

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is entered into on the date of signature of the last signatory to this Agreement (“Effective Date”) by and between Parents Defending Education, Inc. (“PDE”) on the one hand and Wellesley Public Schools (“WPS”) on the other (collectively, the “Parties”), as follows:

A. WHEREAS, at the start of the 2020-21 school year, Dr. David Lussier, in his capacity as WPS Superintendent, implemented a procedure entitled “Responding to Incidents of Bias or Discrimination,” *see* Dkt. 40-1, Exhibit L (the “Reporting Procedure”);

B. WHEREAS, WPS held three affinity-based group sessions in 2021, including one for Black and Brown students and alumni on February 10, 2021; one for Asian or Asian American and Pacific Islander students (AAPI), faculty/staff, and others within the BIPOC (Black, Indigenous, (and) People of Color) community on March 18, 2021; and one for AAPI students on April 14, 2021;

C. WHEREAS, certain communications made in advance of these sessions sent a message that affinity-based group sessions were not intended for students of certain races;

D. WHEREAS, by complaint filed on October 19, 2021, PDE brought claims concerning the use of affinity groups by WPS and the Reporting Procedure against WPS; David Lussier, in his official capacity as Superintendent of WPS; Charmie Curry, in her official capacity as Director of Diversity, Equity, and Inclusion for WPS; Jamie Chisum, in his official capacity as Principal of Wellesley High School; and Mark Ito, in his official capacity as Principal of Wellesley Middle School (hereinafter the “Defendants”), in the matter styled *Parents Defending Education v. Wellesley Public Schools, et al.*, No. 21-cv-11709 (D. Mass.) (“Action”);

E. WHEREAS, PDE brought its claims on behalf of its members, including Parents A, B, C, D, and E and their children;

F. WHEREAS, Parents A, B, C, D, and E actively participated in and supported the Action;

G. WHEREAS, PDE was authorized by Parents A, B, C, D, and E to represent them in the Action;

H. WHEREAS, the Defendants denied and disclaimed any liability or wrongdoing to PDE and/or its members regarding PDE’s claims;

I. WHEREAS, on October 22, 2021, PDE moved for a preliminary injunction relating to its claims concerning the use of affinity groups by WPS and the Reporting Procedure;

J. WHEREAS, Defendants opposed PDE’s motion;

K. WHEREAS, on November 9, 2021, Dr. Lussier temporarily rescinded the Reporting Procedure;

L. WHEREAS, on November 23, 2021, Dr. Lussier implemented a revised “Responding to Incidents of Bias or Discrimination” procedure within the WPS, *see* Dkt 40-1 at Exhibit M (the “Revised Reporting Procedure”);

M. WHEREAS, on December 21, 2021, Dr. Lussier filed an affidavit with the Court stating that “any WPS affinity-based listening sessions or meetings held in the future will remain open to the WPS student body at large” and that “WPS does not and will not identify affinity-group sessions as being only for certain racial groups”;

NOW, THEREFORE, in consideration of the foregoing and of the mutual undertakings of the Parties set out herein, the Parties agree as follows:

1. WPS has rescinded and will not reinstate the original Reporting Procedure. PDE’s complaint did not challenge the Revised Reporting Procedure and PDE takes no position on the legality of the new procedure.

2. WPS will not exclude students from affinity-based group sessions or any other school-sponsored activities on the basis of race.

3. WPS will not identify affinity-based group sessions or any other school-sponsored activities as intended only for certain racial groups. For example, WPS will not identify an affinity-based group session as “for Black and Brown students” or “for Asian American students.”

4. When any affinity-based group session is held, WPS will provide notice of the event to all grade-eligible students, regardless of their race.

5. In all announcements of affinity-based group sessions (whether through email, school calendars, bulletin board postings, or otherwise), the posting will contain the following disclaimer: “This event is open to all students regardless of race, color, sex, gender identity, religion, national origin, or sexual orientation.”

6. PDE hereby releases and discharges the Defendants from the claims, causes of action, damages (whether nominal, compensatory or punitive), losses, attorneys’ fees, costs or expenses, both in law and equity, that were sought in PDE’s Complaint. PDE reserves and maintains all rights to file a new lawsuit and seek all forms of relief with respect to events occurring after October 19, 2021, the date on which PDE filed its Complaint.

7. The Superintendent will announce to the WPS community during open session of the first Wellesley School Committee meeting following the Effective Date that affinity-based group sessions will continue to be open to all grade-eligible students regardless of race and that he has adopted a new procedure for reporting incidents of bias or discrimination (a copy of the text of the announcement that will be read is attached as Exhibit A). The text of the announcement will also be posted on the WPS website at www.wellesleyps.org.

8. Within three (3) business days of the Effective Date, PDE shall file a Notice of Dismissal in the form attached hereto as Exhibit B, dismissing all claims pending against Defendants in the Action.

9. The Parties shall bear their respective attorneys' fees, costs, and expenses relating to the Action and this Agreement. This Agreement does not confer "prevailing party" status on any Party or Parties within the meaning of 42 U.S.C. § 1988 or any other federal or state statute.

10. Nothing contained in this Agreement shall be deemed as an admission of any liability or lack of merit in any claim or defense, by any Party.

11. This Agreement represents the full and complete agreement between the Parties to resolve their dispute. Any representations, warranties, promises, or conditions, whether written or oral, not specifically incorporated into this Agreement shall not be binding on the Parties. All other discussions, negotiations, and writings have been and are merged into this Agreement. The terms of this Agreement are contractual, not a mere recital, and may be enforced by the Parties.

12. Neither this Agreement nor any terms or provision hereof may be changed, waived, discharged, or terminated except by an instrument in writing duly signed by the Party against which enforcement of the change, waiver, discharge, or termination is sought.

13. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts applicable to contracts made and to be performed wholly within the Commonwealth of Massachusetts, without regard to its conflict-of-laws provisions.

14. All Parties hereto agree that in the event of any ambiguity or dispute regarding the interpretation of this Agreement, the Agreement will be interpreted as if each Party hereto participated equally in the drafting hereof.

15. This Agreement may be signed in two original counterparts, each of which shall for all purposes be considered an original of this Agreement. Execution and delivery of this Agreement by electronic means (including via e-mail or .pdf) shall be sufficient for all purposes and shall be binding on any person or Party who so executes.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date set forth above.

Date: _____

Parents Defending Education, Inc.

By: _____

Date: _____

Wellesley Public Schools
(duly-authorized by vote of the Wellesley School
Committee)

By: _____

EXHIBIT A

Dear Members of the Wellesley Public Schools Community:

I wish to remind you of existing policies of the Wellesley Public Schools and to let you know about others that were recently adopted.

Affinity-Based Group Sessions

As many of you know, in early 2021, three “affinity-based group” sessions were held for WPS students and alumni. Certain communications made in advance of these sessions sent a message that affinity-based group sessions were not intended for students of certain races. To ensure there is no confusion as to any future sessions, we want to make the following clear:

- Under existing School Committee policies regarding Nondiscrimination and Student Organizations, membership in and attendance at all student clubs, listening sessions, and affinity spaces is open to all.
- The Constitution and federal laws prohibit schools from excluding students from affinity-based group sessions or any other school-sponsored activities on the basis of their race.
- No students will be excluded from affinity-based group sessions or any other school-sponsored activities on the basis of race.
- When any affinity-based group session is held, all grade-eligible students are welcome to attend (regardless of their race) and notice of the event will be publicized so that all students are aware of the event.

Bias or Discrimination Reporting Procedure

At the start of the 2020-21 school year, I implemented a procedure entitled “Responding to Incidents of Bias or Discrimination” which was designed to assist WPS in identifying, investigating and tracking incidents of bias or discrimination within our school community. Last November, I rescinded this procedure and shortly thereafter replaced it with an updated reporting procedure. The current WPS procedure for reporting incidents of bias or discrimination is available [here](https://wellesleyps.org/dei/responding-to-bias-incidents/) [https://wellesleyps.org/dei/responding-to-bias-incidents/].

Best regards,

Dr. David Lussier
Superintendent of Schools

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PARENTS DEFENDING EDUCATION,
INC.,

Plaintiff,

v.

WELLESLEY PUBLIC SCHOOLS, et al.,

Defendants.

Case No. 21-CV-11709-ADB

NOTICE OF DISMISSAL

Plaintiff, Parents Defending Education, Inc., hereby voluntarily dismisses its complaint with prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). Each party will bear its own costs, expenses, and attorney's fees.