

**Resolution Agreement  
Cañon City Schools  
OCR Case Number 08-21-1137**

The U. S. Department of Education, Office for Civil Rights (OCR) and Cañon City Schools (District) enter into this agreement to resolve 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 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, and 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.

Prior to the completion of OCR's investigation, the District agreed to resolve the allegations of this case pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the allegations of this investigation, the District agrees to take the following actions.

- I. **Staff Training.** The District agrees to provide training to all relevant staff at the School, including the School's Section 504 coordinator, health assistants, teachers, administrators, aides, as well as any relevant staff at any other District school the Student may attend, on the following topics:
1. Differences between Section 504 Plans and Health Care Provider Orders/Individual Health Plans.
  2. The Colorado Standards of Care for Diabetes Management in the School Setting.
  3. The appropriate use of any devices or materials necessary to manage the Student's diabetes in a school setting, including but not necessarily limited to an insulin pump.

**REPORTING REQUIREMENT I(A):** By September 15, 2021, the School will submit to OCR for review and approval:

1. A list of school-based staff responsible for implementing the Student's Section 504 Plan and ensuring that the Plan is consistently and appropriately implemented, during the 2021-2022 school year.
2. A list of school-based staff that will attend the training.
3. Draft materials that will be used.
4. The name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to the School's staff and administrators.

**REPORTING REQUIREMENT I(B):** Within sixty (60) calendar days of receiving OCR's final approval of the materials and trainer(s), the District will provide the training to all approved staff.

**REPORTING REQUIREMENT I(C):** Within fifteen (15) calendar days of the training being provided, the District will provide to OCR:

1. The date, time, and location of the training.
2. Confirmation that the approved trainer(s) delivered the training.
3. The agenda and materials from the training.
4. The names and titles of staff who attended the training.
5. The name(s) and title(s) of staff who were required to attend the training but who did not attend the training, an explanation for each person's absence, and make-up dates for the training.

**II. Training Memorandum.** The District agrees to disseminate a training memorandum (Memo) on the following topics:

1. The Section 504 requirements for the drafting and implementation of Section 504 Plans.
2. The need to ensure appropriate staff (including teachers and health assistants) are aware of their obligation to know and implement Section 504 Plans, including documents referenced in the Section 504 Plans.

The Memo will be:

3. Pre-approved by OCR.
4. Disseminated by August 18, 2021.
5. Disseminated to all relevant staff at the School, including the School's Section 504 coordinator, health assistants, teachers, administrators, aides, as well as any relevant staff at any other District school the Student may attend.

**REPORTING REQUIREMENT II(A):** By August 1, 2021 the District will submit to OCR a draft of the Memo. The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that the Memo is approved and no further reporting is required for Reporting Requirement II(A).

**REPORTING REQUIREMENT II(B):** By September 1, 2021, the District will submit to OCR documentation showing that Memo was disseminated as required by Term I.<sup>1</sup> The District will promptly and fully address OCR's concerns, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement II(B) and Term II.

**III. District Observations.** The District agrees that by November 1, 2021 a licensed school nurse employed by the District will conduct at least two observations, on two separate dates, of health assistant staff while they provide Section 504 Plan services to the Student.

**REPORTING REQUIREMENT III(A):** By November 5, 2021, the District will submit to OCR documentation showing that a licensed school nurse conducted the observations required in Term II. At a minimum, the documentation will include the following:

1. The name and qualifications of the school nurse who conducted the observations.

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<sup>1</sup> *e.g.*, a copy of an email that shows all recipients and attachments; or a list of all School staff with signatures (and dates) attesting to receipt of the Memo.

2. The dates, times, and duration of the observations.
3. The location of the observations.
4. The names and titles of the health assistant staff who were observed.
5. A description of the Section 504 Plan services that were observed.
6. A summary of the nurse's observations.

**IV. District Audit.** The District agrees that by August 18, 2021 it will conduct an audit of diabetes related materials and supplies necessary to implement the Student's Section 504 Plan that are available at whichever District school the Student attends during the 2021-2022 school year.

**REPORTING REQUIREMENT IV(A):** By September 1, 2021, the District will submit to OCR the results of the audit. At a minimum, the results should include what supplies and materials are necessary to implement the Student's Plan and the amount of those supplies and materials available at the school.

**V. Letter to Complainant.** The District agrees to draft a letter to the Complainant that includes the following:

1. The names, titles, and contact information of the individuals responsible for implementing Student's 504 Plan, along with the individuals' duties regarding implementation of the Student's Section 504 Plan.
2. A request for the Complainant to provide (1) any materials or supplies necessary to implement the Student's Section 504 Plan (e.g., ketone test strips) and (2) confirm whether the District has the Student's current health care provider order for students with diabetes.
3. A request for the Complainant to identify any Student records that she has requested from the School or District but has not yet received.
4. A commitment to provide any records identified in subsection (3) within 45 calendar days.
5. A request for the Complainant to respond to subsections (2) and (3) as soon as possible but no later than within 30 calendar days of the date of the letter.

**REPORTING REQUIREMENT V(A):** By August 11, 2021, the District will submit to OCR for review and approval, a draft letter that contains each item listed in Term V.

**REPORTING REQUIREMENT V(B):** Within five (5) calendar days of receiving OCR's final approval of the letter, the District will provide OCR with documentation that indicates that it sent the approved letter to the Complainant. The letter may be sent via email or certified mail.

**REPORTING REQUIREMENT V(C):** Within five (5) days of receiving a response from the Complaint the District will provide OCR with a copy of the response. If the Complainant does not respond within 30 calendar days, the District will notify OCR within five (5) days of the non-response. If the Complainant does not respond, the District will have satisfied Term V of the Agreement.

**VI. Section 504 Plan meeting.** The District agrees to convene a Section 504 Plan meeting<sup>2</sup> by no later than August 18, 2021 for the purpose of reviewing and updating the Student's Plan to ensure that the Student's specific and individualized needs are included in the Plan, and that the Plan includes

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<sup>2</sup> The Section 504 Plan meeting must comply with the requirements of 34 CFR Section 104.35.

appropriate and specific supports and services to meet those needs. If Complainant does not respond to the District's attempt to schedule a meeting or refuses to attend a meeting, the District will proceed with the meeting without Complainant and provide Complainant with a copy of the Section 504 plan within two school days following the meeting. During the meeting the District agrees to do the following:

1. Include a group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.
2. Include any advocate(s) the Complainant wishes to bring to the meeting.
3. Draw upon information from a variety of sources.
4. Document and consider information from each source.
5. Document and consider all information provided by the Complainant and her advocate(s).
6. Ensure that decisions made at the meeting reflect the judgement of all those in attendance and not the judgement of a single individual.
7. Identify and record at what specific times during the school day the Student's blood glucose will be checked and recorded.
8. Identify and record under what scenarios the Student's ketone levels will be checked and recorded.
9. Identify and record under what scenarios a parent or guardian will be contacted about the Student's blood glucose levels.
10. Incorporate into the Plan any other documents that will be used to meet the Student's needs.
11. Discuss the results of the audit in Term IV and whether the District has all materials or supplies necessary to implement the Student's Section 504 Plan (e.g., ketone test strips).
12. Discuss whether the District has the Student's current health care provider order for students with diabetes.
13. Discuss whether the Student is entitled to compensatory services or remedial measures due to the Student being sent home for high blood glucose levels.

**REPORTING REQUIREMENT VI(A):** By September 1, 2021, the District will submit to OCR the following:

1. Documentation indicating that the District held a Section 504 Plan meeting for the Student. This should include but not necessarily be limited to meeting invitations(s) and a meeting signature page or similar documentation of the individuals who were in attendance.
  - a. If the Complainant failed to respond to the District's efforts to schedule a meeting, the District will also provide documentation showing that it attempted to contact the Complainant on at least three different dates and by various methods (e.g., via phone, email, etc.).
2. A copy of the Student's Section 504 Plan.
3. Documentation indicating that the District provided the Complainant with a copy of the Section 504 Plan and her procedural safeguards.
4. Documentation indicating that school-based staff working with the Student received a copy of the Student's Section 504 plan.
5. A summary of the Team's discussion about compensatory services or remedial measures for the Student.

**REPORTING REQUIREMENT VI(B):** If at the meeting the Team determines that the Student is entitled to compensatory services or remedial measures, the Team will develop a written plan that includes the following:

1. The type(s) and amount of compensatory services or remedial measures owed.
2. Who will provide the compensatory services or remedial measures, including name(s), title(s) or position(s), and contact information.
3. Where the compensatory services or remedial measures will be provided (e.g., school, home, etc.).
4. When the compensatory services or remedial measures will be provided, including a start date and schedule.

If the Student’s Team determines that compensatory services or remedial measures are not needed, the District will submit to OCR a written description of the justification(s) for this determination, along with documentation supporting this determination. The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required.<sup>3</sup>

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 60 calendar days to cure the alleged breach.

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 are in compliance with Section 504, and its implementing regulation, at 34 C.F.R. Part 104, and Title II, and its implementing regulation, at 28 C.F.R. Part 35. Upon completion of the obligations under this Agreement, OCR will close the case.

This agreement will become effective upon the signature of the representative for the School.

/s/

July 19, 2021

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Superintendent, Cañon City Schools

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Date

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<sup>3</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by a Section 504 team that is properly constituted and that takes appropriate actions in light of the requirements of due process.