

RESOLUTION AGREEMENT
Cherry Creek School District
Case Number 08-17-1245

The Cherry Creek School District (“District”) voluntarily enters into this Agreement to resolve an allegation in the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures OCR that it will take the following actions and will meet its obligation to comply with the requirements of Title VI of the Civil Rights Act of 1964 (“Title VI”), 42 United States Code (U.S.C.) Section 2000d, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 100, which prohibit discrimination based on race, color, or national origin in programs or activities receiving Federal financial assistance.

Prior to the completion of OCR’s investigation, the District agreed to resolve the allegation pursuant to Section 302 of OCR’s *Case Processing Manual*. Accordingly, to ensure compliance with Title VI and its implementing regulation, and to resolve the issue of this investigation, the District voluntarily agrees to take the actions detailed herein.

Agreement Principles

The District is committed to:

- Ensuring that all of its schools are safe and have an environment that is conducive to learning;
- Ensuring nondiscrimination and equity in student discipline policies and practices;
- Utilizing student discipline policies and practices that are proven and supported by reliable evidence, such as Positive Behavioral Interventions and Supports;
- Reinforcing appropriate student behaviors; and
- Ensuring that, to the maximum extent appropriate and consistent with law, student misbehavior is addressed in a manner that does not require removal from the educational program and that minimizes the loss of instructional time while assuring school safety.

Cohort Schools

OCR and the District have identified schools to be part of a cohort that is the primary subject of this Agreement (“cohort schools”). The Cohort Schools are listed in the Appendix of this Agreement.

TERMS

Expert Consultation

1. The District's Executive Director for Inclusive Excellence possesses expertise in racial equity in school discipline and will counsel the District with regard to each term of this Agreement from January 2018 to August 2019.
2. In the event that the Executive Director changes, the District will notify OCR and provide the name, contact information, and qualifications for a proposed Consultant/employee to complete the remaining responsibilities under this Agreement.
3. The District will promptly and completely address OCR's concerns, if any, until OCR considers the concerns resolved and issues final approval of the Consultant.
4. After receiving OCR's final approval of the Consultant, the District will enter into an agreement for services with the Consultant.
5. In the event that the District needs to secure a Consultant to fulfill this Agreement, the District will provide OCR with a copy of the final, executed agreement.

Planning

6. The District will develop a plan aimed at reducing racial disparities in school discipline at the cohort schools ("Action Plan"). The plan will include, at a minimum:
 - a. The name, title, and contact information for an individual who will serve as the District's lead coordinator for implementation of this Agreement;
 - b. A list of individuals who will serve on an interdepartmental, district-level student discipline equity committee,¹ including each individual's name, title, and department;
 - c. A list of individuals at each cohort school who will serve on a school-based student discipline equity committee,² including each individual's name and title;
 - d. The responsibilities for the student discipline equity committees;³ and
 - e. Steps the District will take to implement the terms of this Agreement – including Term 16 – and more broadly, to reduce racial disparities in student discipline at the cohort schools;
 - f. An estimated timeframe for the steps detailed in the Action Plan.
7. **By February 28, 2018**, the District will submit to OCR a draft of the Action Plan.
8. The District will address OCR's concerns, if any, until OCR considers the concerns resolved and issues final approval of the Action Plan.
9. After receiving OCR's final approval of the Action Plan, the District will begin implementing the Action Plan.

¹ The District's District Equity Leadership Team will fulfill this provision.

² Each cohort school's Equity Team will fulfill this provision.

³ Examples of those responsibilities may include data analysis, ensuring fidelity of implementation of identified strategies, fielding questions from staff, and compiling "lessons learned for implementing in other District schools

Review and Revision of District Policies, Regulations, and Practices

10. The District will ensure that its policies, regulations, and practices related to student discipline include:
 - a. A statement regarding the District's commitment to non-discrimination and equity in student discipline;
 - b. The range of penalties that may be imposed for each enumerated infraction and that are proportionate to the type of misconduct;
 - c. The narrow circumstances under which deviations from established ranges may be justified;
 - d. Uniform criteria for staff to use when selecting a particular disciplinary sanction within the range of possible penalties;
 - e. A list of minor misbehaviors for which suspension and expulsion should never be used;
 - f. A requirement that disciplinary authorities⁴ consider alternatives to expulsion, suspension, and other sanctions that result in removal from the educational setting, except when applicable state or federal law would require otherwise;
 - g. A requirement that disciplinary authorities, before suspending or expelling a student, attempt and document corrective measures that are appropriate to the particular circumstances and that do not result in the removal of a student from class, except where the behavior in question causes a danger to persons or disruption to the educational environment that can only be remedied by such suspension or expulsion, and the suspension or expulsion is permitted by law;
 - h. The documentation that must be created and maintained by disciplinary authorities;
 - i. Clear and consistent definitions of infractions and consequences (to the exclusion of exceedingly subjective or redundant offensive categories);
 - j. Language that is easily understood by middle and high school students, parents⁵ and staff;
 - k. Information about grievance procedures that are available to students and parents; and
 - l. Appropriate due process standards.
11. **By February 28, 2018**, the District will provide to OCR a description of any proposed revisions to the District's policies, regulations, and practices, including the Middle School Consequences Guide.
12. OCR will identify requested revisions by March 30, 2018. Failure to meet this deadline may delay the adoption and implementation of revisions until the 2019-2020 school year.
13. The District will address OCR's concerns, if any, until OCR considers the concerns resolved and issues final approval of the revisions.
14. **By July 1, 2018**, the District will adopt, publish, disseminate, and publicize the revised policies, regulations, and practices, including the Consequences Guide.

⁴ "Disciplinary authorities," as used in this Agreement include all District personnel who are allowed to issue significant disciplinary sanctions for students, including, but not necessarily limited to, expulsion, out-of-school suspension, in-school suspension, Saturday school, transfer or assignment to an alternative school or program.

⁵ "Parents," as used in this Agreement, includes both parents and guardians.

- a. Publication will include all online, electronic, and printed versions of the District's board policies and regulations, as well as its student handbook.
 - b. Dissemination and publicity will include written notice to all school administrators⁶ and relevant central office staff,⁷ and posting on the District's social media.⁸
15. **By August 31, 2018**, the District will provide to OCR:
- a. A copy of the final policies, regulations, and written practices, including the Consequences Guide; and
 - b. Documentation showing that the policies and regulations were adopted, published, and disseminated.

Student Supports

16. The District will ensure that, during the 2018-2019 school year (SY), all cohort schools have available and utilize:
- a. A system for positively and appropriately encouraging and reinforcing appropriate student behavior;
 - b. A process for identifying students who are at risk for needing behavioral supports;⁹
 - c. Supports for school staff members to meet the needs of students who are at risk for needing behavioral supports;¹⁰
 - d. A range of non-punitive interventions to support students who exhibit the need for behavioral supports;¹¹ and
 - e. A range of alternatives to exclusionary student discipline.¹²

Staff Support and Professional Development

17. The District will train a representative group of administrators and instructional staff at the cohort schools,¹³ and any other staff deemed necessary by the District, regarding:
- a. The District's revised practices and Consequences Guide;
 - b. A summary of student discipline disparities at each cohort school during the 2017-2018 SY;
 - c. Evidence-based, effective strategies to encourage and reinforce appropriate student behavior;

⁶ "School administrators," as used in this Agreement, includes principals, assistant principals, and deans.

⁷ *e.g.*, the District's superintendent, assistant superintendents, educational operations executive directors, attorneys, hearing officers, and Equity committee members.

⁸ *i.e.*, the District's Facebook and Twitter pages

⁹ This process may include the District's Positive Behavioral Interventions and Supports.

¹⁰ The supports may include mental health professionals, nurses, counselors, instructional support staff, and professional development.

¹¹ *e.g.*, adult mentoring, peer mentoring, counseling services, psychological services, nursing services, social work services, social and emotional learning programming, parent training, academic supports, a behavioral intervention plan with positive reinforcements, and referrals to community-based resources

¹² Examples of alternatives to exclusionary discipline include conferences, behavior contracts, parent attending school with the student, student and parent attending Saturday School, utilizing culturally responsive discipline practices, or participating in the District's drug and alcohol prevention program.

¹³ A representative group will include deans, counselors, teachers, and other licensed and certified staff involved in discipline from each cohort school.

- d. The availability and use of supports for students who exhibit or are at risk for needing behavioral supports;
 - e. Evidence-based, effective classroom management and de-escalation strategies;
 - f. Cultural competency and implicit bias;
 - g. Data collection requirements, including mandated use of the Powerschool system and the student discipline referral form; and
 - h. The resources available to staff for on-going support regarding student discipline.
18. **By April 30, 2018**, the District will submit to OCR a proposed training plan, including:
- a. The proposed trainings (*i.e.*, topics or content)
 - b. The audience for each training (*e.g.*, administrators only, or administrators and classroom staff);
 - c. Whether each training will be mandatory or voluntary;
 - d. The topic/content of each training;
 - e. The names, titles, and qualifications of proposed trainers;
 - f. The proposed date(s) and location(s) of the training(s); and
 - g. The proposed agenda(s) and training materials for the training(s).
19. OCR will provide feedback regarding the proposed training.¹⁴ The District will address OCR's concerns, if any, until OCR considers the concerns resolved and issues final approval of the trainers, training schedule, agenda(s), and training materials.
20. **By October 31, 2018**, the District will provide the training(s) using the trainers, training schedule, agenda(s), and training materials approved by OCR.
21. **By December 31, 2018**, the District will provide to OCR:
- a. Attendance records from the training(s) that show each attendee's name, school or department, and title; and,
 - b. A list of all individuals who were required to, but did not, attend the training(s), the reason(s) for each individual's absence, and the plan to ensure that the individuals are trained in a timely manner.
22. **Within sixty (60) calendar days of the beginning of the second semester of the 2018-2019 SY**, the District will provide additional professional development, as needed, for staff at each cohort school based on the school's needs and requests from staff with regard to student discipline.
23. **Within thirty (30) calendar days of any second semester professional development being provided**, the District will provide to OCR:
- a. The date(s), time(s), and location(s);
 - b. The name(s), title(s), and qualifications of the trainer(s);
 - c. Copies of the agenda(s) and training materials; and
 - d. Attendance records showing each attendee's name, school, and title.

Data Collection and Self-Monitoring

24. During the 2018-2019 SY, the District will collect and review student discipline data for each cohort school. The data collected and reviewed¹⁵ for each student disciplinary referral will include, at a minimum:

¹⁴ If OCR does not provide feedback to the District in a timely manner, the District may, in collaboration with and agreement by OCR, adjust subsequent deadlines.

- a. The date of the referral;
 - b. The name and title or position of the staff member who made the referral;
 - c. A description of the approaches or interventions attempted by staff before the referral was made (if applicable);¹⁶
 - d. The student's name, identification number, grade, race, sex, and disability status;¹⁷
 - e. The student's disciplinary history;
 - f. The policy or policies the student violated;
 - g. A description of the misconduct;
 - h. The location or setting of the misconduct;¹⁸
 - i. The non-punitive interventions used after the referral (if applicable);¹⁹
 - j. The date that a disciplinary sanction was imposed (if applicable);
 - k. The disciplinary sanction imposed (if applicable);²⁰
 - l. The name and title or position of the staff member who selected the disciplinary sanction (if applicable);
 - m. The length of the disciplinary sanction imposed, in school days (if applicable);
 - n. Whether the discipline assigned is within the District's published range and, if not, the factors considered in choosing the disciplinary sanction (if any);
 - o. For expulsions, whether the student or student's parent appealed the recommendation, and if so, the outcome of the appeal.
25. To promote uniformity and consistency, and to ensure adequate data are captured, the District will require all cohort schools to use a uniform referral form and to enter information into the District's Powerschool, an online system for capturing discipline information.
- a. **By June 30, 2018**, the District will: Distribute the standard student discipline referral form to staff at the cohort schools, along with a memo that makes clear that the form must be used; and
 - b. Disseminate instructions regarding data entry into the District's PowerSchool System.
26. **Within twenty (20) calendar days of the end of each semester of the 2018-2019 SY**, the District will provide student discipline data and information for each cohort school to the district-level equity committee designated pursuant to Term 6, which shall analyze the data and may make recommendations, with District staff support, including regarding:
- a. The use of reinforcements for appropriate student behavior, positive behavioral interventions and supports, and alternatives to exclusionary discipline;

¹⁵ The cohort schools will use a uniform referral form that will capture much of the data to be collected. Additional data that may not be necessary for immediate review and intervention, but is necessary for review may be incorporated as the data is compiled.

¹⁶ *e.g.*, student conference, time out, reflective essay, parent contact, and withdrawal of a privilege

¹⁷ *i.e.*, whether or not the student has an Individualized Education Program (IEP) or Section 504 plan

¹⁸ *e.g.*, classroom, hallway, cafeteria, gym, bus, parking lot, or off-campus

¹⁹ *e.g.*, mediation, restorative justice, substance abuse treatment, mental health services, or special education evaluation

²⁰ *e.g.*, expulsion, out-of-school suspension, in-school suspension, bus suspension, transfer or reassignment assignment to an alternative school or program, detention, Saturday school, behavior contract, parent contact, loss of privilege, community service, apology letter, referral to law enforcement, and arrest.

- b. Whether racial disparities have changed (or not) at each school, including racial disparities in referrals for each staff member, referrals for each offense (especially for offenses that are more subjective in nature), each type of sanction imposed, lengths of sanctions imposed that involve removal from the classroom, and access to non-punitive interventions and alternatives to exclusionary discipline;
 - c. Whether student discipline is being handled in conformity with all applicable District policies and regulations; and
 - d. Whether cohort schools are entering data in a consistent and accurate manner.
27. **Within forty-five (45) calendar days of the end of the first semester of the 2018-2019 SY**, the District will develop mid-year improvement plans for cohort schools, as needed,²¹ with regard to student discipline equity.²² The mid-year improvement plans will be:
- a. A collaborative process involving the Consultant and the District-wide and school-based student discipline equity committees;
 - b. Driven by the analyses from the first semester of the 2018-2019 SY; and
 - c. Disseminated to all staff at the cohort schools.
28. **Within forty-five (45) calendar days of the end of the first semester of the 2018-2019 SY**, the District will provide to OCR:
- a. Copies of the discipline data from each cohort school and the analyses conducted pursuant to Term 28 of this Agreement;
 - b. Copies of mid-year improvement plans; and
 - c. Documentation showing that the mid-year improvement plans were disseminated to all staff at the affected cohort schools.
29. The District will implement the mid-year improvement plans at each cohort school.

Final Reporting to OCR

30. **By August 31, 2019**, the District will report to OCR on whether this work was effective and how the District will continue to address school discipline disparities in future years. This Report will include:
- a. Data analyses of school discipline disparities at each cohort school and comparisons to prior school years and/or non-cohort schools;
 - b. An accounting of the District's payment(s) to any external Consultant;
 - c. A narrative summary of the District's efforts regarding equity in discipline pursuant to this Agreement, including the implementation of any mid-year improvement plans;
 - d. A narrative summary of the challenges, successes, and lessons learned in the cohort schools; and
 - e. A description of how the lessons learned in the cohort schools will be applied to reduce racial disparities in discipline in non-cohort schools.

²¹ The mid-year improvement plans may be incorporated as revisions or additions to the overall plan created pursuant to Term 6 of this Agreement.

²² Examples of components of mid-year improvement plans include, but are not limited to, additional professional development, mentoring or coaching for staff, and additional student support services.

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 regarding issues addressed by the Agreement, 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 Title VI and its implementing regulation. 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. Sections 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

For Cherry Creek School District:

_____/s/_____
Harry C. Bull, Jr., Ed.D., Superintendent

____2/19/2018_____
Date

