

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (“Agreement”) is entered into this _____ day of _____, 2009, by and between the American Civil Liberties Union Foundation Women’s Rights Project; the American Civil Liberties Union Foundation of Alabama; Jacob Jones, by and through his next friend Mark Jones; Christian Stevens, by and through his next friend Terry Stevens; and the Board of School Commissioners of Mobile County (“Board”) (collectively, “the Parties”).

During the 2008-2009 school year, and in prior school years, the Board has operated sex-segregated/single-sex classes and programs in multiple schools. The American Civil Liberties Union Foundation Women’s Rights Project; the American Civil Liberties Union Foundation of Alabama; Jacob Jones by and through his next friend Mark Jones; and Christian Stevens by and through his next friend Terry Stevens have alleged that these programs constitute sex discrimination in violation of federal law. Because the Parties desire to resolve, compromise, and settle the controversies between them, on the terms and conditions set forth below, and in consideration of the mutual promises and releases contained herein, the Parties agree as follows:

1. Hankins Middle School will immediately and for the remainder of the 2008-2009 school year cease any segregation by sex, or segregation by academic teams that has the effect of segregating by sex, in the following classes: Art I; Art II; Band (Beginner, Intermediate, and Advanced); Business Technology; Computer Applications; Computer Essentials; Drama I; Guided Study; Health; Journalism; Fitness & Leisure; Media Management I; Music Appreciation; and Physical Education, with the exceptions set out in paragraph (4) below. Hankins Middle School will also immediately and for the

remainder of the 2008-2009 school year cease any segregation by sex, or segregation by academic teams that has the effect of segregating by sex, during lunchtime and other nonacademic events. Hankins Middle School will also operate the activities and events listed in attached Schedule A without segregation by sex or segregation by academic teams that has the effect of segregating by sex.

2. The Board will immediately provide notice to the family of any student who has been assigned to participate in a single-sex class or program during the 2008-2009 school year of the family's right to immediately transfer the student either (if such a coeducational class or program is available) to an equivalent coeducational class or program in the school or (if no coeducational class or program is available in the school) to an equivalent coeducational class or program in the Mobile County public school of the family's choice, with the exception of any school to which admission is determined by lottery. Should any family request immediate transfer the Board shall accommodate that request.

3. The Board agrees that beginning in the 2009-2010 school year and for three years, through the 2011-2012 school year, the Board and each public school within Mobile County shall not provide any school or course or otherwise carry out any of its education programs or activities separately on the basis of sex, or require or refuse participation in any school, any course, or any education program or activity by any students on the basis of sex, with the exceptions set out in paragraph (4) below.

4. The above paragraphs (1) and (3) do not apply to (a) separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, or other sports, the purpose or major

activity of which involves bodily contact; (b) grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex; (c) portions of classes in elementary and secondary schools that deal primarily with human sexuality; (d) requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex; or (3) interscholastic or intramural athletics. This agreement does not modify Board's existing legal obligations as to these activities.

5. If at any time subsequent to the 2011-2012 school year and prior to or during the 2014-2015 school year, the Board or any public school within Mobile County seeks to institute any sex-segregated/single-sex school, class, program, or activity other than those set out in paragraph (4), at least 60 days prior to implementation of the sex-segregated/single-sex school, class, program, or activity, the Board shall provide written notice of where the proposed school, class, program, or activity is expected to be implemented; when the school, class, program, or activity is expected to be implemented; and the grade level of students expected to participate in the proposed school, class, program, or activity to the below representatives of the American Civil Liberties Union Foundation Women's Rights Project and the American Civil Liberties Union Foundation of Alabama, or to those representatives' successors. Further, the Board agrees to within 30 days provide any public documents, as defined by the state Open Records Act, in response to any requests for materials and documents related to the proposed school, class, program, or activity by representatives of the American Civil Liberties Union Foundation Women's Rights Project and/or the American Civil Liberties Union Foundation of Alabama.

6. The Board and the Board's employees, agents, and representatives shall at no time intimidate, threaten, coerce, discriminate against, or otherwise retaliate Jacob Jones or Christian Stevens because of his participation in this matter and its resolution.

7. As consideration for these commitments by the Board, the American Civil Liberties Union Foundation Women's Rights Project; the American Civil Liberties Union Foundation of Alabama; Jacob Jones, by and through his next friend Mark Jones; and Christian Stevens, by and through his next friend Terry Stevens, each release Board from any and all claims arising on their own behalf from sex-segregated/single-sex classes, programs, or activities in Mobile County public schools during the 2008-2009 school year or prior school years, including administrative claims with the Office of Civil Rights of any federal executive agency, with the exception of any claims arising out of the breach of any provision in this agreement, as set out in paragraph (9) below.

8. Notwithstanding paragraph (7), neither the American Civil Liberties Union Foundation Women's Rights Project; the American Civil Liberties Union Foundation of Alabama; Jacob Jones, by and through his next friend Mark Jones; nor Christian Stevens, by and through his next friend Terry Stevens, releases the Board from any claims that may arise from sex-segregated/single-sex schools, classes, programs, or activities in Mobile County public schools during the 2009-2010 school year or at any time thereafter.

9. Notwithstanding paragraph (7), the Parties do not release each other from any of their obligations under this Agreement. This Agreement shall be deemed breached and a cause of action accrued upon the commencement of any act, action, or conduct contrary to this Agreement, and in any such action, this Agreement may be pleaded by

any of the Parties, including as a defense or as a counter-claim or cross-claim in such action.

10. It is understood that this Agreement is not to be construed as an admission of liability on the part of the Board.

11. The Parties declare and understand that no promises, inducements, or agreements not contained in this Agreement have been made to them, that this Agreement contains the entire agreement between the Parties, and that the terms of this Agreement are contractual and not merely a recital.

12. This Agreement contains the entire agreement between the Parties with respect to this subject matter and there are no agreements, understandings, representations or warranties between the Parties other than those set forth or referred to in this Agreement.

13. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

14. If any provision of this Agreement shall be determined to be invalid, illegal, or unenforceable for any reason, the remaining provisions and portions of this Agreement shall be unaffected and unimpaired, and shall remain in full force and effect, to the fullest extent permitted by applicable law.

15. This Agreement may be executed in counterparts, by either an original signature or signature transmitted by facsimile or other similar process and each copy so executed shall be deemed to be an original and all copies so executed shall constitute one and the same Agreement.

16. The undersigned represent that they have read and understood the terms of this Agreement prior to executing same.