

**RESOLUTION AGREEMENT**  
**Chelsea Public Schools**  
***OCR Complaint No. 01-14-1131***

The Chelsea Public Schools (District) has voluntarily entered into this Agreement to resolve the allegations in the above-referenced complaint. The District assures OCR that it will take the following actions to ensure compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12101 et seq., and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of federal financial assistance and public entities, respectively.

The District has agreed to resolve the issues relating to this complaint pursuant to Section 302 of OCR's *Case Processing Manual*, and agrees to take the following actions.

**Action Item 1**

By April 28, 2023 (60 School Days), the District will review and revise as needed its policies and procedures to comply with the Section 504 and Title II regulations regarding the identification, evaluation, and placement of students who, because of a disability, including behavioral-related disabilities, need or are believed to need special education or related services.

In reviewing and revising these materials, the District will ensure that its policies and procedures reflect definitions, eligibility criteria, and evaluation and placement requirements that are consistent with Section 504 and Title II, including the Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. § 12101 et seq. (the Amendments Act) The revisions will, without limitation:

1. Define a student with a disability consistent with 34 C.F.R. § 104.3(j) and 28 C.F.R. § 35.108;
2. Indicate that students with disabilities as defined by Section 504 and Title II are entitled to a free appropriate public education (FAPE) and define that term, i.e., the regular or special education and related aids and services that are designed to meet individual educational needs of a student with disabilities as adequately as the needs of students without disabilities are met, consistent with 34 C.F. R. Section 104.33;
3. Require that the District conduct evaluations of any student who, because of disability, needs or is believed to need, special education, before taking any action with respect to the initial placement of the student in regular or special education, and before any subsequent significant change in placement, consistent with 34 C.F.R. § 104.35;
4. Ensure that teams comply with the evaluation and placement obligations of 34 C.F.R. § 104.35, including ensuring that placement decisions are made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the full continuum of placement options.

### **Reporting Requirements**

1. By April 28, 2023, the District will provide OCR with its policies and procedures for review and approval.
2. Within 30 days of OCR's approval, the District will adopt, implement, and publish the policies and procedures. The District will make this information available through its website and any other additional means of notification necessary to ensure the information is disseminated effectively.
3. Within 60 days of OCR's approval, the District will provide OCR materials demonstrating its compliance with (2) above.

### **Action Item 2**

The District will provide training for all of the District's special education administrators, building principals, building Section 504 coordinators, and all District staff who work with students who are subject to restraint and/or timeout or similar practices, regarding the District's obligation to provide a FAPE to students with disabilities, including for students who experience restraint and/or timeout or similar practices. Such training shall address and be consistent with Section 504, Title II, their implementing regulations, the Amendments Act, and the revised District policies and procedures developed under Action Item 1.

The training will include:

1. Eligibility criteria, and evaluation and placement requirements that are consistent with Section 504 and Title II (including the Amendments Act).
2. The District's obligation to provide a FAPE to students with disabilities, including the obligation to evaluate students who, because of a disability (including behavioral-related disabilities), require regular or special education and related aids and services, before taking any action with respect to the initial placement of the student in regular or special education and any subsequent significant change in placement;
3. The definitions of restraint, timeouts, and significant change in placement;
4. How the restraint and timeout or similar practices involving a student with a disability can result in the student being denied FAPE, including but not limited to addressing how repeated restraint and/or timeout or similar practices may result in a significant change in placement requiring a re-evaluation of the student involved, pursuant to 34 C.F.R. § 104.35(a);
5. How District staff can report concerns related to the use of restraint and/or timeout or similar practices, including how and whether it is being recorded, and how the District will respond;

6. Guidance that the IEP/Section 504 team meetings should address restraints and/or timeout or similar practices that have happened since the last meeting; that the IEP/Section 504 team will conduct a review if there are repeated restraints and/or timeout or similar incidents; and if appropriate, the IEP/Section 504 team will revisit strategies and services to ensure the student receives a FAPE; and
7. The revised restraint and timeout or similar practices incident report form.

The training shall also include a discussion of the adverse effects that multiple restraint and/or timeout or similar practices can have on students.

Training is to be conducted by an individual with expertise in FAPE and on the effect of repeated restraint and/or timeout or similar practices on students with disabilities that affect behavior, including Attention Deficit Hyperactivity Disorder and anxiety disorders. This training may be conducted virtually.

### **Reporting Requirements**

1. By April 28, 2023, the District will provide, for OCR's review and approval, a copy of the training materials it will use, as well as the credentials of the trainer/presenter.
2. By December 20, 2023, the District will provide to OCR:
  - i. A list of the individuals who attended the training and their positions;
  - ii. The date(s) the training was conducted;
  - iii. Copies of participant evaluations from the training; and
  - iv. Copies of any training materials disseminated.

### **Action Item 3**

By June 30, 2023, the District will assess if it is using any program similar to the former Student Support Program. Specifically the District will review its procedures for placing students out of the regular educational environment operated by the District (with or without the use of supplementary aids and services) that students without disabilities of similar age and grade are assigned to as a matter of course without regard to individualized entrance criteria, taking into consideration: (a) the entrance criteria for placement in these programs, (b) whether students placed in these programs were identified as needing, due to a disability, special education or related aids and services, and (c) whether the District's process for placing the students in such programs comport with the policies and procedures adopted in Action Item 1.

### **Reporting Requirements**

1. By September 30, 2023, the District will provide OCR a detailed summary of its review, to include:

- a. A list of those students affected by the closure of the Student Support Program after the 2015-2016 school year and whether they were identified as needing, due to a disability, special education or related aids and services;
  - b. The names of programs or schools where these students were placed out of District;
  - c. Descriptions of the entrance criteria for programs or schools where these students were placed out of District;
  - d. Whether the District’s process for placing these students out of District comport with the policies and procedures adopted in Action Item 1; and
  - e. If the District determines that its process for placing students out of District did not comport with the policies and procedures adopted in Action Item 1, proposed corrective action for OCR’s review and approval.
2. If OCR requests any student records for students on the list, the District will provide such records within thirty (30) days of such request. If, after receiving the student records, OCR determines that the District must take any different or further action(s), the District will initiate the corrective action(s) within 20 calendar days of receipt of OCR’s determination and provide OCR with documentation of the corrective action taken within 60 calendar days of receipt of OCR’s determination. The District will propose a timeline, for OCR’s approval, for the completion of all services required under Action Item 3.

By signing this Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. During the monitoring of the Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of the Agreement.

The District understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that the District is in compliance with the terms of the Agreement and the statute(s) and regulation(s) at issue in this complaint.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice for judicial proceedings to enforce the specific terms of this Agreement and the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the District’s representative below.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Almi Guajardo Abeyta, Ed.D.  
Superintendent