

**Knox County School District (Tennessee)**  
**OCR Docket No. 04-19-5001**  
**Resolution Agreement**

Knox County School District (District) agrees to resolve the above-referenced compliance review initiated by the U.S. Department of Education (Department), Office for Civil Rights (OCR) by voluntarily entering into this Resolution Agreement (Agreement) to address the concerns that OCR identified in the accompanying letter of resolution. In this compliance review, OCR investigated whether the District's use of restraint and seclusion denies students with disabilities who participate in the District's programs a free appropriate public education (FAPE), in violation of the District's obligation to comply with 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.

The District assures OCR that it will take the following actions to ensure compliance with the requirements of Section 504 and its implementing regulation, 34 C.F.R. Part 104, and Title II 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 agreed to resolve the issues relating to this compliance review pursuant to Section 302 of OCR's *Case Processing Manual*. OCR has made no final determinations of noncompliance by the District, and this Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. However, to ensure compliance with Section 504 and Title II and resolve this compliance review, the District agrees to take the following actions:

**Review of Students Identified as a Student with a Disability to Ensure Provision of FAPE**

1. For all currently enrolled students with a disability whose 2017-2018 or 2018-2019 Individualized Education Program (IEP), Section 504 Plan, or Behavior Intervention Plan (BIP) specified a maximum restraint time of fifteen (15) minutes or a maximum seclusion time of sixty (60) minutes:
  - a) The District will conduct a review to determine whether the specified maximum restraint and seclusion times were based upon each student's individual disability-related needs. The District will complete this review by June 15, 2021.
  - b) If, based upon the review described above, the District concludes that an individualized decision had not been made with regard to the specified restraint or seclusion times, the District will, consistent with the procedural requirements of Section 504, make individualized determinations about whether to specify a maximum restraint or seclusion time, and if so, what time. The District will complete this action September 1, 2021.

**REPORTING REQUIREMENT:** By September 15, 2021, the District will provide OCR a report listing all students for whom the District conducted a review in accordance with Item 1(a), above, and for each listed student, describing the outcome of the review and, if applicable, the outcome of the meeting held in accordance with Item 1(b), above, including sufficient details to demonstrate that each such meeting was consistent with the procedural requirements of Section 504.

2. By June 30, 2021, the District will develop a process to ensure that if the District elects to specify maximum times for restraint or seclusion for students with disabilities, those determinations will be made on an individualized basis.

**REPORTING REQUIREMENT:** By July 15, 2021, the District will provide OCR a report describing the process developed in accordance with Item 2 above.

3. For students with disabilities who were subjected to restraint or seclusion and are listed in Confidential Attachment A to this Agreement:
  - a) The District will conduct a review to determine whether, during the 2017-2018 or 2018-2019 school year, the listed students were reevaluated to determine if interventions and supports were being properly implemented, or if additional or different interventions or supports and services were needed; whether necessary changes were made promptly; and whether the failure to take any of these steps resulted in the denial of FAPE. The District will complete this action by June 15, 2021.
  - b) For each student for whom the District concludes there may have been a denial of FAPE, the District will determine, consistent with the procedural requirements of Section 504, what additional services are needed to remedy the denial of FAPE. The District will complete this determination by July 15, 2021, will promptly begin to provide such services and will complete the delivery of such services by April 15, 2022.<sup>1</sup>

**REPORTING REQUIREMENT:** By August 13, 2021, the District will submit a report describing for each student the review it conducted in accordance with Item 3(a) above.

By April 29, 2022, the District will provide OCR evidence that it provided all services deemed necessary in accordance with Item 3(b) above. If services cannot be delivered as required, the District will provide evidence to OCR of its reasonable efforts to provide these services to the student.

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<sup>1</sup> If student-specific circumstances related to COVID-19 require flexibility in the deadline for providing compensatory services, the District will include in its report a description of the circumstances and the District's planned timeline for providing the services.

4. By August 13, 2021, the District, taking into account the information obtained during the review specified in Item 3, as well as review of files of other students as the District deems appropriate, will develop criteria to guide decisions about when, in light of instances of restraint or seclusion, the District may need to assess a student's current interventions and supports and whether any changes are needed.

**REPORTING REQUIREMENT:** By August 13, 2021, the District will provide OCR a report describing the criteria developed in accordance with Item 4 above.

5. By August 1, 2021, the District will provide OCR a list of students identified as a student with a disability who were subjected to restraint or seclusion during the 2020-2021 academic year, and for each such student specify the number of instances of restraint or seclusion, the total number of minutes during the school year that each student spent in restraint or seclusion, and the school(s) the students attended at the time of the restraints or seclusions.

**REPORTING REQUIREMENT:** By August 13, 2021, the District will provide OCR a report as outlined in Item 5. Thereafter, within 30 days of receiving a request from OCR, if any, the District will provide OCR requested student files for students specified on the list.

#### **Evaluation of Students with a Suspected Disability to Ensure Provision of FAPE**

6. For students not identified as having a disability who were subjected to restraint or seclusion and are listed in Confidential Attachment B to this Agreement:
  - a) The District will assess whether, during the 2017-2018 or 2018-2019 school year, each listed student was subjected to restraint or seclusion under circumstances that provided reason to believe the student needed or may have needed special education or related services because of a disability, and, if so, whether the District conducted a timely evaluation consistent with the procedural requirements of Section 504. The District will complete this action by June 15, 2021.
  - b) Where the District concludes that it should have evaluated a listed student but has never done so and the student is currently enrolled in the District, unless the District can demonstrate that there is no longer reason to believe the student should be evaluated, the District will, consistent with the procedural requirements of Section 504, determine the student's eligibility for special education or related services and, if the student is eligible, determine whether services are needed to remedy a denial of FAPE resulting from delay in evaluating the student. The District will complete the evaluation by September 16, 2021, and where services are deemed necessary to remedy a denial of FAPE, will promptly begin to provide such services and will complete the delivery of such services by April 15, 2022.

**REPORTING REQUIREMENT:** By September 30, 2021, the District will provide OCR a report describing for each student the review it conducted in accordance with Items 6(a) and 6(b) above.

By April 29, 2022, the District will provide OCR evidence that it provided all services deemed necessary in accordance with Item 6(b) above. If services cannot be delivered as required, the District will provide evidence to OCR of its reasonable efforts to provide these services to the student.

7. Taking into account the information obtained during the review specified in Item 6 (a), as well as review of files of other students as the District deems appropriate, the District will develop criteria to guide decisions about when the District may need to evaluate students who have not been identified as having a disability but are being subjected to restraint or seclusion under circumstances that suggest they should be evaluated. The District will complete this action by July 1, 2021.

**REPORTING REQUIREMENT:** By July 15, 2021, the District will provide OCR a report describing the criteria developed in accordance with Item 7 above.

### **Record Keeping and Access to Records for Purposes of FAPE Process**

8. The District will develop and implement a process to create and maintain records about the use of restraint and seclusion as follows:
  - a) The District will record as “restraint” or “seclusion” all such interventions that fall within the definitions of the terms “physical restraint”, “mechanical restraint”, or “seclusion” in the directions for completing OCR’s Civil Rights Data Collection (CRDC), regardless of the duration of those interventions or how those terms are defined in District materials or through District practices. The District will ensure that its records concerning restraint and seclusion are revised as necessary to accurately capture all data that it is required to submit through the CRDC survey.
  - b) The District records will document student behaviors; interventions used by staff, including accurate information about the number and duration of restraints or seclusions and the total amount of time the student spent outside of class due to each restraint, seclusion, or other physical intervention; and any evaluations conducted to assess the use or impact of restraint or seclusion with respect to FAPE.
  - c) The District will develop a process to make the records described in subpart (b) available to parents/guardians, upon request, to the extent necessary to allow participation consistent with the procedural requirements of Section 504.

**REPORTING REQUIREMENT:** By June 30, 2021, the District will provide OCR a description of the record-keeping process the District developed in accordance with Items 8(a) thru (c) above.

### **Training for District Staff**

9. The District will incorporate into its annual training for all District staff information on the processes and criteria the District develops pursuant to this Agreement, and the FAPE-related requirements of

the Section 504 regulation at 34 C.F.R. § 104.33, including the necessity of making individualized determinations for all aspects of students' Section 504 Plans or IEPs.

Prior to the start of the 2021-2022 academic year, if applicable, the District will: conduct training for teachers and for staff on changes if any pursuant to this Agreement, concerning documenting uses of restraint or seclusion, or, if applicable, providing information to parents/guardians concerning such interventions and related behaviors.

**REPORTING REQUIREMENT:** By December 31, 2021, the District will provide OCR with information regarding the trainings it has conducted in accordance with Item 9 above. The District shall supply the date(s) of the training(s), a copy of all training materials, and a list of attendees and their professional titles, as well as the name and professional qualifications of the person(s) who conducted the training(s).

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this 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 this Agreement. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the case.

The District understands that it must operate its program and activity in compliance with Section 504 and its implementing regulation at 34 C.F.R. Part 104, Title II and its implementing regulation at 28 C.F.R. Part 35, Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 C.F.R. Part 100, Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, the Age Discrimination Act of 1975 and its implementing regulation at 34 C.F.R. Part 110 and the Boy Scouts of America Equal Access Act of 2001 and its implementing regulation at 34 C.F.R. Part 108.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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Date

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Bob Thomas,  
Superintendent  
Knox County School District