

Resolution Agreement

Weld County School District RE 1 OCR Case 08-18-1326

In order to resolve the allegation in Case Number 08-18-1326 filed with the U.S. Department of Education, Office for Civil Rights (OCR) against Weld County School District RE 1 (District) pursuant to Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation at 34 Code of Federal Regulations Part 100, 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 and its implementing regulation at 28 C.F.R. Part 35, the District agrees to take the actions outlined in this Resolution Agreement (Agreement).

Prior to OCR's completion of its investigation and before OCR had made any findings, the District indicated its desire to voluntarily enter into an agreement to resolve the allegation relating to Title VI, Section 504, and Title II that prompted this investigation. Pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), a complaint allegation may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the allegation, OCR believes that doing so is appropriate, and the agreement's remedies align with the allegation and the Title VI, Section 504, and Title II regulatory requirements. The District's decision to enter into this Agreement is not an admission of liability or wrongdoing, nor shall it be construed as such.

I. District Policies and Procedures – English Learner (EL) Students with Disabilities

- A. The District will review and revise its policies and procedures as necessary to ensure these clearly state that EL students with disabilities will participate in both English language development (ELD) instruction and special education or related aids and services, unless an individualized determination has been made by following the procedures required by Section 504 and Title II at 34 C.F.R. Sections 104.33-104.36 that it is inappropriate to provide dual services because of the documented nature of the student's disability. The District will ensure its procedures require that EL students with disabilities' files include documentation of placement decisions.

Reporting Requirement: By September 1, 2018, the District will provide OCR with its draft policies and procedures for review and approval. Within 30 days of OCR's approval, the District will adopt these policies and procedures and incorporate these into the District's EL Plan. Within 30 days of the adoption and notice of the procedures, the District will provide OCR with documentation supporting the adoption and notice.

- B. The District will train the School's personnel on the policies and procedures required by Agreement Item I(A).

Reporting Requirement 1: Within 30 days of the District's adoption of the policies and procedures, the District will provide its draft training materials to OCR for review and approval; identify who will be providing the training, by name, title, and qualifications; and provide a list of Platteville Elementary School (School) personnel required to participate in the training, by name and title.

The District will fully and promptly address any comments by OCR as to the trainer and policies and procedures and will continue to modify the policies and procedures until it receives final OCR approval.

Reporting Requirement 2: Within 30 days of OCR's approval of the trainer and training materials, the District will provide a sign-in list of School personnel who participated in the training and confirmation that all who needed the training received it.

II. Dual Services

- A. The District will submit a report regarding each EL student with a disability at the School during the 2017-2018 school year (SY) with the following information:
- i. The name, title, and qualifications (including whether the provider has an EL endorsement) of the primary provider of ELD instruction to the student during SY 2017-2018;
 - ii. A copy of the EL student's individual language plan;
 - iii. Indicate whether the EL student received direct ELD instruction by a qualified EL teacher and provide the amount of weekly ELD instructional time each EL student actually received; and
 - iv. Indicate whether the student is enrolled in the District as of August 1, 2018.
- B. For any student with a disability who did not receive the necessary ELD instruction from a qualified EL teacher, the District will convene a team of persons knowledgeable about the student and ELD instruction, including the student's parents, to individually assess the amount of compensatory services, if any, for each EL 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.¹ If the District determines that no compensatory services are necessary, the District will provide a written explanation of the reasons for that determination for each student who was determined to not need compensatory services, who participated in making this determination, who made the determination, and any related supporting documentation, for OCR's review and approval.

Reporting Requirement 1: By September 1, 2018, the District will submit documentation it has met the requirements of Agreement Item II(A) and II(B). For any proposed ELD compensatory services or remedial measures, the District will submit its proposed compensatory services or remedial measures for OCR to review.

¹The District will convene meetings pursuant to this term for: (a) students who had a Section 504 Plan or Individualized Education Program (IEP) that called for the provision of ELD instruction, but did not receive such instruction from a qualified EL teacher, regardless of whether the student is still enrolled within the District; and (b) students with a disability who did not have a Section 504 Plan or IEP that called for the provision of ELD instruction but had an individual language plan (ILP) that called for such, but did not receive ELD instruction from a qualified EL teacher, and who, as of August 1, 2018, are still enrolled within the District. If a student with a disability whose ELD instruction was provided through an ILP, rather than a Section 504 Plan or IEP, is not enrolled in the District as of August 1, 2018, but re-enrolls at any time during the 2018-2019 school year, the District agrees to convene a meeting pursuant to this term within 14 days of the student's re-enrollment.

The District will fully and promptly address any comments by OCR as to the proposed services or remedial measures. After the proposed compensatory service or remedial measures are accepted by OCR, the District will provide or begin to provide the compensatory services or take the remedial measures.

Reporting Requirement 2: Within 30 days from the date of OCR's acceptance of the proposed compensatory services 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 will 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.

This case will remain in monitoring until compensatory services and remedial measures have been provided in full.

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.

The District understands that OCR will close the monitoring of this Agreement when OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI and its implementing regulation at 34 C.F.R. Part 100, Section 504 of the Rehabilitation Act and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act at 28 C.F.R. Part 35, which were at issue in this case.

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 Title VI and its implementing regulation at 34 C.F.R. Part 100, Section 504 of the Rehabilitation Act and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act at 28 C.F.R. Part 35, which were at issue in this case.

For the District:

/s/

Mr. Don V. Rangel
Superintendent

8/9/18

Date