

**Resolution Agreement
Yuma School District and
Northeast Colorado Board of Cooperative Educational Services
OCR Case Numbers 08-17-1066 and 08-17-1077**

In order to resolve the allegations in case number 08-17-1066, filed against Yuma School District (“the District”), and in case number 08-17-1077, filed against the Northeast Colorado Board of Cooperative Education Services (“BOCES”), jointly “the Recipients,”¹ with the Office for Civil Rights (OCR) of the U.S. Department of Education, pursuant to Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act of 1990 (“Title II”), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, the Recipients agree to implement the following terms of this Resolution Agreement.

New Policy or Regulation

- I. Within sixty (60) calendar days of this Agreement being signed, the Recipients will submit to OCR for review and approval a new policy or regulation regarding shortened school day schedules (“shortened schedule”) for students with disabilities (*i.e.*, students with individualized education programs (IEPs) or Section 504 plans). The policy or regulation will include, at a minimum:
 - a. The definition of shortened schedule;
 - b. Under what circumstances a shortened schedule is permissible;²
 - c. Examples of impermissible reasons for a shortened schedule;³
 - d. Who must make the decision regarding a shortened schedule;⁴
 - e. How the following must be documented and maintained in the special education records of all students on a shortened schedule:
 - i. The student’s school start time and end time for each day of the school week (*i.e.*, Monday to Friday);
 - ii. Whether the student’s parent(s) or guardian(s) agree or disagree with the shortened schedule;
 - iii. The justification for a shortened schedule;
 - iv. How the delivery of a free appropriate public education (FAPE) will be impacted by the change to a shortened schedule;
 - v. How the least restrictive environment will change, if at all, under the shortened schedule;
 - vi. How often the shortened schedule must be regularly reviewed to determine if it continues to be necessary and comply with applicable regulations;
 - vii. An IEP or 504 team must regularly review the decision for a shortened schedule to ensure that it is necessary for the Student’s needs;⁵

¹ All reporting required by this Agreement must be jointly submitted by the District and BOCES to OCR.

² All circumstances must comply with the requirements of applicable civil rights laws and regulations.

³ For example, administrative convenience, cost savings, the unavailability of staff, and driving distance.

⁴ This provision must comply with applicable regulations for IEP teams and Section 504 teams.

⁵ This provision must comply with applicable regulations for IEP teams and Section 504 teams.

- f. A requirement that the policy or regulation be distributed to a student’s parent(s) or guardian(s) prior to any meeting at which a shortened schedule will be discussed;
 - g. How transportation providers for students on a shortened schedule must be notified, in writing, of the beginning of, the end of, and any changes to shortened schedules; and
 - h. Who parents and guardians should contact if they believe the policy or regulation was violated.
- II. The Recipients will promptly and fully address feedback from OCR until it receives OCR’s final approval of the policy for Term I.
- III. Within sixty (60) calendar days of OCR’s final approval of the policy, the Recipients will adopt, publish, and disseminate the approved policy.
- a. Publication must include:
 - i. The District’s “Section 504 Handbook” and all similar documents;
 - ii. The District’s “Policies” and all similar documents;
 - iii. All relevant internal or public handbooks or manuals produced by BOCES.
 - b. Dissemination must include:
 - i. All school administrators in the District;
 - ii. All transportation directors in the District;
 - iii. All special education staff in the District; and
 - iv. All relevant BOCES staff, as determined by the BOCES Special Education Director.
- IV. Within sixty (60) calendar days of receiving OCR’s final approval of the policy or regulation, the Recipients will provide to OCR:
- a. A copy of the final policy or regulation;
 - b. Documentation showing that the policy or regulation was adopted;
 - c. Documentation showing where the policy or regulation was published; and
 - d. Documentation showing to whom the policy or regulation was disseminated.

Staff Training

- V. Within sixty (60) calendar days of receiving OCR’s final approval of the policy or regulation, the Recipients will submit to OCR for review and approval:
- a. Draft materials to train staff about shortened schedules, including, at a minimum, the provisions of the policy or regulation described in Term I of this Agreement; and
 - b. The name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to the Recipients’ staff.
- VI. Within sixty (60) calendar days of receiving OCR’s final approval of the materials and trainer(s), the Recipients will provide the training for:
- a. All school administrators in the District;
 - b. All special education coordinators, directors, and chairs in the District; and
 - c. All relevant staff at BOCES, as determined by the BOCES Special Education Director.

- VII. Within thirty (30) calendar days of the training being provided to staff, the Recipients will provide to OCR:
- a. The date, time, and location of the training;
 - b. Confirmation that the approved trainer(s) delivered the training;
 - c. The agenda and materials from the training;
 - d. The names and titles of all staff who attended the training; and
 - e. The name(s) and title(s) of all staff who were required to attend the training pursuant to Term VI, but who did not attend the training, and an explanation for each person's absence.

Compensatory Education

- VIII. Within thirty (30) calendar days of this Agreement being signed, the Recipients will invite, in writing, the parents or guardians of each District student with a disability receiving transportation services who was on a shortened schedule during the 2016-2017 school year to an IEP team or Section 504 plan team meeting.⁶
- a. For all students, the teams will discuss whether compensatory education is owed. In making this determination, the team will consider, at a minimum, whether: (a) the shortened schedule resulted in a change in placement (*i.e.*, a substantial alteration in the student's educational program); (b) the shortened schedule was prompted by legitimate educational needs; and (c) the procedures required by Section 504 were followed in establishing the shortened schedule.
 - b. If compensatory education is owed, the teams will:
 - i. Assess the type of compensatory education owed;
 - ii. Assess the amount of compensatory education owed; and
 - iii. Develop a plan for delivering the compensatory education owed, including specific timelines for implementation and the person(s) responsible for overseeing full and timely implementation.
 - c. For all students who are on a shortened schedule at the time of the meeting, teams will also discuss the appropriateness of continuing the shortened schedule based on a student's individual needs.
 - d. The District will provide the students' parents with a meaningful opportunity to provide input into these determinations, written notice of the determinations made, and written 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.
- IX. Within sixty (60) calendar days of this Agreement being signed, teams for each student will meet to discuss the topic(s) described in Term VIII of this Agreement.
- X. Within ninety (90) calendar days of this Agreement being signed, the Recipients will submit to OCR for each student:
- a. A copy of the invitation to meet sent to the student's parent or guardian;

⁶ The invitations and team compositions will meet all relevant regulatory requirements. A "shortened schedule," for purposes of this Agreement, means a schedule that dictates a student arrive at school after the regular school day begins, depart from school before the regular school day ends, and/or otherwise attend school for less time per day than the regular school day length.

- b. Notes or minutes from the meeting, including documentation of any input provided by the student's parents;
 - c. A copy of any IEP or Section 504 plan developed;
 - d. The team's decision regarding compensatory education, the rationale for the decision, and whether the parent or guardian agreed with the decision;
 - e. Documentation showing that procedural safeguards were provided to the students' parents;
 - f. Any other documentation relevant to the determinations reached in accordance with Terms VIII and IX of this Agreement; and
 - g. For students to whom Term VIII(b) of this Agreement applies, the team's decision regarding continuing a shortened schedule, the rationale for the decision, and whether the parent or guardian agreed with the decision.
- XI. OCR will review the documentation submitted to ensure that the Recipients 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 will notify the District when it has completed this review.⁷
- XII. The Recipients will respond to OCR's concerns until OCR considers them resolved.
- XIII. After OCR has reviewed and accepted the determinations of the teams, the Recipients will take steps to implement the compensatory services, if any, agreed upon by the teams.
- XIV. Within 30 days from the date of OCR's acceptance of the proposed compensatory services (if any) or remedial measures, the Recipients 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 Recipients 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.

Additional Reporting to OCR

- XV. By December 31, 2017, the Recipients will submit to OCR:
- a. The names of all students who were, at any point, on a shortened schedule during the first semester of the 2017-2018 school year; and
 - b. For each named student, all of the documentation required by Term I(e) of this Agreement.
- XVI. OCR will review the submission and communicate any concerns to the Recipients. The Recipients will respond to OCR's concerns until OCR considers them resolved.

⁷ Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by a Section 504 team or 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 Section 504 or IEP teams propose compensatory services or remedial actions and those actions are clearly insufficient to provide equitable relief to the Student, OCR will notify the Recipient(s) of its concerns, and the Recipient(s) will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

The Recipients understand that:

- OCR will not close the monitoring of this Agreement until OCR determines that the Recipients have fulfilled the terms of this Agreement and are in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.
- By signing this Agreement, they agree to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement.
- During the monitoring of the Agreement, if necessary, OCR may visit the District or BOCES, interview employees and students of the District, and request such additional reports or data as are necessary for OCR to determine whether the Recipients have fulfilled the terms of this Agreement and are in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.
- OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement.⁸

For the District:

/s/
Dianna Chrisman, Superintendent

5/9/17
Date

For BOCES:

/s/
Bret Miles, Executive Director

5/9/17
Date

⁸ Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the Recipients written notice of the alleged breach(es) and sixty (60) calendar days to cure the alleged breach(es).