

FREQUENTLY ASKED QUESTIONS AND ANSWERS: BLACK PARALLEL SCHOOL BOARD V. SCUSD CASE AND SETTLEMENT AGREEMENT

What is this case about?

The lawsuit was filed in September of 2019 in federal district court in Sacramento by the Black Parallel School Board and three Sacramento City Unified School District (SCUSD) students. The lawsuit claims that SCUSD violates the Constitution and federal and state civil rights laws by segregating students with disabilities and Black students with disabilities from their classmates, and by harshly disciplining these students at very high rates compared to their peers.

For example, according to a 2017 audit and report, students with disabilities were two and a half times as likely to be disciplined as their non-disabled classmates. And in the 2018-2019 SCUSD school year, Black students with disabilities were more than ten times more likely to be suspended from school than other students with disabilities. Also, according to data from a District study, Black students with disabilities are more likely to be placed in a restrictive school setting segregated from their non-disabled classmates.

The lawsuit says that these and other District practices are harmful and discriminatory and asks the federal court to order the District to stop them. The plaintiffs ask that the District integrate, serve and support students with disabilities and Black students with disabilities as the law requires so that they and their classmates may learn alongside one another.

The plaintiffs are represented by four non-profit advocacy organizations: The Equal Justice Society (EJS), Disability Rights California (DRC), National Center for Youth Law (NCYL), and Western Center on Law & Poverty (WCLP).

What is the Black Parallel School Board?

The Black Parallel School Board (BPSB) is a community organization developed to work parallel to the Sacramento City Unified School District Board of Education. The BPSB's major responsibility is to support the educational growth and achievement of Black students by monitoring all educational activities and programs of the school district to ensure that they are compatible with the needs of African American students in the district. The BPSB also provides support services to parents regarding the education of their children.

BPSB is one of the plaintiffs in this lawsuit.

How does this case affect my child/children? Who does it help?

The purpose of the case and the settlement agreement (see below) is to enforce the civil rights of students with disabilities and Black students with disabilities to attend school and learn without being segregated from their classmates or excluded by discipline from learning based on their disability or race. Even students who are not disabled may benefit from the case and

settlement. For example, the settlement is designed to help the District adopt better and more effective responses to student behavior rather than relying on harsh discipline and pushing students out of school; this change would help many more students besides students with disabilities.

What does the settlement agreement in this case do?

The settlement agreement has **three important general features**:

- Selection of an **independent monitor** who will develop an action plan to bring about the outcomes required by the settlement agreement and require the District to follow the action plan;
- An **action plan** that will require the District **to meet certain measurable improvements** in its policies and practices regarding students with disabilities and Black students with disabilities **within specific time frames**; and
- The creation of a **reliable and accurate data collection system** and the requirement that the District's progress and improvement be measured and completed within specific time frames.

The settlement agreement requires that certain things happen fairly soon in the **short term**.

For example:

- The District, in collaboration with Plaintiffs, will host a **town hall** on what the settlement agreement requires, the role of the Independent Monitor, and what subject areas the action plan, which will be created by the Independent Monitor, is expected to cover. The town hall will be held at a date and time designed to ensure maximum public participation with maximum language access and maximum access to people with disabilities. The town hall will also be recorded and made available on the District's website.
- Within 60 days of the signing of the settlement agreement, the District will submit a **resolution** to the SCUSD Board of Education for the Board to adopt entitled **"Recognition of the Rights of Students with Disabilities to a Quality and Inclusive Education."**
- Within 90 days of the signing of the settlement agreement, before and while the independent monitor is creating the action plan, the District will establish as normal procedure **for each school site a regular review of data by disability and race regarding use of referrals, in-school suspensions, out-of-school suspensions and other means of correction.**

The settlement agreement is set up to change the District's policies and practices across the entire District and on a system-wide level. This means that many of the settlement agreement's requirements need a **longer term** to put into place. The action plan will be the key because it must spell out certain outcomes the District needs to meet by certain deadlines and

will also spell out how to tell (by measurements) if the District has made the required level of progress. **Some of the subject areas that the action plan must cover are:**

- **Substantial reduction of disciplinary referrals**, including informal suspensions of students with disabilities and Black students with disabilities, and substantial reduction in the high rate of discipline of both these groups of students compared to their peers;
- **Substantial reduction in the placement of students with disabilities in segregated settings;**
- **Substantial reduction in the placement of Black students with disabilities in segregated settings** and in their high rate of segregated placement compared to their peers;
- **Substantial increase in the placement of students with disabilities, in particular Black students with disabilities, in inclusive and integrated classrooms, schools, and school settings in the Least Restrictive Environment;**
- **Substantial reduction in incidence and rate of bullying and harassment of students with disabilities and Black students with disabilities** and a related analysis that looks at whether school safety plans are being put into action and how effectively they are;
- **Substantial reduction in the overall use of and disproportionate use of restraints and seclusion for students with disabilities and Black students with disabilities;**
- **Compliance with the obligation to refer students suspected of having a disability for special education assessment in a timely manner** and an analysis of whether the use of Student Study Teams is effective;
- **IEP meetings, development, and processes that are more transparent and accessible;** that involve parents, guardians, and where appropriate, students as equal participants with the District; that include a decision-making process and checklist geared toward placement in the Least Restrictive Environment and high academic standards; and that include District staff who know about and have the authority to identify and allocate appropriate programs, services, supports, and placement for students with IEPs;
- **Timely and appropriate Functional Behavioral Assessments** (gathering relevant information about a student's behavior to design an effective behavior support) and development and implementation of Behavioral Intervention Plans (a proactive action plan to address a student's challenging behavior that is a barrier to that student's learning or the learning of others);
- **The proper ratio of school psychologists to students** to support proper behavior interventions and support services for students with disabilities;
- **Implementation of an ongoing professional development system (including training and coaching) for District staff** designed to achieve the goals of this settlement agreement based on students', teachers', and staff's needs;
- **Targeted outreach and recruitment focused on diversifying the District's workforce** to reach measurable improvement in hiring and retention of BIPOC employees and employees with disabilities; and

- **Implementing a process for the Independent Monitor to report at public school board meetings at least twice a year on the District's progress on the action plan outcomes.**

How long will the settlement agreement be in effect?

The settlement agreement requires two things to happen after XX, the date the agreement was signed: 1) the plaintiffs and defendants must select an independent monitor within 45 days; the independent monitor is the person who will develop and implement an action plan for changes in the District's special education and discipline systems, and 2) the action plan must be finalized within 150 days after the independent monitor is selected. **The settlement agreement will remain in effect for five years from the date the action plan is finalized or until the District completes everything it is supposed to under the agreement and action plan.**

How will the District be held accountable for meeting its obligations under the agreement and action plan?

After the action plan is finalized, there will be a process to hold at least two public school board meetings per year for the Independent Monitor to report on the District's progress. The Independent Monitor will also provide regular updates to the plaintiffs and District throughout the term of the settlement agreement.

The Independent Monitor also has the authority to require the District to do what the settlement agreement and action plan require. If the District does not do what the Independent Monitor instructs, the plaintiffs and the District may use a mediator to help resolve the dispute. If that does not work, the plaintiffs have the right to ask the federal court for an order to enforce the settlement agreement.

I need help with my individual child's case. Where do I go for that?

If you believe that your child's rights are being violated, you may file a complaint with any of the following agencies depending on the nature of your complaint:

[Uniform Complaint Procedure \(UCP\) Complaint, https://www.scusd.edu/uniform-complaint-procedure](https://www.scusd.edu/uniform-complaint-procedure), offers a local, district-level complaint process for parents and students whereby you file the complaint with the school district where the violation has occurred or is occurring. The district will then conduct its own investigation. A SCUSD student may consider filing a UCP complaint for grievances against individual District employees, like teachers, principals, etc., or for issues that relate to bullying, harassment, and/or discrimination..

[California Department of Education \(CDE\) Compliance Complaint, https://www.cde.ca.gov/sp/se/qa/cmplntproc.asp](https://www.cde.ca.gov/sp/se/qa/cmplntproc.asp), investigates a school district's failure to comply with any part of federal or state special education law or procedure, including failures or violations that relate to an individual student's Individual Education Plan (IEP). A compliance complaint is different from a due process hearing. A CDE compliance complaint is appropriate if you believe the school district, such as SCUSD, is not following special education laws or procedures or is not implementing what is already

written into a student's IEP. A CDE compliance complaint is not appropriate if you are challenging the adequacy of the student's IEP or the District's decision on what services or supports to provide. CDE will conduct an investigation and if the CDE decides in the student's favor, CDE can either order the District on what it needs to do to comply and/or require the District to provide compensatory education.

[Office of Civil Rights Complaint](https://www2.ed.gov/about/offices/list/ocr/complaintintro.html), U.S. Department of Education, <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>, is a federal agency that investigates complaints against public school districts for discrimination occurring on account of a student's disability, race, color, national origin, sex, or gender. An OCR complaint is therefore different than a CDE complaint because OCR investigates claims of discrimination under federal law whereas CDE investigates claims of noncompliance or violation of federal and state special education laws. A student should file an OCR complaint where they believe a district like SCUSD has discriminated against them on account of disability, race, color, national origin, sex, or gender.