

RESOLUTION AGREEMENT

Cañon City Schools Fremont RE-1 OCR Case Number 08-14-5001

To resolve the above-referenced compliance review initiated by the U.S. Department of Education (Department), Office for Civil Rights (OCR) against Canon City Schools Fremont RE-1 (District), the District agrees to implement the terms of this Agreement. This compliance review was initiated pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-65 and their implementing regulations at 34 C.F.R. §§ 104.4, 104.7-104.8, & 104.33-104.36 and 28 C.F.R. §§ 35.106-35.107, & 35.130. OCR conducted the compliance review to determine whether the District discriminates against students on the basis of disability by using restraint and seclusion more frequently and excessively for students with disabilities than students without disabilities; whether the District's use of restraint and seclusion has denied students with disabilities an opportunity to receive a free appropriate public education (FAPE); whether inappropriate physical restraint of students with disabilities by District staff for conduct related to the students' disabilities has interfered with or denied such students the ability to participate in or receive benefits, services, or opportunities in the District's program, which can constitute disability harassment resulting in a hostile environment; and whether the District's response to complaints of disability harassment is prompt and equitable.

The District voluntarily enters this Agreement to ensure its compliance with the requirements of Section 504 and Title II, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department and public educational entities, respectively.

The District agrees to take the actions set forth below.

- 1) The District will develop a notice of non-discrimination, notice of compliance officer, and grievance policy and procedures to address allegations of disability discrimination, in accordance with Section 504 and Title II requirements. In addition to the Section 504 and Title II requirements, the District will ensure that these notices, policies, and procedures include the following:
 - Specific contact information for the Section 504/Title II Coordinator, including the Coordinator's title, office address, telephone number, and email address.
 - A clear statement that filing a complaint with OCR is an option for parents at any time and that parents are not required to file a grievance or complaint with the District before filing a complaint with OCR.
 - Specific information regarding when parties may present witnesses and other evidence.

REPORTING REQUIREMENT A: By **February 1, 2017**, the District will provide OCR with a copy of the proposed notices and policy and procedures for OCR's review and approval.

REPORTING REQUIREMENT B: Within 60 days of OCR's approval of the District's notices, policy and procedures, the District will provide documentation supporting that the OCR approved notices and policy and procedures have been adopted.

- 2) The District will provide notice to all parents, students, administrators and staff of the OCR-approved notices, policy, and procedures.

REPORTING REQUIREMENTS A: By **February 1, 2017**, the District will provide OCR with a list of where the approved notices, policy and procedures will be published (including student/parent handbooks and newsletters, and District and school websites).

Within 60 days of OCR's approval of the notices, policy and procedures addressed in Item 1, the District will provide OCR with a copy of student/parent handbooks or newsletters and links to District and school websites where these have been published.

REPORTING REQUIREMENT B: Within 60 days of OCR's approval of the notices, policy, and procedures in Item 1, the District will email all District staff members and administrators copies and links of the approved notices, policy, and procedures.

REPORTING REQUIREMENT C: By **February 1, 2017 and September 1, 2017**, the District will provide a list of all disability discrimination complaints it received in SYs 2015-16 and 2016-17, including all complaints handled informally. For each complaint listed, the District will provide documentation demonstrating the application of its grievance procedure. The documentation will include, but is not limited to:

- a copy of the complaint or summary of verbal concerns,
- interview statements,
- written findings, and
- a description of actions taken to resolve the complaints.

- 3) The District will review and revise as necessary its policies regarding the use of restraint and seclusion in District schools, giving consideration to the U.S. Department of Education's resource document on restraint and seclusion.¹

REPORTING REQUIREMENT: By February 1, 2017, the District will provide to OCR its policies regarding the use of restraint and seclusion, for OCR's review and approval.

- 4) A) The District will provide to OCR for review and approval a tracking system for incidents involving the use of restraint and seclusion techniques. The District will ensure that the system tracks restraint and seclusion incidents for all students. The tracking system must include the following information concerning each student who is subjected to restraint or seclusion:
- the name of the student;
 - the student's disability status and type of disability, if any;
 - the start and end times of the restraint or seclusion;
 - the location of the incident;
 - persons involved in the restraint or seclusion;
 - the time and date the parents were notified;
 - possible events that triggered the behavior that led to the restraint or seclusion;
 - prevention, redirection, or pre-correction strategies that were used during the incident;
 - a description of the restraint or seclusion strategies that were used during the incident;
 - a description of any injuries or physical damage that occurred during the incident;

¹ "Restraint and Seclusion: Resource Document" is available at www.ed.gov/policy/restraintseclusion.

- how the student was monitored during and after the incident;
- the debriefing that occurred with staff following the incident;
- the extent to which staff adhered to the procedural implementation guidelines; and
- any follow-up that will occur to review or develop the student's BIP.

B. The District will annually review the data maintained in its tracking system for individual students who are subject to restraint or seclusion to determine whether:

- there are strategies in place to address the dangerous behavior at issue;
- the strategies in place are effective in increasing appropriate behaviors, and
- new strategies must be developed, or current strategies must be revised to prevent recurrence of the behavior(s).

REPORTING REQUIREMENT A: By **February 1, 2017**, the District will provide OCR its tracking system for the use of restraint and seclusion pursuant to Item 4A, for OCR's review and approval.

REPORTING REQUIREMENT B: Within 30 days of OCR's approval of the tracking system, the District will provide OCR with confirmation that its tracking system is operational.

REPORTING REQUIREMENT C: By June 1, 2018 and annually thereafter until OCR closes the monitoring of this review, the District will submit to OCR reports concerning individual students pursuant to Item 4B.

- 5) The District will ensure that the policies in Item 3 and tracking system in Item 4A and 4B above are disseminated to all staff and to all support staff that would have responsibility for supervising students with disabilities or for carrying out the restraint and seclusion policies and procedures.

REPORTING REQUIREMENT: Within 30 days of OCR's approval of the policy and tracking system, the District will provide OCR with a description of how the approved items were disseminated to staff members, and documentation showing that the items were disseminated to those required to receive these.

- 6) The District will identify an individual with expertise regarding the effects of restraint and seclusion and effective non-restraint and seclusion strategies for addressing maladaptive behavior² to provide annual training on the policies and procedures to all school staff members responsible for implementing (including regular education classroom teachers, school administrators, and special education teachers and staff members) the policies identified in Item 3 and the tracking system in Item 4A and 4B, regarding the appropriate use of restraint and seclusion techniques as well a successful non-restraint or seclusion strategies. The training will address how to provide appropriate notice to parents, maintain documentation of the notice, and implement the new tracking system. Additionally, the training will address the District's requirement to take immediate and effective steps to end disability harassment when it occurs, prevent its recurrence, and remedy its effects.

² This individual may be a District staff member who possesses the requisite expertise regarding restraint and seclusion and effective non-restraint and seclusion strategies.

REPORTING REQUIREMENT A: Within 30 days of OCR's approval of the policy in Item 3 and the tracking system in Item 4A and 4B , the District will provide OCR its draft training materials; identify who will be providing the training, by name and title, including a description of the trainer's expertise regarding the use of restraint and seclusion and effective non-restraint and seclusion strategies for addressing maladaptive behavior; and provide a list of personnel required to participate in the training by title.

REPORTING REQUIREMENT B: Within 30 days of OCR's approval of the training materials, the trainer, and who is to attend the training, the District will provide documentation demonstrating that the training was provided and a copy of the training participant sign-in sheets.

- 7) The District will hold an IEP team meeting for each of the students with disabilities subjected to restraint and seclusion between the 2012-2013 and 2015-2016 school years. The IEP team will include consideration of whether the student's restraint or seclusion was consistent with the student's IEP or BIP, and whether the students require any compensatory services for FAPE or other instructional services missed as a result of the restraint or seclusion. The District will offer to provide these students with counseling at its expense to address emotional or psychological issues related to or arising out of the restraint or seclusion the District subjected the students to. The District will ensure that the IEP team meeting is a team of persons knowledgeable about the students, the evaluation data, and the placement options including the students' parents or guardians, to individually assess the amount of compensatory services, if any, that would be appropriate for the students and, if necessary, draft an action plan containing proposed compensatory services or remedial measures that will be offered or taken, the specific timelines for implementation, and the person(s) responsible for overseeing full and timely implementation. The District will provide the students' parents or guardians with a meaningful opportunity to provide input into these determinations, notice of the determinations made, 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.

REPORTING REQUIREMENT: By February 1, 2017, the District will submit to OCR for review and approval documentation showing implementation of Item 7, including a copy of any meeting minutes, a copy of any IEPs developed for the students, documentation of any input provided by the students' parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached in accordance with Item 7. Should the District determine that no compensatory education or other remedial services are necessary; the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33-104.36, in making these determinations, and notify the District when it has completed this review.

- 8) After OCR has reviewed and approved the District determination the District will take steps to implement the compensatory services, if any, agreed upon by the IEP team.

REPORTING REQUIREMENT: Within 30 days from the date of OCR's acceptance of the proposed compensatory services (if any) or remedial measures, the District will provide documentation that it has provided or is in the process of providing the compensatory services or remedial measures. For compensatory services and remedial measures that will occur over time, the

District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services and remedial measures are being provided as specified. If the students are to receive compensatory services, the case will remain in monitoring until all compensatory services and remedial measures have been provided in full.

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 and is in compliance with the regulation implementing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-65 and their implementing regulations, which were at issue in this case.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-65 and their implementing regulations, which were at issue in 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 sixty (60) calendar days to cure the alleged breach.

/s/

11/29/16

Canon City Schools Fremont RE-1
Superintendent

Date