

RESOLUTION AGREEMENT
Poudre School District
OCR Case 08-22-1098

Poudre School District (“District”) enters into this Agreement to resolve the allegations in the above-referenced case. The District assures the U.S. Department of Education, Office for Civil Rights (OCR) that the District will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (“Section 504”), as amended, 29 United States Code (U.S.C.) Section 794, and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 104; and Title II of the Americans with Disabilities Act of 1990 (“Title II”), 42 U.S.C. Section 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. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District.

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

TERM I – REVISED ATTENDANCE POLICY

The District will revise the attendance policy (“Policy”) at Centennial High School (“School”) to address the provision of a free appropriate public education (FAPE) to students with disabilities. Specifically, the revisions will either: (a) exempt students with disabilities from all School policies mandating that students with a certain number of absences or tardies be dropped; or (b) add provisions regarding students with disabilities who are dropped for reasons related to absences or tardies. If the District chooses option (b), the District will ensure that the Policy includes:

- a statement that the District must provide a FAPE to each qualified student with a disability at the School;¹
- a statement that the District must educate students with disabilities in the least restrictive environment (LRE);
- a statement that, after being dropped, students with disabilities will still be provided the same services required by their IEP or Section 504 Plan;
- a statement that the District must evaluate students with disabilities before any significant change in placement;
- a statement that if a drop may constitute a significant change in placement per Section 504 or the IDEA, the District will conduct a reevaluation before the student is dropped and provide the student’s parents or guardians with a copy of the District’s procedural safeguards;
- a link to the District’s IDEA procedural safeguards and Section 504 procedural safeguards.

After the revised Policy is approved by OCR, the District will disseminate the approved Policy by:

- emailing the approved Policy to all School staff and to all relevant staff in the District’s Integrated Services Department;

¹ See 34 C.F.R. § 104.33(a).

- posting the approved Policy on all relevant School webpages;² and
- including the approved Policy in all relevant printed (hardcopy) materials given to students, parents, and guardians.

Reporting Requirement A: Within 30 calendar days of this Agreement being signed, the District will submit to OCR for review a draft of the revised Policy. The District will promptly and fully address OCR’s feedback, if any, until the District receives OCR’s final approval of the revised Policy.

Reporting Requirement B: Within thirty 30 calendar days of receiving OCR’s approval of the Policy, the District will submit to OCR documentation demonstrating that the Policy was disseminated as required by Term I.³ The District will promptly and fully address OCR’s concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement B and Term I.

TERM II – STAFF TRAINING

The District will train all relevant staff about the District’s legal obligations related to:

- the provision of a FAPE to students with disabilities;⁴
- educating students with disabilities in the LRE;⁵
- evaluation and placement of students with disabilities;⁶ and
- revisions to the Policy (see Term I).

Relevant staff include, at a minimum, all counselors, special education teachers and case managers, and administrators (*e.g.*, deans, assistant principals, and principals) at the School.

Reporting Requirement A: Within 30 calendar days of receiving OCR’s final approval of the revised Policy (pursuant to Term I), the District will submit to OCR for review and approval:

- draft training materials;
- a proposed list of staff to be trained, including, for each individual listed, first and last name and title or position; and
- the name(s), title(s) or position(s), and qualifications of one or more proposed individuals to conduct the training.

The District will promptly and fully respond to OCR’s concerns, if any, about the proposed training materials, trainees, and trainer(s) until OCR considers these concerns resolved and issues final approval of the training materials, trainees, and trainer(s), and notifies the District that no further reporting is required for Reporting Requirement A.

Reporting Requirement B: Prior to the beginning of the 2022-23 school year or within 30 calendar days of receiving OCR’s final approval of the training materials, trainees, and trainer(s) if such final approval

² See *e.g.*, <https://chs.psdschools.org/chs/academics/attendance>.

³ *e.g.*, links to webpages, copies of printed materials, copies of emails showing the recipients and content, etc.

⁴ See 34 C.F.R. § 104.33.

⁵ See 34 C.F.R. § 104.34.

⁶ See 34 C.F.R. §§ 104.35-36.

occurs after the start of the 2022-23 school year, the District will provide the training and submit to OCR:

- the date, time, and location of the training;
- confirmation that the approved trainer(s) delivered the training;
- the agenda and materials from the training;
- the names and titles or positions of all individuals who attended the training; and
- the name(s) and title(s) of all individuals who did not attend the training, an explanation for each person’s absence, and a plan to train each person (if possible).

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

TERM III – TRAINING MEMORANDUM

The District will disseminate a training memorandum (“Memo”) to, at a minimum, the District’s Superintendent and the District’s Assistant Superintendent of Secondary Schools. The Memo will address, at a minimum, grievances alleging violations of Section 504.⁷ The Memo will also include the name, title or position, email address, and phone number for a qualified individual who can respond to questions or concerns regarding the content of the Memo.

Reporting Requirement A: Within 30 calendar days of this Agreement being signed, 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 A.

Reporting Requirement B: Within 10 calendar days of receiving notification from OCR that no further reporting is required for Reporting Requirement A, the District will submit to OCR documentation showing that the Memo was disseminated to the required District staff.⁸ 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 B or Term III.

TERM IV – COMPENSATORY SERVICES OR OTHER REMEDIAL MEASURES

Within 15 calendar days of this Agreement being signed, the District will offer to the Complainant, in writing, to convene a group of knowledgeable people (“Team”):

- to discuss whether the Student is owed compensatory services or other remedial measures (at no cost to the Student or Complainant) as a result of any denial of FAPE for the Student or any improper significant change in the Student’s placement during the 2021-2022 school year (SY); and, if so,
- to create a written plan (“Plan”) to provide compensatory services or other remedial measures to the Student.

In the written offer to hold a Team meeting, the District will:

⁷ See 34 C.F.R. §§ 104.7(b).

⁸ *e.g.*, a copy of an email that shows all recipients and attachments.

- explain the purposes of the meeting;
- explain that the Complainant is permitted to invite others who are knowledgeable about the Student to attend the meeting;
- notify the Complainant that to accept the offer, he must respond, in writing, within 20 calendar days; and
- provide the name, title or position, phone number, and email address of the District employee to whom the Complainant must respond.

If the Complainant accepts the District's offer to convene a meeting, the District will ensure that:

- the meeting occurs within 30 calendar days of the Complainant accepting the offer;
- the meeting occurs at a date, time, and location that are mutually agreed upon by the District and Complainant;
- the Team and meeting are consistent with the procedural requirements of Section 504;
- the Complainant is permitted to invite persons knowledgeable about the Student to attend;
- the Team carefully considers all information provided by all parties present at the meeting; and
- within 10 calendar days after the meeting, the District:
 - notifies the Complainant, in writing, of the decisions made at the meeting;
 - provides the Complainant with a copy of the Plan, if any; and
 - provides the Complainant with a copy of applicable procedural safeguards.

If a Plan is created, the Plan will include the:

- type(s) of compensatory services or other remedial measures to be provided;
- amount(s) of compensatory services or other remedial measures to be provided;
- name(s) and title(s) or position(s) of the person(s) who will be responsible for providing the compensatory services or other remedial measures;
- location(s) where the compensatory services or other remedial measures will be provided;
- schedule for the provision of the compensatory services or other remedial measures; and
- name and title or position of the District employee who will ultimately be responsible for implementation of the Plan.

The District will implement the Plan, if any, with fidelity.

Reporting Requirement A: Within 20 calendar days of the District sending its offer to hold a Team meeting to the Complainant, the District will submit to OCR a copy of the offer, the Complainant's response(s), if any, and all other related communications with the Complainant. The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement A.

Reporting Requirement B (Conditional): If the Complainant accepts the District's offer to have a Team meeting, then, within 15 calendar days of the Team meeting, the District will submit to OCR:

- copies of all communications with the Complainant related to the meeting, including documentation showing that the Complainant:⁹
 - was invited to participate in the meeting and informed that he could invite others who are knowledgeable about the Student;
 - was notified of the decisions made at the meeting;
 - received a copy of the Plan, if any; and
 - received a copy of the District’s procedural safeguards;
- a list of all individuals who attended the meeting, including each individual’s first and last name and title or position;
- notes or minutes from the meeting reflecting:
 - the information that the Team considered in reaching its decisions; and
 - that the Team carefully considered input from persons knowledgeable about the Student.

Additionally, if the Team determines that no compensatory services or other remedial measures will be provided, the District will submit to OCR a written explanation of the reasons for that determination, along with any supporting documentation.

The District will promptly and fully address OCR’s feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement B.¹⁰

Reporting Requirement C (Conditional): If a Team meeting occurs and if a Plan is created, the District will submit to OCR, within 90 calendar days of receiving notification from OCR that no further reporting is required for Reporting Requirement B, documentation showing that the District has implemented or is in the process of implementing the Plan. The District will promptly and fully address OCR’s concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement C or Term IV.¹¹

Term V: GRIEVANCE

Within 15 calendar days of this Agreement being signed, the District will offer to the Complainant, in writing, to process his letter to the Superintendent, dated November 19, 2021, as a grievance alleging violations of Section 504, in accordance with applicable District policies and procedures.¹² In the written offer, the District will:

- attach all applicable District policies and procedures;
- notify the Complainant that, to accept the offer, he must respond, in writing, within 20 calendar days; and

⁹ For purposes of this Agreement, “communications” include, but are not limited to, all emails, letters, text messages, electronic messages, and forms.

¹⁰ 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.

¹¹ This case will remain in monitoring until all compensatory services or other remedial measures (if any) have been provided.

¹² See e.g., ACE (“Nondiscrimination on the Basis of Disability”); AC-R1 (“Reporting Discrimination/District Response to Discrimination Complaints”).

- provide the name, title or position, phone number, and email address of the District employee to whom the Complainant must respond.

If the Complainant accepts the District's offer, the District will ensure that the grievance is handled in a prompt and equitable manner and in accordance with all applicable District policies and procedures.

Reporting Requirement A: Within 20 calendar days of the District sending its offer to process the letter as a grievance, the District will submit to OCR a copy of the offer, the Complainant's response(s), if any, and all other related communications with the Complainant. The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement A.

Reporting Requirement B (Conditional): If the Complainant accepts the District's offer, then, within 45 calendar days of the Complainant's acceptance, the District will submit to OCR copies of all related records.¹³ The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement B.

Reporting Requirement C (Conditional): If the District finds that remedial measures are necessary in response to issues related to the Complainant's grievance, then, within 30 calendar days of receiving notice from OCR that no further reporting is required for Reporting Requirement B, the District will submit to OCR a written report about implementation of the remedial measures.¹⁴ The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement C or Term V.

UNDERSTANDINGS AND ACKNOWLEDGEMENTS

The District understands and acknowledges the following:

- 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 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, 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, and Title II, and its implementing regulation.
- Upon completion of the obligations under this Agreement, OCR will close this case.

For the District:

/s/
Mr. Brian Kingsley, Superintendent

3/3/22
Date

¹³ *e.g.*, witness interviews, communications, investigative reports, findings, etc.

¹⁴ This case will remain in monitoring until all remedial measures (if any) have been implemented.