

RESOLUTION AGREEMENT
Bellevue Public Schools
Docket Number 07-15-5001

Bellevue Public Schools, Bellevue, Nebraska (District) enters into this Resolution Agreement (Agreement), as set forth below, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), to ensure its compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, as well as Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35.

Nothing in this Agreement is intended, or should be construed, as an admission of any wrongdoing or noncompliance under Section 504 or Title II on the part of the District.

Before the conclusion of OCR's investigation, the District expressed an interest in voluntarily resolving the compliance review; accordingly, the District agrees to take the following actions.

I. ACCURATE REPORTING AND DATA COLLECTION

The District will continue its efforts to ensure it accurately records, and at least annually, transmits to a central District receiving point, the number of restraint and seclusion incidents that occur to allow for accurate internal review and reporting (the System). At a minimum, the System will ensure that:

- restraint and seclusion incidents involving both students with and without disabilities are recorded by building administrators in a prompt manner;
- incidents recorded as restraint or seclusion meet the definitions used for Civil Rights Data Collection reporting;¹
- documentation of restraint and seclusion incidents are maintained with sufficient detail to determine if the incident meets the definition of restraint or seclusion; and
- data about restraint and seclusion can be disaggregated by race, sex, disability status (i.e., Section 504 or special education under the Individuals with Disabilities Education Act (IDEA)), school, and grade level.

To the extent it has not already implemented any aspect of the System, the District will fully implement the System districtwide.

¹ See <https://ocrdata.ed.gov/Downloads/Master-List-of-CRDC-Definitions.pdf>.

REPORTING REQUIREMENT: By **September 2, 2019**, the District will provide OCR with documentation showing the design of its System and that the System has been implemented. In the event that full implementation requires a longer timeframe, the District will send OCR a proposed timeline for completion. Upon OCR's approval of the proposed timeline, the District will abide by the deadlines contained in the alternate timeline.

II. DATA ANALYSIS AND SELF-MONITORING

For the completed 2017-18 school year, and through December 31, 2018 of the current 2018-19 school year, the District shall analyze data related to the use of restraint and seclusion in its schools and programs in order to determine how restraint and seclusion is being utilized for students with disabilities. The analysis shall include, at a minimum:

- the number of students enrolled in each school disaggregated by grade level and disability status;
- the number of students for whom restraint and seclusion was used, disaggregated by grade level, current school, and disability status;
- the number of students for whom restraint and seclusion was used multiple times and any unique circumstances pertaining to those students; and
- the District's analysis and conclusion concerning the data, including, if appropriate, any recommendations for further action to ensure its policies, procedures, and processes with respect to restraint and seclusion are fair and equitable.

REPORTING REQUIREMENT: By **September 2, 2019**, the District shall provide its analysis to OCR, including, if appropriate, the District's plan to address any identified concerns with the restraint and seclusion of students with disabilities in its schools. To the extent the District identifies any concerns, it will submit to OCR, for review and approval, its recommendation for any changes to policies, procedures, or other processes.

III. PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION

The District will develop a comprehensive plan (the Plan) that includes guidelines by which the District will assess whether students subject to multiple incidents of restraint and/or seclusion have been denied a free appropriate public education (FAPE). The Plan will ensure that: the utilization of restraint and seclusion practices do not deny any student a FAPE or constitute a significant change in placement for any student; where appropriate, the District will convene a Section 504/IEP meeting to determine if a student's educational program requires modification, a new placement is appropriate, or if compensatory educational services are needed to remedy the denial of Section 504 FAPE services; and where a student's educational program requires a modification, or a new placement is appropriate, the District will provide parents or guardians with a meaningful opportunity to provide input into these determinations and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to

challenge such determinations through an impartial due process hearing should they disagree. The District will ensure that all building level administrators and/or staff who are tasked with tracking incidents of restraint and/or seclusion are provided notice of the Plan, and if necessary, appropriate training on the Plan.

REPORTING REQUIREMENT: By **May 1, 2020**, the District will submit to OCR documentation of its comprehensive Plan, as well as documentation of all notice and training provided to administrators and/or staff.

IV. DISABILITY HARASSMENT

- A. The District will conduct a review of its existing policies and procedures relating to disability discrimination, including disability harassment, to ensure that they adequately address incidents of disability discrimination and provide for the prompt, thorough, and effective resolution of complaints alleging disability discrimination. The District will revise or eliminate its policies and procedures as appropriate, including revising or adding cross references and links between the various documents to ensure the policies and procedures, guidelines, and other documents are internally consistent and do not contain conflicting/contradictory information. The District will implement and publish the revised policies and procedures. Publication will include written notice of any new or revised complaint procedures to the District's community, including students, administrators, and staff. The District will make this notification available through the District's website, revised student and staff handbooks, and any other additional means of notification the District deems effective to ensure that the information is widely disseminated.
- B. Prior to the start of the 2019-20 academic year, or soon thereafter, the District will provide training to all staff who are directly involved in processing, investigating and/or resolving complaints or other reports of disability discrimination, including harassment complaints, and any other District personnel who are likely to receive reports of such discrimination or harassment. The training will review the District's revised policies and procedures on disability discrimination, and include instruction on how to conduct and document discrimination and/or harassment investigations in an adequate, reliable and impartial manner, including the appropriate legal standards to apply in such investigations, as well as outline the appropriate disciplinary measures for violations of the District policy prohibiting discrimination and/or harassment.

REPORTING REQUIREMENT: **May 1, 2020**, the District will provide to OCR copies of any new or revised policies and procedures referenced in Item IV(A) and documentation demonstrating that the training required by Item IV(B) of the Agreement was provided to the relevant District staff and personnel. Unless otherwise requested by OCR, the District does not need to submit information regarding future training dates and attendees to OCR.

V. CONCLUSION

The District understands that by signing this Agreement, it agrees to provide the foregoing 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 and is in compliance with Section 504, and its implementing regulation at 34 C.F.R. Part 104, and Title II, and its implementing regulation at 28 C.F.R. Part 35. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

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

XXXXX XXXXX XXXXX
XXXXX
Bellevue Public Schools

Date