

RESOLUTION AGREEMENT
Colorado Springs School District 11
OCR Case 08-23-1320

Colorado Springs School District 11 (“District”) enters into this Resolution Agreement (“Agreement”) to resolve the violations that the U.S. Department of Education (“Department”), Office for Civil Rights (“OCR”) identified in OCR case 08-23-1320. This case involved the District’s compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulations, at 34 Code of Federal Regulations (C.F.R.) Part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulations, at 28 C.F.R. Part 35.

In this case, OCR found, by a preponderance of the evidence, that the District: (a) failed to implement the Student’s Section 504 Plan; and (b) failed to adopt Section 504 policies and procedures including grievance procedures and procedural safeguards in compliance with Section 504. OCR also identified a compliance concern that individuals tasked with implementing students’ Section 504 Plans and IEPs do not have access to those Section 504 Plans and IEPs.

I. POLICIES AND PROCEDURES

- a. The District will develop, adopt, and implement policies, procedures, regarding the identification, evaluation, re-evaluation, placement, and provision of services and accommodations to students with disabilities that are consistent with Section 504 and to ensure that, the District:
 - 1) Timely and accurately identifies and refers a student for an evaluation for possible special education or related aids and services or modification to regular education if the student, because of disability, needs or is believed to need such services.
 - 2) Provides notice to parents explaining any evaluation and placement decisions affecting their children.
 - 3) Timely evaluates any student who needs or is believed to need special education or related aids and services because of disability before taking any action with respect to the student's initial placement and before any subsequent significant change in placement and ensures tests and other evaluation materials are administered by trained personnel, reliable, and valid for the purpose for which they are being used.
 - 4) Ensures placement decisions (i.e., decisions about whether any special services will be provided to the student and, if so, what those services are) are made by a group of persons knowledgeable about the student, the evaluation data, and the placement options and ensures placement decisions must be based on information from a variety of sources, with information from all sources being carefully considered and documented.
 - 5) Conducts re-evaluations periodically and prior to a significant change in placement.
 - 6) Consistently implements the provisions of Section 504 plans.

- b. The District will revise, adopt, and implement its Section 504 grievance procedures and procedural safeguards comply with Section 504 and to ensure that they:
 - 1) Are prompt and equitable, including providing notice of the procedure to students, parents, and employees, including where to file complaints; application of the procedure to complaints alleging discrimination by employees, other students, or third parties; adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; designated and reasonably prompt timeframes for major stages of the complaint process; notice to the parties of the outcome of the complaint; and an assurance that steps will be taken to prevent recurrence of any discrimination and to correct its effects.
 - 2) Provide a system of procedural safeguards with respect to any action taken by the district regarding the identification, evaluation or placement of the student and include notice of the action, an opportunity to examine relevant records, an impartial hearing with opportunity for participation by parents or guardians and representation by counsel, and a review procedure.
- c. The District will develop, adopt, and publish procedures regarding the distribution of the revised grievance procedures and procedural safeguards to students and parents/legal guardians.
- d. Once the policies, procedures, and forms are approved by OCR, the District will disseminate them by, at a minimum:
 - 1) posting the policies, procedures, and forms on the District's webpage;
 - 2) including an announcement about the policies, procedures in the School's newsletter;
 - 3) including an announcement about the policies, procedures on the School's social media, if the School maintains social media;
 - 4) sending an announcement about the policies, procedures via email, to all School staff and parents of School students.
- e. **Reporting**
 - 1) Within 60 calendar days of this Agreement being signed, the District will submit to OCR draft policies and procedures. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the policies and procedures are approved.

Within 30 calendar days of OCR notifying the District that the policies, procedures are approved, the District will submit to OCR documentation demonstrating that they were disseminated as required by Term I(d) (e.g., screenshots, URLs, copies of emails, meeting agenda and presentation, etc.).

II. SCHOOL STAFF TRAINING

- a. The District will, train all School staff about the policies, procedures, and forms approved by OCR pursuant to Term I. Relevant School staff will include, at a minimum, administrators, teachers, counselors, Section 504 Coordinators, support services staff, and academic support personnel.
- b. The trainings will be conducted by one or more individuals who meet the following criteria:
 - 1) experience training school staff;
 - 2) knowledgeable about applicable state and federal laws and regulations;
 - 3) knowledgeable about applicable District policies and procedures; and
 - 4) experience with Section 504.

The trainer may be an employee or non-employee of the District who meets the above requirements.

c. Reporting

- 1) Within 30 calendar days of receiving notice from OCR that no further reporting is required for Term I, the District will submit to OCR (for the 2023-24 SY training):
 - a draft training agenda;
 - draft training materials;
 - a list of individuals to be trained, including the name and job title of each individual; and
 - the name(s) and qualifications of one or more proposed trainer.
- 2) Within 30 calendar days of receiving notice from OCR that no further reporting is required for Reporting Requirement 1, the District will conduct the training required by Term II for the 2023-24 SY and submit to OCR:
 - written confirmation that the approved agenda, training materials, and trainer(s) were used;
 - a list of individuals who attended the training, including the name and job title of each individual; and
 - a list of School employees who did not attend the training, if any, the reason for each individual's absence, and the plan to ensure the individual is trained in a timely manner.
- 3) By June 1, 2024, the District will submit to OCR (for the 2024-25 SY training):
 - a draft training agenda;
 - draft training materials;
 - a list of individuals to be trained, including the name and job title of each individual; and

- the name(s) and qualifications of one or more proposed trainer.
- 4) After receiving notice from OCR that no further reporting is required for Reporting Requirement 3, and within the first 30 calendar days of the 2024-25 SY, the District will conduct the training required by Term IV for the 2024-25 SY and submit to OCR:
- written confirmation that the approved agenda, training materials, and trainer(s) were used;
 - a list of individuals who attended the training, including the name and job title of each individual; and
 - a list of School employees who did not attend the training, if any, the reason for each individual's absence, and the plan to ensure the individual is trained in a timely manner.

III. ACCESS TO SECTION 504 PLANS AND IEPs

- a. The District will ensure that all individuals tasked with implementing a student's IEP or Section 504 Plan (i.e., administrators, teachers, aides, paraprofessionals, and other support staff) are provided with access to the IEP or Section 504 Plan.

b. Reporting

- 1) Within 30 calendar days of this Agreement being signed, the District will submit to OCR a plan for ensuring individuals tasked with implementing IEPs and Section 504 Plans have consistent access to those documents.

The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the plan is approved.

- 2) Within 30 days of OCR approving the District's plan, the District will send a notice to all individuals tasked with implementing IEPs and Section 504 Plans notifying them of where the plans are located and how they can access those plans. The District will submit documentation to OCR demonstrating that it issued the notice and that all individuals tasked with implementing IEPs and Section 504 Plans are able to access those documents.

IV. MEETING TO DISCUSS REMEDIAL MEASURES

- a. The District will convene the Student's Section 504 Team to determine whether the Student is in need of compensatory services or other remedial measures.

b. Reporting

- 1) Within seven days of this Agreement being signed, the District will schedule a Section 504 Team meeting to discuss whether the Student is in need of

compensatory services or other remedial measures as a result of the District's denying the Student a free appropriate public education (FAPE) by not implementing the Student's Section 504 Plan during the Program. At the meeting, the Student's Team will:

- include a group of persons, including persons knowledgeable about the child;
- discuss, at a minimum, whether the Student is in need of compensatory services or other remedial measures as a result of the District's denying the Student a FAPE; and
- carefully consider all relevant information, including the parent's input, if any.

The District will ensure that:

- the Section 504 Team and meeting are consistent with the procedural requirements of Section 504;
- the parent is permitted to invite persons knowledgeable about the Student to attend the meeting; and
- the team carefully considers all information provided by all parties present at the meeting.

- 2) Upon scheduling the Section 504 Team Meeting, the District will send an invitation to the parents of the Student inviting them to the 504 Team Meeting, in writing (*i.e.*, by email).

In the invitation to the parents, the District will:

- explain the purpose of the meeting;
- provide the name, title, phone number, and email address for a qualified District staff member who will respond in a timely manner to any questions or concerns about the meeting;
- instruct the parent on how he or she may accept the invitation;
- notify the parent that, if he or she accepts the invitation, he or she will be able to attend the meeting and the team will carefully consider the parent's input.

The District will include OCR in the email to the parents.

- 3) (Conditional): If the Team determines that the Student is entitled to compensatory services or remedial measures as a result of the denial of FAPE, the Team will then create a plan to provide compensatory services and/or other remedial measures ("remedies") to the Student, at no cost to the Student or the Student's parent. The plan will include the:

- type(s) of remedies to be provided;
- amount(s) of remedies to be provided;

- name, title or position, and employer of the person who will provide each type of remedy;
 - location where the remedies will be provided;
 - schedule for the provision of the remedies (*i.e.*, dates and times); and
 - name, title or position, and employer of the person who will ultimately be responsible for the provision of remedies as planned.
- 4) Within 10 calendar days of the meeting, if any, the District will send to the Student's parents:
- written notice of the determinations made at the meeting;
 - a copy of the plan to deliver remedies, if any; and
 - a copy of the District's procedural safeguards.
- 5) Within 45 days of signing this agreement, the District will send OCR confirmation that it held the meeting including the date, names and titles of the individuals who attended the meeting, a summary of what was discussed at the meeting and the outcome, and any documentation developed pursuant to the meeting including:
- written notice of the determinations made at the meeting;
 - a copy of the plan to deliver remedies, if any;
 - a copy of the District's procedural safeguards; and
 - evidence demonstrating the procedural safeguards were provided to the parents.

V. RE-ADMISSION TO THE PROGRAM

- a. The District will send the Complainant a written offer to re-enroll the Student in the Program.
- b. (Conditional): If the parents wish to re-enroll the Student in the Program for the 2023-2024 school year, the Student's Section 504 Team will also review the Student's Section 504 Plan and discuss the Student's enrollment and accommodations at the Section 504 Team meeting scheduled pursuant to Term IV of this agreement.
- c. **Reporting**
- 1) Within seven days of signing this agreement, the District will send the Complainant an email, inviting the parents to re-enroll the Student in the Program for the 2023-2024 school year.
In the email, the District will:
- explain the purpose of the offer;
 - provide the name, title, phone number, and email address for a District staff member knowledgeable about the Program who will respond in a

timely manner to any questions or concerns about the offer; instruct the Complainant on how they may accept the offer; and

- specify that the Complainant has 14 days to accept the offer.

The District will include OCR on the email to the Complainant and submit a copy of the parents' response(s) to OCR.

- 2) In addition to the items identified in Term IV Reporting Requirement 5, within 10 days of the meeting, the District will send to the Student's parents and to OCR a copy of the Student's updated Section 504 Plan, if any.
- 3) (Conditional): Within 30 calendar days of the Section 504 Team meeting as discussed under Term V(b), the District will meet with all Program Staff members and review the Student's Section 504 Plan with them and submit to OCR:
 - written confirmation that the Student's updated Section 504 Plan was provided to all Program staff members and reviewed with them;
 - a list of individuals who attended the review of the Student's Section 504 Plan, including the name, job title, and signature of each individual; and a list of Program Staff who did not attend the review, if any, the reason for each individual's absence, and the plan to ensure the School will review the Student's Section 504 Plan with the individual(s) in a timely manner.

UNDERSTANDINGS AND ACKNOWLEDGMENTS

By signing this Agreement, the District agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, OCR may visit the District, interview employees 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. The District understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that the District is in compliance with the terms of this Agreement and the Section 504 and Title II statutory and regulatory obligations at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or proceedings or refer this case to the Department of Justice (DOJ) for judicial proceedings in the event of breach to enforce the specific terms and obligations of this Agreement and/or the underlying Section 504 and Title II statutory and regulatory obligations. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), 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.

This Agreement will become effective immediately upon the signature of the District's representative below:

FOR THE DISTRICT:

Michael Gaal, Superintendent

Date