

**RESOLUTION AGREEMENT**  
**Pikes Peak BOCES**  
**OCR Case Number 08-15-1143**

In order to resolve the allegation in case number 08-15-1143, filed against the Pikes Peak BOCES and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the BOCES agrees to implement this Resolution Agreement. This case was initiated pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulation at 28 C.F.R. part 35.

During the investigation, before OCR made findings, the BOCES indicated its willingness to ensure compliance with Section 504 and Title II and resolve the allegation made in this complaint. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint. The BOCES's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

1. The BOCES will submit for review and approval its policies regarding the use of restraint and seclusion in BOCES schools, giving consideration to the U.S. Department of Education's resource document on this topic.<sup>1</sup> The BOCES will ensure that its restraint and seclusion policies are equitable to students with disabilities, and that parents and guardians are notified as soon as possible following each instance in which restraint or seclusion is used with their child.

**REPORTING REQUIREMENT:** By [Insert Date], the BOCES will provide to OCR its policies regarding the use of restraint and seclusion, for OCR's review and approval.

2. The BOCES will provide to OCR for review and approval its proposed tracking system for incidents involving the use of restraint and seclusion techniques.

**REPORTING REQUIREMENT:** By [Insert Date], the BOCES will provide OCR its proposed practice for tracking the use of restraint and seclusion, for OCR's review and approval.

3. The BOCES will ensure that the approved policies implemented pursuant to Paragraph 1 and the practice in Paragraph 2 above are disseminated to all certificated staff in the BOCES and to all support staff that would have responsibility supervising students with disabilities or for carrying out the restraint and seclusion policies

**REPORTING REQUIREMENT:** Within 30 days of OCR's approval of the policy, the BOCES will provide OCR with a description of how the approved policies were disseminated to staff members, and documentation showing that the policies were disseminated to those required to receive them.).

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<sup>1</sup> "Restraint and Seclusion: Resource Document" is available at [www.ed.gov/policy/restraintseclusion](http://www.ed.gov/policy/restraintseclusion).

4. The BOCES will provide training on the policies to all staff who are responsible for implementing the policies identified in Paragraph 1 and the practice in Paragraph 2, regarding the appropriate use of restraint and seclusion techniques. The training will address how to provide appropriate notice to parents, to maintain documentation of the notice, and to implement the new practice for tracking the use of restraint and seclusion techniques.

**REPORTING REQUIREMENT A:** Within 30 days of OCR's approval of the policy in Paragraph 1 and the practice in Paragraph 2, the BOCES will provide OCR its draft training materials; identify who will be providing the training, by name and title; and provide a list of personnel required to participate in the training, by name and 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 BOCES will provide documentation demonstrating that the training was provided and a copy of the training sign-in sheets.

5. The BOCES will hold an IEP team meeting for the Student, which will include consideration of whether the Student requires any compensatory services as a result of the seven incidents of restraint and seclusion. The BOCES will ensure that the IEP team meeting is a team of persons knowledgeable about the Student, the evaluation data, and the placement options including the Student's parents, to individually assess the amount of compensatory services, if any, that would be appropriate for the student 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 BOCES will provide the Student's parents 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:** Within 60 days of this Agreement, the BOCES will submit to OCR documentation showing implementation of Paragraph 5, including a copy of any meeting minutes, a copy of any IEP developed for the student, documentation of any input provided by the Student's parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached in accordance with Paragraph 5. Should the BOCES determine that no compensatory education or other remedial services were necessary, the BOCES 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 BOCES met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R.

§§ 104.34, 104.35 and 104.36, in making these determinations, and notify the BOCES when it has completed this review.<sup>2</sup>

6. After OCR has reviewed and accepted the BOCES's determination the BOCES 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 BOCES 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 BOCES 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 Student is to receive compensatory services, the case will remain in monitoring until all compensatory services and remedial measures have been provided in full.

The BOCES understands that OCR will not close the monitoring of this Agreement until OCR determines that the BOCES has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which were at issue in this case.

The BOCES 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 BOCES understands that during the monitoring of the Agreement, if necessary, OCR may visit the BOCES, interview BOCES employees and students, and request such additional reports or data as are necessary for OCR to determine whether the BOCES has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, which were at issue in this case.

The BOCES 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 BOCES written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

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<sup>2</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the IEP team described in provision 1 proposes compensatory services or remedial actions *and* those actions are clearly insufficient to provide equitable relief to the Student, OCR will notify the BOCES of its concerns, and the BOCES will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

For Pikes Peak BOCES:

/s/

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Name  
Title

Date