

**RESOLUTION AGREEMENT  
GRANTS/CIBOLA COUNTY SCHOOLS  
OCR CASE 08-19-1269**

Grants/Cibola County Schools (“District”) enters into this Agreement to resolve the allegations in the above-referenced case. This Agreement does not constitute an admission or adjudication of liability, non-compliance, or wrongdoing by the District. The District assures the U.S. Department of Education, Office for Civil Rights (OCR) that it will take the following actions to comply with the requirements of:

- Section 504 of the Rehabilitation Act of 1973 (“Section 504”), as amended, 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 et seq., and its implementing regulation at 28 C.F.R. Part 35; and
- Title VI of the Civil Rights Act of 1964 (“Title VI”), as amended, 42 U.S.C. § 2000d et seq., and its implementing regulation at 34 C.F.R. Part 100.

Prior to OCR issuing a final determination pursuant to Section 303 of OCR’s *Case Processing Manual* (CPM), the District agreed to resolve the allegations in this case pursuant to Section 302 of the CPM. Accordingly, to resolve the allegations, the District agrees to implement the following terms and fulfill the following reporting requirements.

**Term I: Self-Assessment**

- A. The District will conduct a self-assessment of racial equity in gifted and talented education (GATE) and honors and advanced placement (AP) courses (collectively, “advanced courses”).<sup>1</sup> The assessment will include, but not necessarily be limited to:
- reviewing proven or promising practices in reducing racial and ethnic disparities and promoting racial and ethnic equity in student participation in GATE and advanced courses;
  - assessing whether any possible or actual racial or ethnic bias exists in the gifted and talented (GT) testing instruments and eligibility criteria currently used by the District;
  - assessing GT testing instruments that are not currently used by the District, but that could, if used, better account for racial, ethnic, and cultural differences among students;
  - assessing racial and ethnic equity, including whether there are any barriers to equity,<sup>2</sup> in GATE and advanced course offerings in the District;

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<sup>1</sup> OCR encourages the District to consider seeking the assistance of an independent expert consultant, Intercultural Development Research Association (IDRA) Equity Assistance Center, and/or New Mexico Public Education Department (NMPED) staff who possess relevant expertise. Any District conducted assessment will include persons with “appropriate expertise,” that is, the designated persons will possess qualifications related to the issue of underrepresentation of American Indian students in GATE programs and college and career preparatory courses or other individuals with “appropriate expertise, training or experience” regarding racial and ethnic bias in school programs.

<sup>2</sup> *e.g.*, in the location, number, and subject matter of advanced courses; student assignment and transportation to and from locations where advanced courses are offered; lack of available foundation courses at the elementary and middle schools to prepare students for more rigorous courses later in their education; eligibility requirements and enrollment processes for advanced courses; teacher qualifications to teach GATE and the FTE allocations of such teachers; teacher qualifications to teach advanced courses and location of such teachers; etc.

- assessing whether racial and ethnic disparities in student participation exist in GATE and advanced courses, including, but not limited to, assessing how the District’s student assignment and transportation policies and practices impact equitable access to GATE and advanced courses, and assessing how the distribution of funding and resources across schools impact equitable access to GATE and advanced courses; and
- soliciting input from a diverse group of stakeholders<sup>3</sup> including District American Indian<sup>4</sup> students, parents, guardians, and staff about their perceptions of, and recommendations for promoting racial equity in, GATE and advanced courses.<sup>5</sup>

**Reporting Requirement A:** Within 120 calendar days of this Agreement being signed, the District will conduct the self-assessment and will submit to OCR:

- a description of the assessment process, including how the District specifically solicited input from its stakeholders and supporting documentation;<sup>6</sup>
- the first and last names, titles or positions, and roles of all individuals involved in conducting the assessment;
- copies of documents reviewed or used in the assessment;<sup>7</sup>
- copies of any communications with outside experts, if any;<sup>8</sup>
- copies of any data reviewed or analyzed;
- the conclusions or recommendations resulting from the assessment; and
- a plan for addressing the conclusions or recommendations in the assessment.

The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement A or Term I.

## **Term II: Policies and Procedures**

- The District will create, adopt, and disseminate a policy and procedure for GATE, or amend its existing policy and procedures, to promote racial and ethnic equity, and access for students with disabilities. The policy or procedure will address, at a minimum:
  - definition of “gifted” and areas of giftedness;
  - twice exceptional students (*i.e.*, students with disabilities who are gifted);
  - referrals for GT testing;
  - Student Assistance Teams (SATs);
  - Response to Intervention (RTI) or Multi-Layered System of Supports (MLSS);
  - parental consent for GT testing;

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<sup>3</sup> District stakeholders include students, parents/guardians, staff and administration and community members including individuals who are Caucasian, Native Americans and Hispanic or from other racial or ethnic groups representative of the communities served by the School District.

<sup>4</sup> For purposes of this Agreement, OCR does not draw a distinction between “American Indian” and “Native American.”

<sup>5</sup> *e.g.*, surveys, focus groups, assessment work group participation, etc.

<sup>6</sup> *e.g.*, copies of surveys and responses, emails, meeting minutes or notes, etc.

<sup>7</sup> *e.g.*, policies, regulations, studies, research reports, policy briefs, etc.

<sup>8</sup> *e.g.*, NMPED staff, researchers, professors, etc.

- GT testing;
  - eligibility criteria;
  - Eligibility Determination Teams (EDTs) or Multi-Disciplinary Teams (MDTs);
  - Individualized Education Programs (IEPs);
  - GATE staffing;
  - GATE services;
  - communication and outreach to students and parents; and
  - appeals or complaints regarding GATE.
- B. The District will create, adopt, and disseminate a policy and procedure for advanced courses (or amend an existing policy and procedure) to promote racial and ethnic equity. The policy or procedure will address, at a minimum:
- course offerings;<sup>9</sup>
  - eligibility/enrollment criteria;<sup>10</sup> and
  - enrollment processes.<sup>11</sup>

**Reporting Requirement A:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Term I, the District will submit to OCR draft policies and procedures for GATE (per Term II(A)) and advanced courses (per Term II(B)). The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement A.

**Reporting Requirement B:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Term II – Reporting Requirement A, the District will submit to OCR documentation demonstrating that the policies and procedures were disseminated, at a minimum:

- i. on the District’s Board Policy webpage;
- ii. on the District’s “Parent Resources” webpage,;
- iii. on the websites for each District school (for the GATE policy and procedure);
- iv. on the websites and in the student-parent handbooks for each District high school (for the advanced courses policy and procedure); and
- i. to all District staff and administration expected to implement the policy and procedures.

The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement B or Term II.

### **Term III: Forms**

- A. The District will update or create, and disseminate, forms necessary for effective implementation of the policies and procedures created pursuant to Term II of this Agreement.<sup>12</sup>

<sup>9</sup> *i.e.*, how the District will determine, in an equitable manner, what specific courses will be offered at each school

<sup>10</sup> *e.g.*, grade levels, class grades, test scores, pre-requisite courses, work samples, recommendations, applications, etc.

<sup>11</sup> *i.e.*, how students sign up to participate in advanced courses

<sup>12</sup> *e.g.*, forms for GT testing referrals, SATs, MDTs or EDTs, IEPs, parents consent for GT testing, RTI or MLSS for students referred for GT testing, advanced course interest and enrollment forms, etc.

- B. The District will update or create, and disseminate, forms necessary for effective implementation of the data collection, analysis, and publication procedures created pursuant to Term VI of this Agreement.

**Reporting Requirement A:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Term I, the District will submit to OCR draft forms required by Term III(A) and Term III(B). The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement A.

**Reporting Requirement B:** Within 120 calendar days of receiving notice from OCR that no further reporting is required for Term III – Reporting Requirement A, the District will submit to OCR documentation demonstrating that the policies and procedures were disseminated, at a minimum:

- i. as exhibits on the District’s Board Policy webpage; and
- ii. to all diagnosticians, principals, assistant principals, department heads, counselors, teachers, and other instructional staff

The District will also submit to OCR a written description of where staff will be able to locate each form on an on-going basis. The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement B or Term III.

#### **Term IV: Staff Training**

- A. On an on-going basis, the District will train all relevant staff about:<sup>13</sup>
- the District’s revised, OCR-approved policies, procedures and practices for recruitment, identification/selection, and retention of students in GT programs and advanced placement courses, including those from diverse backgrounds;
  - eliminating possible racial disparities in GATE and advanced courses;
  - implicit bias;
  - cultural competence and responsiveness, including, but not limited to, how race, ethnicity, culture, language, and other factors may impact perceptions of students;
  - the policies and practices for GATE and advanced courses adopted pursuant to Term II of this Agreement;
  - the forms updated or created pursuant to Term III of this Agreement; and
  - discrimination prohibited by Section 504, Title II, and Title VI as it relates to GATE and advanced courses.

**Reporting Requirement A:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Term III, the District will submit to OCR:

- i. draft training materials;
- ii. the names, titles or positions, and qualifications of qualified individuals to conduct the trainings; and

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<sup>13</sup> For purposes of this Agreement, “relevant staff” include, but are not limited to staff in the District’s Special Education Department, principals, assistant principals, department heads, teachers, instructional coaches, and counselors.

- iii. a list of proposed individuals to be trained, including each person's name, location,<sup>14</sup> and title or position.

The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the training materials, trainer(s), and trainee list, and notice from OCR that no further reporting is required for Reporting Requirement A.

**Reporting Requirement B:** Within 90 calendar days of receiving notice from OCR that no further reporting is required for Term IV – Reporting Requirement A, the District will ensure that School staff are trained and will submit to OCR for each training session:

- i. the date, time, location, and topic(s) (among the topics listed in Term IV);
- ii. confirmation that the approved training materials were used;
- iii. confirmation that the approved trainers were used;
- iv. the names and titles or positions of staff who attended; and
- v. the names and titles or positions of staff who did not attend, an explanation for each person's absence, and a plan to train each person.

The District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement B.

**Reporting Requirement C:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Term IV – Reporting Requirement B, the District will submit to OCR the District's plan for providing the trainings on an on-going basis. The District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement C or Term IV.

#### **Term V: Community Education**

- A. The District will develop and implement a plan for increasing awareness of GATE and advanced courses among American Indian students and their families as well as other racial and ethnic groups representative of the community. To create the plan, the District will collaborate with other stakeholders, including , at a minimum, its Indian Parent Advisory Committee, GATE Advisory Committee, Native American liaisons, and Indian Education Coordinator. The plan will address:

- what informational materials will be disseminated;<sup>15</sup>
- when informational materials will be disseminated;<sup>16</sup>

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<sup>14</sup> *i.e.*, central office or school name

<sup>15</sup> *e.g.*, letters, flyers, brochures, oral information, advertisements, tweets, etc. The District will ensure that the outreach includes at a minimum: (a) description of the benefits and opportunities available to students regarding GATE and advanced courses; (b) information regarding the identification/selection process for the program and courses; (c) notification to eligible students that they should strongly consider participating in advanced courses; and (d) the name(s) and contact information for the GATE program leadership.

<sup>16</sup> *i.e.*, approximate dates. The District will also review its communications with students and parents at the high school level to ensure that students are provided notice on an annual basis of: (1) the availability of advanced courses; (2) how to enroll in these courses; and (3) the significance given to high school advanced courses by colleges in the admissions process.

- who will disseminate the District’s informational materials;<sup>17</sup> and
- where/how informational materials will be disseminated.<sup>18</sup>

**Reporting Requirement A:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Term III, the District will submit to OCR:

- a description of, and documentation related to, how the District collaborated with other stakeholders, including at a minimum, its Indian Parent Advisory Committee, GATE Advisory Committee, Native American liaisons, and Indian Education Coordinator to create the community outreach plan;
- the draft community outreach plan; and
- copies of informational and other outreach materials to be used.

The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement A.

**Reporting Requirement B:** Within 90 calendar days of receiving notice from OCR that no further reporting is required for Term V – Reporting Requirement A, the District will submit to OCR an update on each part of the approved community outreach plan. The District will promptly and fully address OCR’s feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement B.

**Reporting Requirement C:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Term V – Reporting Requirement B, the District will submit to OCR plan for ensuring that community outreach continues on an on-going basis. The District will promptly and fully address OCR’s feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement C or Term V.

#### **Term VI: Data Collection, Analysis, and Publication**

- The District will develop and implement, with fidelity, a data collection and record-keeping system to track:
  - all referrals of students for GT testing;
  - all GT tests administered;
  - all GT eligibility determinations, including whether the student was found eligible; and if the student was found ineligible, the reason(s) for the determination; and if the student was found eligible, the area(s) of giftedness;
  - GATE services provided;
  - advanced course offerings;
  - advanced course participation; and

<sup>17</sup> *e.g.*, school-based Native American liaisons, District or school administration, GATE teachers, diagnosticians, classroom teachers, counselors, members of Indian Parent Advisory Committee, etc.

<sup>18</sup> *e.g.*, sending home information with students; posting flyers or brochures at public libraries, community centers, cultural centers; including information on social media, on District webpages, via text messages, in newsletters, in student-parent handbooks; tabling, disseminating information, and making announcements at community events, back-to-school nights/days, orientations; orally sharing information at parent-teacher conferences; etc.

- denial of enrollment in advanced courses.
- B. Annually, the District will collect and analyze data about student participation in GATE. The data will be disaggregated by, at a minimum:
- school;
  - student name and grade level;
  - area of giftedness;
  - disability status;<sup>19</sup>
  - race;
  - and ethnicity.
- C. Annually, the District will collect and analyze data about student participation in advanced courses. The data will be disaggregated by, at a minimum:
- school;
  - course;
  - race;
  - and ethnicity.
- D. Annually, the District will make public the analyses conducted pursuant to Term VI(B)-(C), including by, at a minimum:
- posting the analyses on the District’s public website;
  - reviewing the analyses at a public District School Board meeting; and
  - sharing the analyses with the GATE Advisory Committee, Indian Parent Advisory Committee, and other stakeholders.

**Reporting Requirement A:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Term III, the District will submit to OCR a plan that includes:

- i. how the District will collect the data, including by what means, who<sup>20</sup> will be responsible, and when collection will occur;
- ii. how the District will maintain the data, including by what means and who will be responsible;
- iii. how the District will analyze the data, including who will be responsible and when the analyses will be conducted;
- iv. for the District’s public website, when, where, and by whom the analyses will be shared;
- v. for the public District School Board meeting, when and by whom the analyses will be shared;
- vi. for the GATE Advisory Committee, when, how, and by whom the analyses will be shared; and
- vii. for the Indian Parent Advisory Committee, when, how, and by whom the analyses will be shared with stakeholders.

The District will promptly and fully address OCR’s feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement A.

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<sup>19</sup> *i.e.*, whether the student has an IEP or Section 504 plan.

<sup>20</sup> “Who,” as used in this section, refers to the title(s) or position(s) of District staff, not specific names.

**Reporting Requirement B:** Within 60 calendar days of the end of the 2020-2021 school year (SY) and the 2021-2022 SY, the District will submit to OCR:

- i. copies of the raw data collected;
- ii. copies of the data analyses;
- iii. the name(s) and title(s) or position(s) of the individual(s) who conducted the analyses;
- iv. documentation demonstrating that the analyses were disseminated as planned;
- v. a written statement that the District will continue to collect, analyze, and disseminate the data on an annual basis.

The District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement B or Term VI.

**Term VII: Annual Assessment**

- A. On an on-going basis, the District will monitor the effectiveness of its efforts to promote equitable participation of American Indian and students from racial and ethnic groups representative of the student population and students with disabilities in GATE, and American Indian students in advanced courses.
- B. At the end of each school year, the District will conduct an annual assessment of its efforts to promote equitable participation of American Indian and students from racial and ethnic groups representative of the student population and students with disabilities in GATE, and American Indian students in advanced courses. In conducting the assessments, the District will involve the Indian Parent Advisory Committee and GATE Advisory Committee. The annual assessments will include:
  - the names and title or position of each individual who participated in the assessment;
  - the data analyses for the school year conducted pursuant to Term VI;
  - descriptions of the District's actions during the school year to promote equitable participation of American Indian and students from racial and ethnic groups representative of the student population and students with disabilities in GATE and American Indian students in advanced courses;
  - an assessment of the effectiveness of each action taken and recommendations for further improvement;<sup>21</sup> and
  - a plan for the following school year to promote equitable participation of American Indian and students from racial and ethnic groups representative of the student population and students with disabilities in GATE and American Indian students in advanced courses.

**Reporting Requirement A:** Within 90 calendar days of the end of the 2021-2022 SY, the District will submit to OCR its first annual assessment (for the 2021-2022 SY) and any supporting documentation. The District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement A.

**Reporting Requirement B:** Within 90 calendar days of the end of the 2022-2023 SY, the District will submit to OCR its annual assessment for the 2022-2023 SY and any supporting documentation. The

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<sup>21</sup> *i.e.*, lessons learned



District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement B or Term VII.

### **Understandings and Acknowledgments**

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 100.9-10), or judicial proceedings to enforce this Agreement, OCR will give the District written notice of the alleged breach and 120 calendar days to cure the alleged breach.
- By signing this Agreement, the District agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement.
- During the monitoring of this Agreement, if necessary and upon notice to the Superintendent and/or District counsel, 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 Section 504, Title II, Title VI, and their implementing regulations. Upon completion of the obligations under this Agreement, OCR will close this case.
- This Agreement will become effective immediately upon the signature of the District's representative below.

The parties understand and acknowledge that in the event the District is unable to meet any of the timelines set forth in this Agreement as a result of the current Worldwide pandemic, the School District will notify the OCR as soon as it determines it cannot comply with any timeline and the specific pandemic-related reasons why. In such event, the parties agree to confer and discuss an extension of time of the timeline(s).

### **For Grants/Cibola County Schools**

/s/  
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 Max Perez, Superintendent  
 On behalf of and representative of the  
 Board of Education

9/17/20  
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 Date