

RESOLUTION AGREEMENT

Douglas County School District RE-1 08-20-1092

The United States Department of Education (Department), Office for Civil Rights (OCR) and Douglas County School District Schools (District) enter into this agreement to resolve the allegations in the above referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 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. Sections 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively; and, Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of federal financial assistance from the Department.

I. Title IX

A. Policies and Procedures. Assurance and Audit - School Years 2021-2023. The District demonstrated it recently updated its Title IX policies and procedures.

1. By signing the Agreement, the District provides an assurance that it will ensure its Title IX policies and procedures are applied and enforced consistently throughout schools in the District.
2. The District will conduct an annual audit at the end of the following school years (SYs), SY 21-22 and SY 22-23, to review the consistency of application and compliance with the District's Title IX policies and procedures regarding non-discrimination on the basis of sex, with respect to the sex of the students on a coach's team, in the application of discipline assigned to or the decision to forgo discipline of a coach alleged to be in violation of the District's expectations and requirements. The District will complete the audit no later than June 30 annually. The audit will include, at a minimum:
 - a. identification of the school year for which the audit is being conducted;
 - b. a review of all complaints received during the school year addressing allegations of misconduct by coaches, disaggregated by the sex of the students on a coach's team;
 - c. an assessment of whether each complaint was processed in accordance with the District's policies and procedures; and,
 - d. a self-evaluation by the District with regard to any areas of concern arising based on the review and analysis outlined above, including recommendations for the subsequent school year.

Upon completion of the annual audit, the District will generate a report summarizing the audit's findings, addressing areas of concern, and identifying recommendations for improvement, if any. The report will be distributed through written correspondence and/or email to appropriate staff, including the Title IX Coordinator, Director of Human Resources, and District and school athletic directors, as well as any other staff whom the District deems appropriate.

Reporting Requirement. No later than August 30 after each of the following school years, SY 21-22 and SY 22-23, the District will submit documentation to OCR demonstrating the District's compliance with the provisions outlined in Paragraph (I)(A), including demonstration that the audit was conducted and the report was distributed to the identified staff.

B. Remedies (Title IX). The District will address the allegation of different treatment on the basis of sex for students who participated in a female sport at Castle View High School, Chaparral High School, Douglas County High School, Mountain Vista High School, Ponderosa High School, or Rock Canyon High School, during the 2018-2020 school years, and who submitted a complaint regarding the coach's conduct and/or discrimination on the basis of sex during the applicable time period, by:

1. Providing a notification to eligible students, described in Paragraph (I)(B) above, that the District is conducting a review of the complaints received regarding the coach's conduct and/or discrimination on the basis of sex during the applicable time period to determine whether an offer of remedial measures was appropriately provided. The District will provide an opportunity for students to inform the District of complaints filed during the timely period for consideration during the District's review. The notification will be made to the students' parents and/or guardians at their last known address, which may also include email notification if previously provided by the parent and/or guardian.
2. Conducting a review of each complaint received regarding the coach's conduct and/or discrimination on the basis of sex during the applicable time period, the District will determine whether the complaint was: received during the timely period, properly investigated, determined to be founded, and, if so, whether remedial action was determined to be appropriate and offered to the student. The District will take corrective action for any complaint which it determines appropriate remedial measures were not offered.
3. For students whose complaints were not investigated, the District will conduct an investigation to determine whether the complaint was founded. If so, the District will offer remedial measures to the student. The District will, at a minimum, communicate the offer to the student via written correspondence or email, or by any other means of notification the District deems effective. For students no longer attending a District school, the District will provide the offer to the

students' parents and/or guardians at their last known address, which may also include email notification if previously provided by the parent and/or guardian.

Prior to the notification(s) in Paragraphs (I)(B)(2)-(3), above, the District will obtain OCR approval after determining the appropriate remedial measures, if any.

Reporting Requirement i. Within thirty (30) calendar days of signing the Agreement, the District will submit to OCR documentation which demonstrates that the notification was disseminated in accordance with Paragraph I(B)(1).

Reporting Requirement ii. Within ninety (90) calendar days of signing the Agreement, the District will submit to OCR documentation which demonstrates that it has completed a review of relevant complaints and, as appropriate, offered remedial services in accordance with Paragraph (I)(B)(2).

Reporting Requirement iii. Within one-hundred fifty (150) calendar days of signing the Agreement, the District will submit to OCR documentation of any uninvestigated complaints that were subsequently investigated pursuant to Paragraph (I)(B)(3), whether remedial measures were determined to be appropriate by the District, and if so, whether those remedial measures were offered to the student in question.

C. Training. Within ninety (90) calendar days of signing the Agreement, the District will develop and provide training to staff, which must include, but is not limited to, secondary school administrators (including principals and assistant principals) and coaching staff. The training, which may be provided by digital instruction, will include, but need not be limited to, the following:

1. The District's Title IX policies and procedures, including an explanation of the District's:
 - a. expectations and requirements regarding the behavior and conduct of coaches employed by or volunteering in any capacity in District schools;
 - b. consequences for coaches found to have violated the District's expectations and requirements;
 - c. prohibition against discrimination on the basis of sex, with respect to the sex of the students on a coach's team, in either the application of discipline assigned to a coach found in violation of its expectations and requirements, or the decision to forgo discipline; and,
 - d. requirement under Title IX to provide a prompt and equitable response to complaints received pursuant to the District's internal grievance procedures.
2. An explanation of the prohibition against discrimination on the basis of sex and retaliation;
3. The contact information for the District's Title IX compliance coordinator; and,
4. Information regarding how to file a complaint of discrimination, both with the District and OCR.

Reporting Requirement: Within thirty (30) calendar days of conducting the training described in Paragraph C, the District will provide to OCR the name(s) and credentials of the individual(s) who conducted the training; a list of individuals, by name and title, who attended the training; and a copy of any training materials (e.g., pamphlets, presentation materials, etc.).

D. Ensuring a Prompt and Equitable Response under Title IX. The District will conduct a review of the following individual complaints (filed on behalf of the students listed) received by the District to ensure a prompt and equitable response was provided, as required by Title IX¹: a) XX, b) XX, and, c) XX. The District will provide OCR with a description of the review process for each complaint and any associated documentation. If, during the review, the District determines that there are discrepancies between the handling of the complaints and the updated grievance procedures resulting in a failure to provide a prompt and equitable response, the District will take steps to resolve it.

Reporting Requirement. Within sixty (60) calendar days of signing the Agreement, the District will provide documentation to OCR which demonstrates its compliance with Paragraph (I)(D).

II. Section 504/Title II

A. Policies and Procedures. Assurance and Audit – School Years 2021-2023. The District demonstrated it recently updated its Section 504 policies and procedures.

1. By signing the Agreement, the District provides an assurance that it will ensure its Section 504 policies and procedures are applied and enforced consistently throughout schools in the District.
2. The District will conduct an audit to review the consistency of application and compliance with the District’s Section 504 policies and procedures regarding the obligation to ensure that a qualified student with a disability who receives free appropriate public education (FAPE) services and who is the target of bullying continues to receive FAPE, for SY 2021-22 and SY 2022-23. The District will complete the audit no later than June 30 annually. The audit will include, at a minimum:
 - a. an assessment of whether the District’s schools are in compliance with the District’s Section 504 policies and procedures, minimally addressing the obligation to ensure a qualified student with a disability who receives FAPE services and who is the target of bullying continues to receive FAPE; and,
 - b. a self-evaluation by the District with regard to any areas of concern arising based on the review and analysis outlined above, including recommendations for the subsequent school year.

¹ If the District determines that it did not receive a complaint of discrimination on the basis of sex, the District may halt its review and provide this information and related documentation to OCR.

Upon completion of the annual audit, the District will generate a report summarizing the audit's findings, addressing areas of concern, and identifying recommendations for improvement, if any. The report will be distributed through written correspondence and/or email to appropriate staff, including the school- and District-level Section 504 Coordinators and Special Education Coordinators, school administrators (including principals and assistant principals), as well as any other staff whom the District deems appropriate.

Reporting Requirement. No later than August 30 after each of the following school years, SY 21-22 and SY 22-23, the District will submit documentation to OCR demonstrating the District's compliance with the provisions outlined in Paragraph (II)(A), including demonstration that the audit was conducted and the report was distributed to the identified staff.

- B. Remedies (Section 504/Title II).** The District will address the allegations of failure to provide FAPE after receiving notice of bullying by issuing a notification offering to meet with the parents and/or guardians of qualified students with disabilities who:
1. attended Douglas County High School and Rock Canyon High School during the 2018-2020 school years;
 2. were identified as a qualified student with disabilities receiving FAPE services pursuant to an IEP or Section 504 Plan during the same time period; and,
 3. allege they were subjected to bullying.

The District will make this notification by any means it deems effective to reach the intended audience, which will be submitted to OCR for prior approval before proceeding.

Reporting Requirement i. Within thirty (30) calendar days of signing the Agreement, the District will submit to OCR documentation which demonstrates that the notification, approved in advance by OCR, was disseminated in accordance with Paragraph (II)(B).

Reporting Requirement ii. Within one-hundred twenty (120) calendar days of signing the Agreement, the District will submit to OCR documentation of any requests for a meeting the District received in response to the issued notification. The District will provide i) documentation regarding its determination as to whether requests for a meeting are appropriate, based on the terms in Paragraph (II)(B); and, if so, ii) documentation regarding the scheduling of an IEP or Section 504 team meeting to determine whether the student was denied FAPE as a result of the alleged bullying.

- C. Training.** Within ninety (90) calendar days of signing the Agreement, the District will develop and provide training to, at a minimum, school-and District-level Section 504 and special education coordinators, principals and assistant principals, and special education teachers. The training, which may be provided by digital instruction, will include, but need not be limited to, the following:

1. The District's policies and procedures concerning Section 504 and Title II, including an explanation:
 - a. that the bullying on any basis of a qualified student with a disability can result in the denial of FAPE;
 - b. that the District has an ongoing obligation to ensure that a qualified student with a disability who receives FAPE services and who is the target of bullying continues to receive FAPE;
 - c. that, as a part of the District's response to bullying of a qualified student with a disability on any basis, the school should convene the IEP and/or Section 504 team to determine whether, as a result of the effects of the bullying, the student's needs have changed such that the student is no longer receiving FAPE; and, if not, a determination as to the extent to which additional or different services are needed to address the student's individual needs; and,
 - d. of the requirement under Section 504 to provide a prompt and equitable response to complaints received pursuant to the District's internal grievance procedures.
2. An explanation of the prohibition against discrimination on the basis of disability, and retaliation;
3. The contact information for the District's Section 504 Coordinator; and,
4. Information regarding how to file a complaint of discrimination, both with the District and OCR.

Reporting Requirement: Within thirty (30) calendar days of conducting the training described in Paragraph C, the District will provide to OCR the name(s) and credentials of the individual(s) who conducted the training; a list of individuals, by name and title, who attended the training; and a copy of any training materials (e.g., pamphlets, presentation materials, etc.).

D. Ensuring a Prompt and Equitable Response under Section 504. The District will conduct a review of the following individual complaints (filed on behalf of the students listed) received by the District to ensure a prompt and equitable response was provided, as required by Section 504²: a) XX, and, b) XX. The District will provide OCR with a description of the review process for each complaint and any associated documentation. If, during the review, the District determines that there are discrepancies between the handling of the complaints and the updated grievance procedures resulting in a failure to provide a prompt and equitable response, the District will take steps to resolve it.

Reporting Requirement. Within sixty (60) calendar days of signing the Agreement, the District will provide documentation to OCR which demonstrates its compliance with Paragraph (II)(D).

² If the District determines that it did not receive a complaint of discrimination on the basis of disability, the District may halt its review and provide this information and related documentation to OCR.

The District understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students 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 and its implementing regulations at 34 C.F.R part 104; Title II and its implementing regulation at 28 C.F.R. part 35; and, Title IX and its implementing regulation at 34 C.F.R. Part 106, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34. C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/
Mr. Andrew Abner
Deputy Superintendent
For Douglas County School District RE-1

February 8, 2022
Date