

RESOLUTION AGREEMENT

Colorado Springs Charter Academy Case Number 08-17-1413

In order to resolve the systemic allegation in Case No. 08-17-1413, filed against the Colorado Springs Charter Academy (School) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) 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, 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, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d – 2000d-7, and its implementing regulation at 34 C.F.R. Part 100, the School agrees to take the actions outlined in this Resolution Agreement. The School’s decision to enter into this agreement is voluntary and not an admission of liability or wrongdoing, nor shall it be construed as such.

1. The School will revise its public and internal admission, enrollment, and recruitment materials, including but not limited to information on its website and information provided to prospective or current applicants relating to its admissions and lottery systems, to include a notice of nondiscrimination in accordance with 34 C.F.R. § 104.8. The revised language on flyers and other promotional materials will include:
 - a. A statement that the School does not discriminate on the basis of disability, race, national origin, sex or other protected classifications in admissions and enrollment and a link to the information in paragraphs (b), (c), and (d) which will be stated on the School’s website and in documents that describe the School’s admissions and lottery policy.¹
 - b. The name, title, and contact information for the School’s Section 504/Title II Coordinator;
 - c. The name, title, and contact information for an individual whom parents may contact if they suspect disability discrimination in admissions and enrollment, if different from the Section 504/Title II Coordinator; and
 - d. Information about and contact information for the U.S. Department of Education’s Office for Civil Rights.

REPORTING REQUIREMENT: By March 9, 2018, the School will provide to OCR, for OCR’s approval, the revised materials that include the notice of nondiscrimination. The School will fully and promptly address any comments by OCR and will continue to modify the materials until it receives final OCR approval.

¹ Title VI does not require publication of a notice of non-discrimination. OCR recommends the School include in the required notice a statement that it also does not discriminate on the basis of other protected categories, including race and national origin.

2. Within 30 calendar days of OCR's approval of the materials, the School will publish the materials, including on the School's website and in other publications used by the School.

REPORTING REQUIREMENT: Within 60 calendar days of OCR's approval of the materials, the School will provide OCR (1) a copy of the materials, and (2) documentation of its actions to publish the materials, including a list of locations (including the internet) where the materials are published.

3. The School will revise all public and internal admission and enrollment applications and admission materials to remove all pre-admission inquiries as to disability, including but not limited to whether the student-applicant has a disability, an individualized education program (IEP), or a Section 504 plan, and as to English language proficiency.

REPORTING REQUIREMENT: By March 9, 2018, the School will provide OCR, for OCR's approval, the revised materials. The School will fully and promptly address any comments by OCR and will continue to modify the materials until it receives final OCR approval.

4. Within 30 calendar days of OCR's approval of the materials, the School will implement and publish the public materials, including on the School's website and in other publications used by the School and will circulate the internal materials to personnel involved in the admission and enrollment process.

REPORTING REQUIREMENT: Within 60 calendar days of OCR's approval of the materials, the School will provide OCR (1) a copy of the materials, and (2) documentation of its actions to implement and publish or circulate the materials, including a list of locations (including the internet) where the materials are published and persons to whom internal materials were circulated.

5. The School will complete a review of open enrollment applicants for the 2016-2017, 2017-2018, and 2018-2019 (to date) school years. The purpose of this review will be to identify all student(s) with a disability or who are/were limited English proficient (LEP), who, for disability-related, national-origin-related, or LEP-related reasons (1) were denied enrollment; (2) were determined ineligible; (3) waived Alternative Language Program (ALP), special education, or other disability-related services to attempt to or actually gain enrollment; or (4) were otherwise denied the opportunity to participate in, afforded an unequal opportunity to participate in, or otherwise limited in the enjoyment of the School. Applicants who were not considered by the School because they were placed on a lottery or sibling wait list and were not reached for consideration by the School solely as a result of their placement on a wait list are not included in the group of students described in this Term. For every student the School identifies who will be enrolled in a grade offered by the School in the 2018-2019, 2019-2020 or 2020-2021 school years, the School shall notify the parent(s)² as provided in Term 7.

² "Parent," as used in this Agreement, is defined as it is in 34 C.F.R. § 300.30.

REPORTING REQUIREMENT: By March 23, 2018, the School will provide to OCR, for OCR's approval, the following information:

- a. For each student with a disability or who is/was a LEP student who applied for open enrollment for the 2016-2017, 2017-18, and 2018-19 school years: (1) the applicant's first and last name; (2) the applicant's area(s) of eligibility, if known; (3) the grade to which the applicant applied; (4) the disposition of the application (including whether admitted or denied and the date of each admission or denial); and (5) if the applicant is enrolled in the School, whether the student's IEP or Section 504 Plan or need for ALP services is still in effect.
- b. For each applicant who was denied: (1) who made the decision to deny; (2) the name of the school where the applicant enrolled instead, if known; and (3) an explanation of the reason(s) for the denial, including a copy of all communications with the applicant's parent(s).
- c. Documents related to the School's determination as to which, if any, of the students with disabilities or of students who are/were LEP who (1) were denied enrollment; (2) were determined ineligible; (3) waived special education or other disability-related services to attempt to or actually gain enrollment; or (4) were otherwise denied the opportunity to participate in, afforded an unequal opportunity to participate in, or otherwise limited in the enjoyment of the School.

The School will fully and promptly address any comments by OCR and will continue to provide information to OCR until the School receives final OCR approval.

6. For all students identified pursuant to Term 5 (*i.e.*, as approved by OCR) who are not enrolled in the School, the School will prioritize such students in enrollment for any remaining seats that are open for the 2018-2019 school year after seats are filled by current returning students, siblings of current returning students, and new students on the basis of lottery selection and before any new students who apply after the lottery application deadline by either (1) offering open seats to applicants in order of their application date, or (2) placing applicants on wait lists according to the above-stated priorities, in order of their application date. To implement the above-stated priorities for the 2018-2019 school year, the School will include in its written communication to the parents of eligible applicants a reasonable deadline for an affirmative response and will reserve places on wait lists during the response period based on the number of students the School reasonably anticipates would be eligible for priority placement. Students who apply after the deadline will be placed after the last name on the applicable wait list.

For the 2019-2020 and 2020-2021 school years, the School will provide priority to students identified pursuant to Term 5 (*i.e.*, as approved by OCR) who are not enrolled in the School and who affirmatively respond to a written communication by the School regarding their intent to enroll in the School, which will be sent to parents by December 1, 2018 for the 2019-2020 school year, and by December 1, 2019 for the 2020-2021 school year. The due dates for responses will be December 15 of 2018 and 2019, respectively. The priority for the 2019-2020 and 2020-2021 school years will be after

current returning students and siblings of current returning students, but before all other applicants, including lottery applicants. If eligible students apply after the lottery application deadlines for the 2019-2020 and 2020-2021 school years, the School will place students on wait lists based on date of application. Nothing in this Agreement (1) limits a student's ability to apply through the lottery or other open enrollment process, or (2) limits the School's ability to replace its lottery-based open enrollment system with different open enrollment system. If the School replaces the lottery-based system with a different open enrollment system, it will submit a report to OCR describing the new system and how the above-stated priorities will be implemented in that system.

REPORTING REQUIREMENT: Reporting of this Term shall be pursuant to Term 10.

7. For all students identified pursuant to Term 5 (*i.e.*, as approved by OCR), the School will provide a letter to the student's parent(s) explaining that the School (1) has identified them as an applicant who was denied enrollment at the School for disability-related, national-origin-related, or LEP-related reasons, identifying the school year(s) for which they were denied; (2) has changed its admission and enrollment program related to students with disabilities and LEP students, including prioritization of such applicants who had been previously denied admission, in admission and enrollment to the School through the 2020-2021 school years; (3) invites them to reapply for the 2018-2019, 2019-2020 and 2020-2021 school years; and (4) includes dates by which parents must submit applications or other documents required to be eligible for prioritization. The letter will also invite the parent(s) to contact the School if the parent(s) have questions or concerns about the previous or the revised admission and enrollment program.

REPORTING REQUIREMENT: By March 9, 2018, the School will submit, for OCR approval, the School's draft letter. The School will fully and promptly address any comments by OCR and will continue to modify the letter until it receives final OCR approval.

8. Within 30 calendar days of OCR's approval of the list of students identified pursuant to Term 5 (*i.e.*, as approved by OCR) and the letter written pursuant to Term 7, whichever is later, the School will send this letter.

REPORTING REQUIREMENT: Within 30 calendar days of the applicable OCR approval, the School will provide OCR (1) a copy of the letter, (2) a list of recipients of the letter (which shall comport with students identified pursuant to Term 5 (*i.e.*, as approved by OCR)), and (3) documentation that the letter was sent.

9. The School will create a statement, in both English and Spanish, for posting on its website, explaining that the School has updated its admissions program. The statement shall also explain that the School is reviewing applications from the last three school years to identify students who were not admitted on the basis of a disability or LEP status and will provide priority enrollment opportunities for eligible students. The statement also will inform parents they may contact the School if they have any questions about

applications they submitted for the past three school years or the application process for future school years.

REPORTING REQUIREMENT: By March 9, 2018, the School will provide, for OCR approval, the School's draft website statement. The School will fully and promptly address any comments by OCR and will continue to modify the statement until it receives final OCR approval.

10. The School will provide OCR documentation demonstrating compliance with its revised and approved admissions and enrollment policies and procedures, including prioritization pursuant to Term 6.

REPORTING REQUIREMENT: By June 30, 2018, and every year thereafter until June 30, 2021, the School will provide OCR with documentation of the number of open seats that were filled through open enrollment and a list of all students by name who applied through the School's open enrollment program up to that point in each respective school year. For each student, the School will indicate (1) the grade applied for; (2) whether the student has a disability, if known, and if so, the student's area(s) of eligibility, if known; (3) whether the student is/was an LEP student; (4) whether the application was denied or accepted; (5) the date the application was submitted; (6) the date the application was denied or accepted; (7) the date the School notified the applicant of the acceptance or denial; and (8) for any denials, an explanation of the reason for the denial and an explanation of where the student enrolled, if known. If the School replaces its lottery-based open enrollment system with a new system for the 2019-2020 or 2020-2021 school years, it will submit a report to OCR by October 1 of the preceding school year that describes the new system and how the School will maintain the priorities set forth in this Agreement.

11. The School will train its staff and any administrators involved in admissions and enrollment about disability and national-origin discrimination, including, at a minimum: (1) prohibited different treatment of students with disabilities and of students who are LEP in admissions and enrollment, including training on how staff will properly respond to oral and written inquiries from parents regarding the School's willingness or ability to admit and serve students with disabilities and students who are LEP; (2) procedural requirements for the placement of students with disabilities, including for changes to students' Section 504 plans and IEPs; (3) the School's obligation to provide a FAPE to each student with a disability who applies for or is enrolled in the School, including implementing their Section 504 plans and IEPs; and (4) the School's procedures for the appropriate placement of all LEP students into the ALP in order to receive English language acquisition services, including English language development services.

REPORTING REQUIREMENT A: By March 9, 2018 and again by March 9, 2020, the School will provide to OCR, for OCR's approval, its draft training materials; identify who will be providing the training, by name, title, and qualifications; and roster of all staff; and a list of personnel required to participate in the training, by name and title. The

School will fully and promptly address any comments by OCR and will continue to modify the training materials and trainer until it receives final OCR approval.

REPORTING REQUIREMENT B: Within 60 days of OCR's approvals, the School will provide to OCR: (1) the date, time, and location of the training; (2) confirmation that the approved trainer(s) delivered the training; (3) the agenda and materials from the training; (4) the names and titles of all staff who attended the training; and (5) the names and titles of all staff who did not attend the training, and an explanation for each person's absence.

12. For the 2018-2019, 2019-2020 and 2020-2021 school years, the School will develop a plan to ensure that it has adequate staffing to meet the needs of all students with disabilities and students who are LEP are anticipated to be enrolled in the School for that year. The Plan will:

- a. Describe the staffing resources it needs to effectively implement the School's special education programs and ALP, including a description of the training and qualifications of staff that provides program services.
- b. Determine the extent to which the staff members needed to implement the special education and ALP programs and services are currently available, and how many additional staff members need to be trained, hired, or assigned.
- c. Describe the steps it will take to fully and timely meet its special education and ALP staffing needs (fully qualified staff teaching all special education and LEP students), and the anticipated timeframe for the special education and ALP programs to be fully staffed. The Plan shall include the manner and timeframes the School will implement to monitor progress toward acquiring sufficient qualified special education and ALP staff.
- d. Describe the steps it will take to identify students with disabilities, students who have a primary or home language other than English (PHLOTE), and LEP students who are admitted to the School. The steps should include, but not be limited to, the development of a home language survey, development of a staff-based referral program for students with disabilities, and the publication of information about its special education and ALP programs in both English and Spanish on its website.

REPORTING REQUIREMENT A: By June 30, 2018 and by June 30 every year thereafter through June 30, 2020, the School will provide to OCR, for OCR's approval, its proposed staffing plan for the upcoming school year. The School will fully and promptly address any comments by OCR and will continue to modify the plan until it receives final OCR approval. By June 30, 2019 and every year thereafter until June 30, 2021, the School shall include a report on its implementation of the staffing plan for the preceding school year, providing OCR with documentation to demonstrate the number of students with disabilities and LEP students enrolled in the School each academic year, the fully qualified staff providing instruction to students with disabilities and LEP students, and the manner in which the School provided services to students with disabilities and LEP students.

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

The Recipient understands that by signing this Agreement, they agree to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the Recipient understands that, during the monitoring of this Agreement, if necessary, OCR may visit the Recipient, interview staff, and request such additional reports or data as are necessary for OCR to determine whether the Recipient has fulfilled the terms of this Agreement and are in compliance with Section 504, and its implementing regulation at 34 C.F.R. Section 104.4; Title II, and its implementing regulation at 28 C.F.R. Section 35.149; and Title VI and its implementing regulation at 34 C.F.R. Part 100. Upon completion of the obligations under this Agreement, OCR will close this case.

_____/s/_____
For Colorado Springs Charter Academy

Date