

**Parker Unified School District (Arizona)**  
**OCR Docket No. 08-19-5002**  
**Resolution Agreement**

Parker Unified School District (“District”) agrees to resolve the above-referenced compliance review initiated by the U.S. Department of Education (Department), Office for Civil Rights (OCR) by voluntarily entering into this Resolution Agreement (Agreement). In this compliance review, OCR investigated whether the District’s use of restraint and seclusion denies students with disabilities who participate in the District’s programs a free appropriate public education (FAPE), in violation of the District’s obligation to comply with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12101 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35. Additionally, during the investigation OCR identified Section 504 and Title II issues at the District’s Ombudsman school that were not originally part of this compliance review.

Moreover, in the course of the investigation the District acknowledged submission of inaccurate restraint and seclusion data to OCR’s Civil Rights Data Collection (CRDC), for the 2015-16 school year. OCR’s CRDC team will separately contact the District regarding its submission of inaccurate data for the year in question.

The District assures OCR that it will take the following actions to ensure compliance with the requirements of Section 504 and its implementing regulation, 34 C.F.R. Part 104, and Title II and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of federal financial assistance and public entities, respectively.

**POLICIES**

1. The District will develop and adopt a policy or policies on restraint and seclusion that, at a minimum:
  - a) defines the terms mechanical restraint, physical restraint, and seclusion, and identifies how those terms are distinct from safety devices, physical escorts, and timeout;
  - b) requires the District and District schools to determine the extent to which additional or different interventions or supports and services may be needed to reduce the use of restraint and seclusion (*e.g.*, positive behavioral interventions and supports (PBIS), de-escalation techniques, functional behavioral assessments (FBAs), behavioral intervention plans (BIPs), a broad continuum of placements, etc.);
  - c) specifies that restraint and seclusion shall not be used except in situations where a student’s behavior poses an imminent danger of serious physical harm to self or others;
  - d) specifies that restraint and seclusion shall be discontinued as soon as the imminent danger of serious physical harm to self or others has dissipated;
  - e) specifies that restraint and seclusion shall not be used on students with disabilities for behaviors that would not result in restraint and seclusion for students without disabilities;
  - f) specifies that restraint and seclusion shall not be used on students with disabilities based on assumptions or stereotypes about disability or about students with disabilities generally;
  - g) specifies that restraint and seclusion shall not be used in a manner that restricts a student’s breathing or that otherwise physically harms the student;

- h) specifies that restraint and seclusion shall be used only by school personnel who are trained in the safe and effective use of restraint and seclusion techniques, unless an emergency situation does not allow for sufficient time to summon trained personnel;
  - i) specifies that all uses of restraint and seclusion be documented in a manner that is consistent with Term 5;
  - j) specifies that if a student is subjected to restraint or seclusion, then that student's parent or guardian must be notified (in a language he or she can understand) on the same day that the restraint or seclusion is used, unless same-day notice is impracticable, in which case notice must be given by the end of the following day;
  - k) specifies that notification of restraint or seclusion, as discussed in Term 1(j), be documented and that such documentation be kept in the student's record;
  - l) specifies that all District schools take individualized measures to address the underlying cause(s) of a student's behavior that led to a restraint or seclusion;
  - m) specifies that all District schools take individualized measures to address any negative effects of restraint or seclusion on a student, including the possibility of compensatory services or other remedial measures; and
  - n) specifies that any special education or related services that are made up as a result of the use of restraint or seclusion be documented and that documentation be kept in the student's record.
2. The District will revise policy regulation IHBA-RA by clarifying that based on new information about a student's educational needs, a review of a student's progress may need to be conducted more frequently than an annual basis. That review may result in the need for a re-evaluation.
  3. The District will disseminate the approved policies by, at a minimum:
    - a) posting the policies on the District's website and all student and parent handbooks – in English, Spanish, and any other languages frequently spoken by District students' parents and guardians – and sending them to all parents and guardians of District students; and
    - b) posting the policies in the District's online policy manual and sending them to all District personnel.

**Reporting Requirement A:** Within 60 calendar days of this Agreement being signed, the District will submit to OCR a draft of the policies required by Terms 1 and 2. The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the policies.

**Reporting Requirement B:** Within 30 calendar days of receiving OCR's final approval of the policies: (i) the District's Governing Board will adopt the approved policies; and (ii) the District will submit to OCR documentation demonstrating that the approved policies were adopted by the Board (*e.g.*, a copy of Board meeting minutes). 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 30 calendar days of the District receiving notice from OCR that no further reporting was required for Reporting Requirement B, the District will: (i) disseminate the approved policies as required by Term 3; and (ii) submit to OCR documentation demonstrating that the approved policies were disseminated as required by Term 3 (*e.g.*, screenshots or print outs of the District's website; emails showing recipients and attachments; etc.). 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 Terms 1, 2, and 3.

#### **INFORMATION COLLECTION AND RECORD KEEPING**

4. Prior to start of every school year, the District will: (1) identify every room in the District that is available for use that is consistent with its seclusion policy; (2) notify all staff of the seclusion rooms; (3) identify for all staff the policies related to the use of the seclusion rooms; and (4) provide any necessary clarification distinguishing the use of the seclusion rooms from removals that do not meet the definition of a seclusion.

**Reporting Requirement A:** Within 60 calendar days of this Agreement being signed, the District will submit to OCR a list of each room available for use that is consistent with its seclusion policy. The listing will include: (i) the name of the school where the room is located; (ii) a description of the room and accompanying photographs; (iii) a description of the room's location within the school building; (iv) the names and titles of staff that have access to the rooms; and (v) the names and titles of any staff that are assigned to the room. 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 30 calendar days of receiving notice from OCR that no further reporting is required for Reporting Requirement A, the District will submit to OCR documentation verifying that it notified all staff of: the available seclusion rooms, policies related to the use of seclusion rooms, and provided any necessary clarification distinguishing the use of the seclusion rooms from pull outs that do not meet the definition or a seclusion. 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.

5. The District will create a form, to be used by every District school, that captures the following information for every use of restraint and for every use of seclusion:
  - a) the name of the student restrained or secluded;
  - b) the school and grade of the student restrained or secluded;
  - c) the date of the restraint or seclusion;
  - d) whether the student who was restrained or secluded is a previously identified student with a disability;
  - e) a clear identification of whether the student was restrained, secluded, or both;
  - f) if the student was restrained, a clear identification of whether the student was mechanically restrained, physically restrained, or both;
  - g) if the student was restrained, the location of the restraint (*e.g.*, cafeteria, playground, classroom, school bus, etc.);
  - h) if the student was secluded, which of the rooms identified in Term 4 was used;
  - i) the start time, end time, and total time of the restraint or seclusion;
  - j) the name(s) of staff directly involved (*i.e.*, conducting the restraint or seclusion);
  - k) the name(s) of staff who witnessed, but were not directly involved in, the restraint or seclusion;
  - l) a description of the antecedent factors;
  - m) a description of the student's behavior that precipitated the school's belief that restraint or seclusion was justified;

- n) a description of the de-escalation strategy or strategies used prior to the restraint or seclusion, or an explanation for why none were attempted;
  - o) the activity or activities that the student missed during the restraint or seclusion (*e.g.*, a related service, special education, a general education class, etc.);
  - p) a description of how the restraint or seclusion was conducted (*i.e.*, for restraints, how was staff positioned, was the student sitting, standing, prone, supine, etc.);
  - q) a description of events immediately following the restraint or seclusion (*i.e.*, student remained in classroom or removed to different location, student met with counselor, etc.)
  - r) whether the student or staff suffered any injury or needed any medical treatment as a result of the restraint or seclusion;
  - s) the date, time, and method by which the student's parent or guardian was notified of the restraint or seclusion (and if the notification was made in a language other than English, the language used);
  - t) for students not previously identified as a student with a disability, whether the school will hold a team meeting to discuss:
    - i. whether the student is suspected<sup>1</sup> of having a disability, and therefore, should be referred for a Section 504 evaluation, IDEA evaluation, or both;
  - u) for students previously identified as a student with a disability, will the school hold a Section 504 or IEP team meeting to discuss:
    - i. whether the relevant provisions of the student's Section 504 plan or IEP were implemented;
    - ii. whether the student needs a re-evaluation;
    - iii. whether the student's plan needs to be revised; and/or
    - iv. whether the student is due compensatory services.
  - v) the name(s) of the person(s) who completed the form;
  - w) the date the form was completed; and the name of the staff who entered the above data into the District's school-wide information system and the date it was entered.
6. The District will develop and adopt a procedure (or regulation) designed to ensure the accurate, timely, and thorough collection of the information required by Term 5. The procedure will include, at a minimum:
- a) how forms must be disseminated and available to staff on an on-going basis;
  - b) that the staff completing the form will be either the teacher or staff member most knowledgeable about the student or the staff member who engaged the student in the restraint or seclusion;
  - c) that the form should be completed as soon as the emergency situation has ended, if practicable, but no later than 24 hours after the emergency; and
  - d) who will be responsible for maintaining completed forms for a minimum of five years.
7. The District will disseminate the approved form and procedure by, at a minimum:

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<sup>1</sup> Suspicion of a disability may be based on information that the precipitating behavior is part of a larger pattern of behavior, or other individualized information about the student that suggests that the student should be referred for an evaluation.

- a) posting the form and procedure in the District's online policy manual and staff intranet website, and sending it to all District personnel; and
- b) adding the form and procedure to all staff handbooks.

**Reporting Requirement A:** Within 60 calendar days of this Agreement being signed, the District will submit to OCR drafts of: (i) the form required by Term 5; and (ii) the procedure required by Term 6. The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the form and procedure.

**Reporting Requirement B:** Within 30 calendar days of the District receiving OCR's final approval of the form and procedure, the District will: (i) disseminate the approved form and procedure as required by Term 7; (ii) submit to OCR documentation demonstrating that the approved form and procedure were disseminated as required by Term 7; and (iii) provide OCR with a brief written statement confirming that its information collection system is fully operational. 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 30 calendar days of the end of the 2021-2022 school year, the District will submit to OCR: (i) copies of all forms completed during the 2021-2022 school year, and (ii) written confirmation that a form was completed for every restraint and seclusion, or an explanation for why a form was not completed for one or more restraint or seclusion incidents and a plan for remedying that failure. 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 Terms 5, 6, and 7.

8. Based on the information collected on the form described in Term 5, the District will, as needed, convene a Section 504 or IEP team to address the need to evaluate or re-evaluate a student, revise a student's plan, and/or provide compensatory education or remedial services to a student.

**Reporting Requirement A:** Within 30 calendar days of the end of the 2021-2022 school year, the District will submit to OCR documentation demonstrating that it held the necessary Section 504 or IEP meetings. Documentation should include, but not necessarily be limited to, eligibility determinations; re-evaluation results; revised Section 504 Plans or IEPs; or plans to provide compensatory education or remedial services. 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 or Term 8.

## **TRAINING**

9. Using one or more qualified trainers, the District will annually train all relevant staff, which should include principals, assistant principals, deans, behavior interventionists, related service providers, special education teachers and aides, general education teachers, guidance counselors, school resource officers, and any other staff deemed relevant by the District and including a participant evaluation form. The training will cover the following topics:
  - a) the policies approved pursuant to Terms 1, 2 and 3;

- b) the form and procedure described in Terms 5 and 6, respectively;<sup>2</sup>
- c) that the use of restraint and seclusion is an individualized determination based on a student's individual need;
- d) reducing the reliance on restraint and seclusion and identifying alternatives;
- e) the safe use of restraint and seclusion;
- f) how the use of restraint and seclusion may deny a student a FAPE and signal the need for an evaluation or re-evaluation; and
- g) a school's obligation to remedy any denial of FAPE that resulted from the school's prior use of restraint or seclusion.

**Reporting Requirement A:** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Terms 1 through 7, regarding the development of policies, forms, and procedures, the District will submit to OCR: (i) draft training materials; (ii) the name(s), title(s) or position(s), and qualifications of one or more qualified individuals to provide the training(s); and (iii) a list of proposed individuals to be trained, including each person's name, location (*i.e.*, central office or school name), 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.

**Reporting Requirement B:** Within 60 calendar days of receiving OCR's final approval of the training materials, trainer(s), and trainee list, the District will conduct the training and submit to OCR: (i) the date(s), time(s), and location(s) of the training session(s); (ii) confirmation that the approved training materials were used; (iii) confirmation that the approved trainer(s) was used; (iv) the names, locations, and titles or positions of staff who attended the training(s) along with copies of training evaluations from each participant; and (v) the names, locations (*i.e.*, central office or school name), and titles or positions of staff who did not attend the training, 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 30 calendar days of the end of the 2021-2022 school year, the District will submit to OCR the date on which the District will conduct its annual restraint and seclusion staff training for the 2022-2023 school year. 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 9.

## REVIEW, ASSESSMENT, AND PLANNING

10. On an annual basis, the District will review the use of restraint and seclusion. The District's exceptional student services director, the District's superintendent and/or assistant superintendent, and other relevant staff will participate in the evaluation. The review will include, at a minimum:
  - a) an examination of all forms completed pursuant to Term 5 and a determination of whether they were completed in accordance with the requirements of Terms 4 and 5;
  - b) an analysis of whether the form described in Term 5 was completed consistently, accurately, and with fidelity across each District school;

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<sup>2</sup> District and school staff who are not responsible for completing, maintaining, or supervising the completion of the form described in Term 5, do not have to attend this portion of the training.

- c) an analysis of restraint and seclusion data, including disaggregation by action taken (*i.e.*, mechanical restraint, physical restraint, or seclusion), school, staff using restraint and seclusion, and student disability status;
  - d) an identification of efforts at each school to reduce its reliance on the use of restraint and seclusion;
  - e) an analysis of whether school-based staff's use of restraint or seclusion was an individualized determination based on the student's need;
  - f) an analysis of whether the behaviors that led to the restraint or seclusion of a student were part of a pattern of behaviors that should have led school-based staff to seek an evaluation or re-evaluation;
  - g) an analysis of whether school-based staff considered the impact of the restraint or seclusion on the student and if it necessitated an evaluation or re-evaluation of the student;
  - h) an analysis of whether school-based staff considered if a student's current array of regular or special education and related aids and services provided the student with a FAPE;
  - i) an analysis of whether school-based staff considered whether the student missed instruction and/or related services resulting in a denial of FAPE; and
  - j) based on their review and as indicated, follow up conversations with school-based staff regarding the use of restraint and seclusion.
11. On an annual basis, the District will produce a written evaluation report based on the review conducted pursuant to Term 10. The report will include, at a minimum, whether:
- a) District staff complied with the policies adopted pursuant to Terms 1 and 2;
  - b) District staff complied with the information collection and record-keeping system adopted pursuant to Terms 4 and 5;
  - c) the annual training, conducted pursuant to Term 9, needs to be modified;
  - d) school-based staff appropriately conducted the activities and analyses outlined in Terms 10(c) through 10(i);
  - e) District schools need additional or different supports to reduce the frequency of student behaviors that may necessitate the use of restraint or seclusion; and
  - f) District schools need additional or different supports for students who have been subjected to restraint or seclusion.
12. On an annual basis, the District will, based on the review conducted pursuant to Term 10 and the assessment conducted pursuant to Term 11, develop a written action plan that addresses, at a minimum:
- a) what actions will be taken;
  - b) why each action needs to be taken (referring back to the review and assessment);
  - c) who will be responsible for taking each action; and
  - d) when each action will be taken.

**Reporting Requirement A:** Within 30 calendar days of the end of the 2021-2022 school year, the District will submit to OCR: (i) a copy of materials from the 2021-2022 school year review conducted pursuant to Term 10; (ii) a copy of 2021-2022 school year evaluation report conducted pursuant to Term 11; and (iii) a copy of its 2021-2022 school year action 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 A or Terms 10 through 12.

## EVALUATIONS

*Terms 13 through 21 apply to District students XXXX, XXXX, and XXXX. For readability, "Student," "them," and "they" are used throughout Terms 13 through 21 to represent these students.*

13. Within 15 calendar days of this Agreement being signed, the District will make at least three attempts, via various methods (e.g., phone, email, letter, or in person), to obtain consent for an evaluation from the Student's parent or guardian (Parent). The District will provide the Parent with an overview of the evaluation process and a copy of the procedural safeguards.
14. *Evaluation:* If the Parent provides consent for an evaluation, the District will evaluate the Student within 30 calendar days of receiving consent. In evaluating the Student, the District will ensure that tests and other evaluation materials: (1) have been validated for the specific purpose for which they are used; (2) administered by trained personnel in conformance with the instruction provided by their producer; and (3) include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
15. *Eligibility Meeting:* Within 30 calendar days of the evaluation being completed, the District will convene a group of persons knowledgeable about the Student (e.g., an IEP team), the meaning of the evaluation data, and the placement options, including the Parent, to discuss the evaluation results and to determine whether the Student is eligible under Section 504 or the Individuals with Disabilities Education Act (IDEA).<sup>3</sup> The Parent will be permitted to invite persons knowledgeable about the Student to attend the meeting. The group will draw upon information from a variety of sources, including incidents of restraint of the Student since they became a student in the District and the Student's behavior and discipline since they became a student in the District. The Team will carefully consider all information provided by the Parent and his or her invitees, if any. The eligibility decision will reflect the judgment of the team, not the judgment of a single individual.
16. If the Team determines that an evaluation under IDEA is appropriate but subsequently finds the Student not eligible for an Individualized Education Program (IEP), the Team will consider whether the student is eligible for a Section 504 Plan.
17. *Procedural Safeguards.* The District will provide the Parent with a copy of the District's procedural safeguards, as required by Section 504.
18. *Plan Creation Meeting:* Within 30 calendar days of the eligibility meeting required by Term 15, if the Student is determined to be eligible, the District will convene the Student's Section 504 or IEP team to: (1) create a Section 504 plan or IEP for the Student; and (2) decide whether an FBA will be conducted and an BIP will be created for the Student. The Parent will be permitted to invite persons knowledgeable about the Student to attend the meeting. The team will carefully consider all information provided by the Parent and his or her invitees, if any. The plan and the

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<sup>3</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process.

decision regarding the FBA and BIP will reflect the judgment of the team, not the judgment of a single individual.

19. Within 10 calendar days of the plan creation meeting required by Term 18, the District will provide the Parent with a copy of the plan, if the team develops one.
20. *FAPE*: if the Student is found eligible, the District will provide the student with a free and appropriate public education, where an appropriate education is the provision of regular or special education and related aides and services that are designed to meet the individual educational needs of the student in the least restrictive environment.
21. *Re-evaluation*: If the Student is found eligible, the District will conduct re-evaluations of the Student (1) periodically, and (2) prior to any subsequent significant change in placement.

**Reporting Requirement A:** Within 15 calendar days of this Agreement being signed, the District will submit to OCR a report about its attempts to obtain consent for an evaluation from the Parent. The report will include, at a minimum: (i) the date(s) and time(s) that the District attempted to contact the Parent; (ii) the method(s) by which the District attempted to contact the Parent; (iii) the name(s) and title(s) or position(s) of the District staff member(s) who attempted to contact the Parent; (iv) the Parent's response(s) to the District's attempts; (v) copies of any written attempts to contact the Parent; and (vi) if the Parent provides consent, a copy of the Parent's consent and documentation showing that the Parent was provided with a copy of the procedural safeguards. 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:** If the Parent provides consent for an evaluation, then within 45 calendar days of the consent being provided, the District will submit to OCR a copy of the evaluation. 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:** If the Parent provides consent for an evaluation, then within 45 calendar days of the evaluation being complete, the District will submit to OCR: (i) a copy of the eligibility meeting invitation sent to the Parent; (ii) notes or minutes from the eligibility meeting that reflect, at a minimum, the Parent's perspective, District staff's perspectives, information considered, eligibility decision, and rationale for the eligibility decision; and (iii) confirmation that the Parent was provided with the District's procedural safeguards (*e.g.*, an email to the Parent or a signature from the Parent confirming receipt). If the Student is reevaluated during the monitoring of this Agreement, Reporting Requirements B and C will also apply to that re-evaluation. 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.

**Reporting Requirement D:** If the Student is found eligible, then within 45 calendar days of the eligibility meeting, the District will submit to OCR: (i) a copy of the Student's plan; (ii) notes or minutes from the plan creation meeting that reflect, at a minimum, the Parent's perspective, District staff's perspectives, information considered, and decision regarding an FBA and BIP; (iii) documentation showing that the Parent was provided with a copy of the plan (*e.g.*, a copy of an email to the Parent or a signature from the Parent confirming receipt). If the Student is reevaluated during the monitoring of this Agreement, Reporting Requirement D will also apply to any subsequent eligibility meeting. 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 D.

### **COMPENSATORY SERVICES AND REMEDIAL MEASURES**

*Terms 22 through 25 apply to District students XXXX and XXXX.<sup>4</sup> For readability, "Student," "his," and "him" are used throughout Terms 22 through 25 to represent both students.*

22. Within 30 calendar days of this Agreement being signed, the District will convene an IEP team (Team) meeting for the Student to review available data and discuss, at a minimum:
- a) restraints of the Student during the 2018-2019, 2019-2020, and 2020-2021 school years;
  - b) whether the Student's behaviors that led to the restraints were part of a larger pattern of behaviors that may indicate a need for a re-evaluation;
  - c) the impact of the restraints on the Student and if the effects of the impact resulted in a need for a re-evaluation;
  - d) whether the Student's current array of regular or special education and related aids and services provides the Student with a FAPE;
  - e) how the use of restraint affected the Student's receipt of regular or special education and related aids and services resulting in a denial of FAPE;
  - f) whether the Student is entitled to compensatory services or remedial measures (at no cost to his parent or guardian) as a result of restraints during the 2018-2019, 2019-2020, and 2020-2021 school years;
  - g) whether the Student will be reevaluated;
  - h) whether the Student needs an FBA and BIP; and
  - i) other services and supports designed to address the Student's behaviors that led to him being restrained.
23. Regarding the meeting required by Term 22, the District will ensure that:
- a) the meeting is held in a manner that is consistent with the procedural requirements of Section 504 (34 C.F.R. Sections 104.35-36);
  - b) the Team includes School and District employees who have knowledge of the matters being considered;
  - c) the Student's parent or guardian ("Parent") is invited to the meeting and permitted to invite persons knowledgeable about the Student to attend the meeting;
  - d) the Team carefully considers all information provided by the Parent and his or her invitees (if any);
  - e) any decisions reflect the judgment of the Team and not the judgment of a single individual;
  - f) the Parent receives notice of applicable procedural safeguards; and
  - g) within 10 calendar days of the meeting, the Parent is notified, in writing, of the decisions made at the meeting, including all decisions regarding re-evaluation and compensatory services or remedial measures.

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<sup>4</sup> The District informed OCR that XXXX was disenrolled from the District by his parents on XXXX. The District will fulfill Terms 22 through 25 for XXXX should he re-enroll at the District in the future.

24. If, in the meeting required by Term 22, the Team determines that the Student needs a re-evaluation, the Team will conduct a re-evaluation that meets the requirements of Terms 14 through 19.
25. If, in the meeting required by Term 22, the Team determines that the Student is entitled to compensatory services or remedial measures, the Team will develop a written plan that includes:
  - a) the type(s) and amount(s) of compensatory services or remedial measures owed;
  - b) who will provide the compensatory services or remedial measures, including name(s), title(s) or position(s), and contact information;
  - c) where the compensatory services or remedial measures will be provided (e.g., school, home, etc.); and
  - d) when the compensatory services or remedial measures will be provided, including a start date and schedule.

**Reporting Requirement A:** Within 30 calendar days of the Student's Team meeting, the District will submit to OCR: (i) a copy of the District's invitation(s) to the Student's parent or guardians to attend the meeting and to provide his or her input; (ii) a list of the individuals who attended the meeting, including each individual's name and title or position; (iii) a summary of the Team's discussion about restraints of the Student; (iv) a summary of the Team's discussion and decision about a re-evaluation of the Student, an FBA and BIP for the Student (and a copy of the FBA, if one is conducted, and a copy of the BIP, if one is created), other services and supports designed to address the Student's behaviors, compensatory services or remedial measures for the Student (and a copy of the plan, if one is created); (v) documentation demonstrating that the District provided the Student's parent or guardian with notice of applicable procedural safeguards; and (vi) a copy of the written notice (including the plan for compensatory services or remedial measures, if one is created) to the Student's parent or guardian. 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.<sup>5</sup>

**Reporting Requirement B:** Within 90 calendar days of receiving OCR's notice that no further reporting was required for Reporting Requirement A, the District will submit to OCR documentation demonstrating that all plans, including any plan for compensatory services or remedial measures, as determined by the Team, were carried out. Documentation of plan implementation will include but not necessarily be limited to: (i) tracking the implementation of plan provisions; (ii) tracking the efficacy of plan provision and whether they are providing the Student with a FAPE; (iii) a review of the use of restraints to determine whether they are part of a trend that would require a re-evaluation, additional or different supports and services, and/or an FBA; and (iv) a review of how restraints impacted the Student's receipt of plan provisions and whether it resulted in a denial of FAPE. 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 Terms 22 through 25.<sup>6</sup>

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<sup>5</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process.

<sup>6</sup> This case will remain in monitoring until all compensatory services or remedial measures (if any) have been provided, or until the District provides an acceptable explanation for why the compensatory services or remedial measures cannot be provided.

**Ombudsman/Parker Alternative School**

26. By no later than October 1, 2021 the District agrees to complete an audit of the IEPs and Section 504 Plans of each student currently enrolled at Ombudsman/Parker Alternative School to determine whether:
- a) students were reevaluated prior to enrolling at Ombudsman;
  - b) placement decisions were individualized to meet the students' needs;
  - c) special education services were delivered by a certified special education teacher; and
  - d) students are being provided specialized instruction and access to a special education teacher and resource room, as indicated in their plans.

**Reporting Requirement A:** Within 30 calendar days of the completion of the District's audit the District will submit to OCR: (i) a copy of the District's findings, including any associated notes or documents; (ii) a list of the individuals involved in the audit and their role in the audit; (iii) for those students where the District concluded services were fully implemented, documentation that supports that conclusion; (iv) for those students where the District concluded services were not fully implemented, documentation that identifies the type and quantify of services that were not provided. 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 26.

27. Within 30 calendar days of this Agreement being signed, the District will convene a Section 504 team (Team) meeting for XXXX (Student) to review available data and discuss, at a minimum:
- a) the District's failure to reinstate the Student's July 19, 2019 Section 504 Plan (Plan) when she returned to the District on November 4, 2019, and the resulting failure to provide the Student with a FAPE from the start of the 2019-2020 school year until the date of the meeting;
  - b) whether the Student is entitled to compensatory services or remedial measures (at no cost to his parent or guardian) as a result of the denial of FAPE;
  - c) whether the Student will be re-evaluated; and
  - d) whether the Student's July 19, 2019 Plan meets her current needs, and if not, any necessary changes and/or additions.
28. Regarding the meeting required by Term 27, the District will ensure that:
- a) the meeting is held in a manner that is consistent with the procedural requirements of Section 504 (34 C.F.R. Sections 104.35-36);
  - b) the Team includes School and District employees who have knowledge of the matters being considered;
  - c) the Student's parent or guardian ("Parent") is invited to the meeting and permitted to invite persons knowledgeable about the Student to attend the meeting;
  - d) the Team carefully considers all information provided by the Parent and his or her invitees (if any);
  - e) any decisions reflect the judgment of the Team and not the judgment of a single individual;
  - f) the Parent receives notice of applicable procedural safeguards; and

- g) within 10 calendar days of the meeting, the Parent is notified, in writing, of the decisions made at the meeting, including all decisions regarding re-evaluation and compensatory services or remedial measures.

29. If, in the meeting required by Term 27, the Team determines that the Student needs a re-evaluation, the Team will conduct a re-evaluation that meets the requirements of Terms 14 through 19.

30. If, in the meeting required by Term 27, the Team determines that the Student is entitled to compensatory services or remedial measures, the Team will develop a written plan that includes:

- a) the type(s) and amount(s) of compensatory services or remedial measures owed;
- b) who will provide the compensatory services or remedial measures, including name(s), title(s) or position(s), and contact information;
- c) where the compensatory services or remedial measures will be provided (*e.g.*, school, home, etc.); and
- d) when the compensatory services or remedial measures will be provided, including a start date and schedule.

**Reporting Requirement A:** Within 30 calendar days of the Student's Team meeting, the District will submit to OCR: (i) a copy of the District's invitation(s) to the Student's parent or guardian to attend the meeting and to provide his or her input; (ii) a list of the individuals who attended the meeting, including each individual's name and title or position; (iii) a summary of the Team's discussion and decision about compensatory education or remedial services; (iv) a summary of the Team's discussion and decision about a re-evaluation of the Student; (v) documentation demonstrating that the District provided the Student's parent or guardian with notice of applicable procedural safeguards; and (vi) a copy of the written notice (including the plan for compensatory services or remedial measures, if one is created) to the Student's parent or guardian. 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.<sup>7</sup>

**Reporting Requirement B:** Within 90 calendar days of receiving OCR's notice that no further reporting was required for Reporting Requirement A, the District will submit to OCR documentation demonstrating that any plans for compensatory services or remedial measures were carried out. 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 Terms 27 through 30.<sup>8</sup>

31. By no later than November 1, 2021 the District agrees to hold an IEP or Section 504 Plan meeting for every student currently enrolled at Ombudsman/Parker Alternative School with an IEP or Section 504 Plan<sup>9</sup>, for the purpose of determining whether:

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<sup>7</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process.

<sup>8</sup> This case will remain in monitoring until all compensatory services or remedial measures (if any) have been provided, or until the District provides an acceptable explanation for why the compensatory services or remedial measures cannot be provided.

<sup>9</sup> A meeting held pursuant to Terms 27 and 28 will satisfy Term 31 for student XXXX.

- a) the student's current array of regular or special education and related aids and services provides the student with a FAPE;
- b) the student will be reevaluated; and
- c) the student is entitled to compensatory services or remedial measures (at no cost to his parent or guardian) as a result of:
  - i. not receiving services as outlined in their plan; and/or
  - ii. not receiving special education services by a certified special education teacher; and/or
  - iii. not being provided with specialized instruction and access to a special education teacher and resource room, as indicated in their plans.

**Reporting Requirement A:** Within 30 calendar days of the Student's Team meeting, the District will submit to OCR: (i) a copy of the District's invitation(s) to the Student's parent or guardians to attend the meeting and to provide his or her input; (ii) a list of the individuals who attended the meeting, including each individual's name and title or position; (iii) a summary of the Team's discussion; (iv) a summary of the Team's discussion related to compensatory services, if necessary (and a copy of the plan, if one is created); (v) documentation demonstrating that the District provided the Student's parent or guardian with notice of applicable procedural safeguards; and (vi) a copy of the written notice (including the plan for compensatory services or remedial measures, if one is created) to the Student's parent or guardian. 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.<sup>10</sup>

**Reporting Requirement B:** Within 90 calendar days of receiving OCR's notice that no further reporting was required for Reporting Requirement A, the District will submit to OCR documentation demonstrating that all plans, including any plan for compensatory services or remedial measures, as determined by the Team, were carried out. 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 31.<sup>11</sup>

32. The District will develop and adopt a memorandum of understanding (MOU) with Ombudsman/Chancelight (Ombudsman) that, at a minimum, specifies:
- a) parents, guardians, and students cannot be asked to waive or modify services under an IEP or Section 504 Plan as a pre-requisite to enrolling and/or continued enrollment at Ombudsman;
  - b) relevant Ombudsman staff will be responsible for completing the form described in Term 5;
  - c) the District, with Ombudsman staff joining the team, will conduct a re-evaluation of every student with an IEP, prior to their enrollment at Ombudsman/Parker Alternative School to determine if Ombudsman is an appropriate placement in the least restrictive environment;

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<sup>10</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process.

<sup>11</sup> This compliance review will remain in monitoring until all compensatory services or remedial measures (if any) have been provided, or until the District provides an acceptable explanation for why the compensatory services or remedial measures cannot be provided.

- d) the District and Ombudsman staff acting on the District's behalf are committed to providing special education and related services based on an eligible student's individual educational needs and not based on their enrollment at Ombudsman/Parker Alternative School;
- e) the District and Ombudsman will develop and adopt a procedure designed to ensure the accurate, timely, and thorough collection of information regarding the implementation of provisions in a student's plan;
- f) Ombudsman staff will track the implementation of each provision in a student's plan and submit that information to the District so that the District may determine whether a student's current array of regular or special education and related aids and services provides the student with a FAPE;
- g) the District will ensure that a certified special education teacher is available to provide special education services to eligible students at Ombudsman, and Ombudsman will ensure that the certified special education teacher(s) will have the necessary access to students at Ombudsman;
- h) the District will ensure that every eligible student at Ombudsman that needs related services will have available to them the necessary related service provider, and Ombudsman will ensure that the related service provider(s) have the necessary access to students at Ombudsman;
- i) that District will make available to all Ombudsman staff every District special education policy and procedure, including those described in Terms 1 and 2, and Ombudsman will ensure that all Ombudsman staff have received and read every District special education policy and procedure; and
- j) relevant Ombudsman staff will be included in the trainings described in Term 9.

**Reporting Requirement A:** Within 60 calendar days of this Agreement being signed, the District will submit to OCR documentation verifying that the MOU developed pursuant to Term 32 is being followed as written. 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 32.

**Reporting Requirement B:** By October 1, 2021, the District will submit to OCR: (i) a list of every student newly enrolled into Ombudsman for the 2021-2022 school year; (ii) documentation demonstrating that each newly enrolled student was re-evaluated in conjunction with their enrollment at Ombudsman; and (iii) documentation demonstrating that the re-evaluations were done in accordance with the requirements of Terms 14 through 19.

**Reporting Requirement C:** By June 1, 2022, the District will submit to OCR: (i) a list of each Ombudsman student with an IEP or Section 504 Plan; (2) a copy of each IEP or Section 504 Plan that was in effect for the student during the 2021-2022 school year; and (3) data that tracks and verifies the delivery of each provision of the student's plan.

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. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the case.

The District understands that it must operate its program and activity in compliance with Section 504 and its implementing regulation at 34 C.F.R. Part 104, Title II and its implementing regulation at 28 C.F.R. Part 35, Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 C.F.R. Part 100, Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, the Age Discrimination Act of 1975 and its implementing regulation at 34 C.F.R. Part 110 and the Boy Scouts of America Equal Access Act of 2001 and its implementing regulation at 34 C.F.R. Part 108.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

**FOR PARKER UNIFIED SCHOOL DISTRICT**

/s/

August 23, 2021

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Brad Sale, Superintendent  
Parker Unified School District

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Date