP has three key areas of focus:
- a. developing inclusive and anti-racist curriculum, instruction and assessment K-12;
 - b. strengthening and creating opportunities, access, and educational quality for all students in the District's diverse community; and
 - c. prioritizing student and community input to dismantle inequitable policies and reframing for equity.
50. During the term of this Assurance, the District shall provide the OAG with a copy of the DEP in effect for each school year. Additionally, should the terms of the DEP be modified during any school year, the District shall post the DEP on its website within thirty (30) days after said modification.

District Equity Team

51. The DET serves as a steering committee. Members work alongside the Equity Coordinator, Co-chairs, and Mamaroneck Equity in Education Leaders (MEELS) to provide feedback and recommendations regarding prioritizing the goals outlined in the DEP, and provide

support towards the delivery of (DEP) outcomes. The DET solicited membership from all the buildings in the District and from the community. The Committee is comprised of a Board member, teachers, counselors, alumni, and administrators from all schools in the District as well as community organizations and students. The Superintendent and/or his/her designee shall regularly report to the Board regarding the District's progress on the DEP. The members of the DET shall continue to be made public on the District's website.

Dignity For All Student Act and Title VI Requirements

52. The District shall review and make any necessary revisions to its policies, procedures, and training to ensure that it: (i) timely investigates every reported DASA incident as defined by 8 NYCRR §100.2(kk)(1)(x), (ii) adequately documents and retains records regarding every DASA investigation, and (iii) provides the parents of the victim(s) and the perpetrator(s) a letter detailing the District's DASA investigative findings or resolution. Said letter may be sent electronically and via hard copy mailed to the family and will clearly identify the sender and subject matter. These requirements shall include but not be limited to:

- a. Requiring that District personnel promptly, accurately, and thoroughly investigate, address and respond appropriately to incidents of or complaints alleging harassment, bullying, or discrimination in accordance with Title VI, its implementing regulations, OCR Guidance, and the Dignity for All Students Act, whether reported, observed, or brought to the District personnel's attention by any other means;
- b. Ensuring investigations include speaking privately with each of the students who are alleged to have been the victim(s) and perpetrator(s) of the harassment,

interviewing other staff and students who may have witnessed the harassment, and gathering and preserving any relevant physical evidence (e.g. text messages, textbooks, photos of graffiti, etc.);

- c. Considering utilization of trauma informed interviewing techniques, when possible, especially where a victim has experienced prior incidents of bullying and harassment;
- d. Notifying the parents of the victim(s) and perpetrator(s) involved within one (1) school day after a written report is filed or complaint is made that an investigation has commenced; and within 48 hours after completion of any investigation, regardless of the outcome, follow-up with the alleged perpetrator(s) and victim(s) to inform them of the results of the investigation, offer school-based counselling services for verified incidents of bullying, harassment and/or discrimination, offer referrals to third-party counseling or therapy services where appropriate, and inquire whether there has been new or additional harassment; and,
- e. Ensuring that all reported complaints of bullying, harassment, or discrimination are investigated. In accordance with 8 NYCRR §100.2(kk)(3), the District shall report verified, material incidents of racial bullying, harassment, or discrimination to New York State Department of Education under the Dignity for All Students Act, which is publicly available.

53. The District shall ensure that students are aware that they have a legal right to report complaints of harassment, bullying, and/or discrimination to any employee in the District.

54. The District shall create a final written report for every student complaint of bullying, harassment, discrimination or retaliation with: a description of incident & whether/how substantiated; an accurate description of the investigation; any consequences imposed; and whether counseling was provided to victim(s) and perpetrator(s).
55. The District shall maintain its current engagement of students to consider creative opportunities to communicate information regarding students' rights relating to DASA, which shall include the various ways a student can file a complaint such as through, posters, student-run presentations, or speakers identified by students.
56. The District shall maintain its current reporting mechanism that allows for the anonymous reporting of complaints. The District shall also ensure that parents, guardians, students, and District employees are apprised of the District's anonymous complaint-reporting mechanism.
57. The District shall continue to incorporate DASA in the District's Code of Conduct, which the District will provide or make available to parents or guardians at the beginning of each school year. The District will provide parents or guardians with, and emphasize and ask for acknowledgement of receipt and review of: (i) the District's DASA policies; and (ii) information regarding how and to whom to submit complaints, including anonymous complaints.
58. The District shall continue to maintain a Human Rights Officer whose role and responsibilities are set forth in Board of Education Policy 0120R.
59. For any student who moves between schools within the District, the DASA Coordinator and the student's assigned counselor at the departing school shall ensure that the DASA Coordinator, and student's assigned counselor at the receiving school are apprised of any

prior DASA complaints regarding bullying or harassment that the student may have been involved in as a victim or perpetrator.

60. The District's Code of Conduct and DASA Policy annual distribution, shall continue to inform the school community of their right pursuant to Federal Law (Title VI) to file a complaint with the U.S. Department of Education - Office of Civil Rights, and pursuant to the New York State Law to file a complaint with the New York State Division of Human Rights ("DHR") and/or New York State Office of the Attorney General.

Student Perception Data and Improvement Efforts

61. During the 2022-2023 school year, the District engaged the services of Dr. Floyd Cobb and John Krownapple ("Cobb and Krownapple"), to perform consulting services based on the framework, *Belong Through a Culture of Dignity*. Cobb and Krownapple shall provide consulting services related to staff and student surveys, measures of belonging and district-wide professional development related to the measures of school climate. Cobb and Krownapple shall consult with the District's leadership team on its work with staff and student surveys as well as the measure of school climate.
62. During the 2022-2023, 2023-2024, and 2024-2025 academic school years, in consultation with the District's consultant(s), the District will annually collect perception data from students (grades 5-12), using objective methods, to determine staff and student sense of belonging and dignity as measured by four (4) indicators: fair treatment, validation, acceptance and feeling appreciated. The District will collect said perception data by way of a belonging survey and conducting empathetic interviews. However, the parties acknowledge that perception data can be collected in a variety of methods (such as

belonging surveys and empathetic interviews). The results of this perception data will be used to create action plans and inform the District as to its improvement efforts.

63. During the term of the Assurance, the District agrees to study and act in good faith on the results of its collection perception data, in collaboration with the District's consultants.
64. By July 31, 2023, the District in consultation with Cobb and Krownapple shall provide a summary of the work as it completed in the District as consultants to the OAG and copy the District's Superintendent on that communication. This summary of work should be sent and directed to the Civil Rights Bureau at civil.rights@ag.ny.gov and Joel Marrero, Assistant Attorney General, at joel.marrero@ag.ny.gov, Civil Rights Bureau, 28 Liberty, 20th Floor, New York, NY 10005.

Disciplinary and Restorative Practice Responses to Bullying, Harassment, and Discrimination

65. In consultation with the DET, the District shall continue to include in its Code of Conduct a disciplinary matrix that:
 - a. Provides students predictability and consistency in discipline through a continuum of interventions, supports, and consequences.
 - b. Provides for meaningful, consistent, baseline consequences (including the use of Restorative Practices to address harm in addition to discipline to facilitate student growth), for all racist, race-based, and other forms of harassment and for consequences to increase in severity for repeated harassment. The minimum consequence (subject to a manifestation hearing, where applicable) is to be two days lunchtime detention, together with appropriate educational content.
 - c. Provides school administrators the discretion to deviate from the discipline

matrix if the administrator determines in their discretion, in consultation with the DASA Coordinator, that there are mitigating or aggravating circumstances, which circumstances must be explained in District records.

66. The District shall have at least one faculty member or administrator at each school building who is responsible for the implementation or execution of restorative practices. This faculty or administrator shall be trained in restorative practices.¹⁸ The District shall rely on or consult this specially-trained faculty or administrator when implementing or contemplating implementation of responses to bullying, harassment, and discrimination incidents.
67. For the duration of this Assurance, the District shall offer Restorative Practices, as defined by the Code of Conduct, in the class and/or school community where bullying, harassment, and discrimination incidents occur. This shall include Restorative Practice workshops to other persons that the District has knowledge were impacted by bullying, harassment, and discrimination incidents. The Restorative Practices shall be consistent with Restorative Practices best practices, which generally call for the occurrence of Restorative Practice events in close time to when the unjust event occurred

Counseling Needs of Students

68. The District agrees that a school counselor will be available to offer school-based counseling in connection with harassment or bullying.
69. The District will review and assess current practices in the District regarding assistance to students who may be at risk due to repeated harassment and bullying. Thereafter, the District will develop and implement a plan to effectively address, assist and respond to

¹⁸ For an example of restorative practices best practices see:
<https://nepc.colorado.edu/publication/restorative-justice>.

students who may be at risk due to repeated harassment and bullying and/or being in what may be considered to be a hostile environment. Where school-based counseling services are not appropriate or inadequate, the District agrees to provide at risk students referral information to qualified third parties who can provide counseling or mental health services.

Training

70. Annually, the District shall continue to require all instructional staff (e.g. teachers, social workers, guidance counselors, athletic coaches) as well as administrative staff (e.g. principals, assistant principals) to attend at least one training that includes guidance on: (1) the District's legal obligations under Title VI, Title IX, and DASA, (2) the duty to promptly and thoroughly report all incidents of bullying harassment and discrimination to each Building DASA coordinator, (3) identification of patterns of bullying and harassment, and (4) intervention strategies to promote student learning and wellbeing.
71. Annually, DASA Coordinators shall continue to receive trainings on the District's DASA policies and obligations under Title VI, Title IX, and DASA; conducting DASA investigations; strategies in conducting interviews sensitively to psycho-social concerns (e.g. shame or fear of judgment or retaliation); developing a plan that protects the targeted student and appropriately takes into consideration mitigating factors, including the offending student's age, prior disciplinary record, and disability status; and remedial responses to harassment, bullying, and/or discrimination including restorative practices, conflict resolution, and disciplinary proceedings.
72. Annually, the District will review the effectiveness of its DASA training plan, and based on this review, the District will revise its training plan if necessary, consistent with best practices, for all District employees.

Compliance and Record Keeping

73. For the duration of this Assurance, the District shall notify the OAG of the receipt of any administrative complaint or lawsuit against the District or any of its personnel alleging bullying, harassment or discrimination.
74. Throughout the duration of this Assurance, the District shall retain all documents pursuant to this Assurance including:
 - a. Documents relating to complaints implicating DASA and/or Title VI, Title IX, and the NYSHRL. These documents shall include complaint forms, investigative records and summaries, investigation notes, communications regarding a complaint and/or investigation, disciplinary recommendations, disciplinary records, and incident reports to the District, including annual reports to NYSED regarding DASA incidents.
 - b. Belonging surveys; empathetic interview responses, and documents relating to the status and implementation of the DEP including any reports prepared pursuant to the DEP.
75. As part of this Assurance, the District shall cooperate with the OAG in its efforts monitor the District's compliance with this Assurance and the DEP. Upon request by the OAG, the District shall provide the OAG the opportunity to review all records and interview District personnel to ensure the District's compliance with the DEP and this Assurance.
76. Documents requested by the OAG that contain confidential and/or sensitive student information (e.g. personal information, family information, medical information, etc.), will have the confidential and/or sensitive student information redacted by the District. The NYAG understands and agrees that any confidential student records produced by the District at its request must be maintained as confidential by the Office of the NYAG, as is

required by District policy and federal law under the family Rights and Privacy Act (“FERPA”).

Outside Auditor/Consulting

77. The District has engaged the services of the Center for Professional Education of Teachers-Columbia Teachers College (CPET) to assist with a multiyear plan to ensure that its curriculum is antibias, antiracist, and culturally responsive. During the 2021-2022 school year CPET assisted the District in the creation of a curriculum framework tool to assess the curriculum and make necessary revisions to the social studies curriculum to ensure it is antibias, antiracist, and culturally responsive. During the 2022 -2023 school year, the District continued to partner with CPET to expand its assessment of District curriculum to include other content areas including: English, Math, and Science.
78. During the 2022-2023 school year, the District has continued to engage the services of Facing History and Ourselves to support teachers in developing instructional practices that are antibias, antiracist and culturally responsive.
79. The OAG acknowledges that the District retained Seek Equity Consulting, LLC, to conduct a Diversity, Equity and Inclusion (“DEI”) audit. The DEI audit resulted in a June 3, 2022 audit report¹⁹ which contains recommendations on how to best implement DEI principles in the District. Consistent with the District’s legal and contractual obligations, the District agrees to consider, in good faith, the DEI audit recommendations.

Reporting and Disclosure Requirements

¹⁹ Available at:
https://www.mamkschools.org/uploaded/Communications/Board_of_Education/%2721-%2722_BOE/Final_MUFSD_Equity_Audit_Report_21-22.pdf?1655242406359

80. On an annual basis and for the duration of this Assurance, by or before July 31st the District shall, for the prior year:
- a. Provide the OAG confirmation that the trainings required under paragraph I. of this Assurance have occurred and a copy of the training materials.
 - b. Notify the OAG of the receipt of any complaint made at a New York State administrative agency, such as the New York State Division of Human Rights, or lawsuit against the District, its board members or its staff.
 - c. Create a summary report to the OAG containing the following:
 - i. A copy or summary of any policies related to this Assurance the District has revised in the preceding year, including the disciplinary matrix and the District professional development as laid out in the DEP;
 - ii. The number of bullying, harassment, and discrimination incidents (to the extent reported under DASA);
 - iii. Any reports that the District prepared, in its discretion, reflecting bullying, harassment, and discrimination trends;
 - iv. The status and implementation of the goals laid out in the DEP, including the current DEP and any changes to the DEP;
 - v. Any reports prepared pursuant to the DEP, including the annual plan of the DET.
81. In July 2023, July 2024, and July 2025, perception data, in aggregate form, will be posted on the District website which shall ensure that no personally identifiable information is

utilized. A copy of the posted aggregate data shall also be provided to the OAG, along with the belonging survey if used, by July 31st of each year.

82. At least once a year for each year this Assurance is in effect, the Superintendent and/or his/her designee will report to the community at a Board of Education public meeting the following:

- a. Goals or action items that the District has accomplished under the DEP;
- b. Any modifications made to the DEP within that academic year; and,
- c. Student Perception Data.

Enforcement

83. In the event of a breach of this Assurance, the OAG shall provide the District written notice of the breach, with a detailed written description of the circumstances of said breach, and thirty (30) days to cure said breach. The parties agree to collaborate in good faith to address any alleged breach of this Assurance or concerns identified by the OAG in the District's reporting pursuant to this Assurance.

84. Should the OAG receive a FOIL request from anyone seeking District records related to this Assurance and/or the District's compliance with this Assurance, the OAG shall provide notice and a copy of the FOIL request to the District at least ten (10) business days before disclosure of any records.

Term of Assurance

85. The term of this Assurance shall run through July 1, 2025.

Effects of Assurance

86. This Assurance is not intended for use by any third party in any other proceeding.

87. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

88. Nothing contained herein shall be construed as to deprive any person of any private right under the law.
89. Any failure by the Attorney General to insist upon the strict performance by the District of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the Attorney General, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by the District.

Communications

90. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. _____, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

- a) If to the Mamaroneck Union Free School District, to:

Mamaroneck Union Free School District
C/O Emily Lucas

- b) If to the OAG, to:

Office of the Attorney General
Civil Rights Bureau
28 Liberty Street
New York, New York 10005
(212) 416-8097
Civil.Rights@ag.ny.gov
c/o Joel Marrero

Representations and Warranties


91. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by the District and, if applicable, their counsel and OAG's own factual investigation as set forth in Findings, paragraphs (3)-(34) above. The District represents and warrants that neither it nor its counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by the District or its counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.
92. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by the District in agreeing to this Assurance.
93. The District represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized.

General Principles


94. Nothing contained herein shall be construed to limit the remedies available to the OAG if the District violates the Assurance after its effective date.
95. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.
96. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

97. The District acknowledges that it has entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.
98. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.
99. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.
100. This Assurance may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
101. The effective date of this Assurance shall be July 7, 2023.

Letitia James
Attorney General of the State of New York
28 Liberty
New York, NY 10005

By: 
Joel Marrero
Assistant Attorney General
Civil Rights Bureau

Mamaroneck Union Free School District

By: 
Ariana Cohen
President
Mamaroneck Union Free School District
Board President