

**RESOLUTION AGREEMENT**  
**Columbus City Schools**  
**OCR Docket #15-13-5001**

The Columbus City Schools (the District) submits this Resolution Agreement (the Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of resolving the above-referenced compliance review. OCR conducted the compliance review under the authority of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

During the course of OCR's investigation, the District notified OCR that, on its own initiative, it closed and/or dismantled all of its "processing" rooms or rooms by any other name that it had previously identified to OCR as used for restraint and/or seclusion of students, except for the rooms at Beatty Park Elementary School and Columbus Scioto 6-12.

The District agrees to take the following action steps:

**I. Restraint and Seclusion Practices and Procedures**

By **December 1, 2017**, the District will develop for OCR's review and approval, practices, procedures, and training materials, regarding the District's use of restraint<sup>1</sup> and seclusion<sup>2</sup> to ensure that such practices and procedures are equitable to all students, including students with disabilities. At a minimum, the District's practices and procedures will:

- A. Include reference to the District's Board Policy 5630.01 – Positive Behavior Intervention and Supports and Limited Use of Restraint and Seclusion.
- B. Distinguish when the use of restraint and when the use of seclusion is necessary for students, such that both interventions are used as a last resort. While the District states that Ohio Administrative Code 3301-35-15 and Board Policy 5630.01 indicate a preference for physical restraint over seclusion, the District will also be permitted to follow guidance from the Ohio Department of Education (ODE) that may, in some situations, alter the order of restraint or seclusion depending on what is in the best interest of the student.
- C. Set forth specific timeframes in which all incident reports documenting the use of restraint and/or seclusion are to be completed by District staff.
- D. Identify the specific methods in which the District will monitor its implementation of its policies and procedures regarding the use of restraint and seclusion.

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<sup>1</sup> For purposes of this Agreement, the term restraint also refers to the District's use of CPI controls and holds.

<sup>2</sup> For purposes of this Agreement, the term seclusion also refers to the District's use of processing rooms, respite rooms, time out rooms, and any involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

- E. Identify, by name and/or title, the superintendent's designee to receive complaints regarding the use of restraint and seclusion, as well as provide the individual's complete contact information.
- F. Set forth a system for the accurate accounting and District-level monitoring of all rooms in the District used at any time for restraint and/or seclusion (including processing rooms, seclusion rooms, respite rooms, time out rooms, sensory rooms, PEAK rooms, or rooms of any other name), as well as standards for appropriate physical measurements, contents, and structure of such rooms, including standards regarding locks and lighting.

**Reporting Requirements:** (1) By **December 1, 2017**, the District will submit to OCR for review and approval all District practices, procedures, and training materials revised and/or developed pursuant to Item I of the Agreement.

(2) Within 60 calendar days of OCR's approval, the District will provide documentation to OCR demonstrating that it has adopted the restraint and seclusion practices, procedures, and training materials. The District will post the practices and procedures in a prominent location on the District's website and in each District school. The District will provide documentation that it has disseminated the restraint and seclusion practices and procedures to all District students, parents, and staff. The District will communicate the information contained in the practices and procedures in languages other than English as necessary and consistent with the District's language assistance plan developed pursuant to OCR Docket #15-15-1428. At the time the District disseminates the practices and procedures to District staff, it will also clarify that the use of restraint and seclusion is not permitted for property destruction. Throughout the course of this Agreement, the District will submit for OCR review and approval any changes to the practices and procedures approved by OCR prior to their implementation.

(3) By **July 31, 2018, and July 31, 2019**, the District will provide OCR with copies of all complaints received during the 2017-2018 and 2018-2019 school years, respectively, about restraint and seclusion by the superintendent's designee referenced in Item I.D, and the District's responses to those complaints.

## **II. Data Collection and Self-Monitoring**

- A. By **September 30, 2017**, the District will provide documentation confirming that it has closed and dismantled each seclusion room, processing room, time-out room, respite room, or room by any other name being used at any time for restraint or seclusion in each District facility, with the exception of Beatty Park Elementary and Columbus Scioto 6-12 schools.

**Reporting Requirements:** By **September 30, 2017**, the District will provide OCR with documentation demonstrating that it has dismantled any room used for restraint and seclusion in each District facility as identified in Item II.A above. Such documentation should include the location of each room that was closed and/or dismantled, the date when the each room was closed and/or dismantled, and what

actions the District took to ensure that such areas/rooms could no longer be used as seclusion rooms.

- B. If any such rooms used for restraint and/or seclusion as identified in Item II.A above have not been closed or dismantled, by **December 1, 2017**, and annually thereafter, the District will locate and identify each seclusion room, processing room, time-out room, respite room, or room by any other name being used at any time for restraint or seclusion in each District facility. The list will include rooms used for other purposes, if they are also used for restraint or seclusion, such as PEAK rooms and/or sensory rooms. The District will maintain this list on an annual basis. The list will contain sufficient information to confirm that the rooms meet the physical measurement, content, and structure standards developed by the District in accordance with Item I.D above.

**Reporting Requirements:** By **December 1, 2017, and December 1, 2018**, the District will provide OCR with the list of every room at each District school being used for restraint and/or seclusion, pursuant to Item II.B.

- C. By **December 1, 2017**, the District will establish uniform standards for the completion of incident reports related to the use of restraint and seclusion. The standards will be designed to ensure that the District keeps accurate and complete records of all incidents involving the use of restraint and seclusion. To this end, the District will develop and/or modify a uniform District Behavior Incident/Intervention form to be used by all District staff for **each** instance of restraint and seclusion. In addition to the information gathered for purposes of the District's reporting to ODE, the District will require the person(s) completing the form to identify the following:

1. the name, age and school of the student;
2. the disability status of the student;
3. the start and end times for the behavioral incident that necessitated the use of restraint and/or seclusion;
4. a description of the behavior that necessitated the use of restraint and/or seclusion;
5. the location of the incident;
6. a description of the de-escalation techniques used by staff before using restraint and/or seclusion;
7. the specific start and end times of the use of restraint and/or seclusion;
8. a description of the restraint (or control) used with the names of the staff members involved in the control;
9. the specific location of the intervention;

10. the specific times when a student in restraint and/or seclusion was checked;
11. information about whether and when a parent/guardian was contacted;
12. information about whether and when a nurse was contacted; and
13. the names and positions of all staff involved in the intervention.

**Reporting Requirements:** By **December 1, 2017**, the District will provide a copy of the form developed pursuant to this Item II.C for OCR's review and approval. Within 15 calendar days of OCR's approval, the District will disseminate the OCR-approved form for District-wide use and instruct all staff to discontinue using any other incident forms for the purposes of documenting restraint and seclusion. By **July 31, 2018, and July 31, 2019**, the District will provide documentation verifying that the form is being correctly and consistently used to document each incident of restraint or seclusion at every District facility.

D. By **December 1, 2017**, the District will provide OCR with a written description of its existing system to ensure that it accurately records the number of restraint and seclusion incidents that occur to allow for both District-wide monitoring as well as accurate reporting. In addition to the information gathered for purposes of the District's reporting to ODE, the system will ensure that:

1. Restraint and seclusion incidents involving both students with and without disabilities can be recorded.
2. Data about restraint and seclusion can be disaggregated by race, sex, disability status, school, and grade.
3. Documentation of restraint and seclusion incidents is maintained with sufficient detail to determine whether the interventions were employed as a last resort.
4. All staff involved in the interventions can be identified by name, position, and school.

**Reporting Requirement:** By **December 1, 2017**, the District will submit to OCR for review and approval its proposed system for data collection and reporting.

E. Beginning with the 2017-2018 school year, the District will evaluate on an ongoing basis but at least at the end of each semester the data referenced in Item II.D to assess whether the District is implementing its restraint and seclusion practices and procedures in a non-discriminatory manner at each school. The data evaluation team should include the District's Section 504 Coordinator, Director of Compliance (or equivalent position), and any other similarly qualified District staff member. The evaluation of the data will include, but not be limited to, the following:

1. Review of the behaviors that result in students being restrained and secluded.
2. Review of the frequency and duration with which students are restrained and secluded.
3. Review of the de-escalation methods District staff are utilizing before employing restraint and/or seclusion and, as appropriate, ensure that they are consistent with students' Individualized Education Programs (IEPs) and behavior plans.
4. Review of whether students subjected to restraint and seclusion have been appropriately evaluated under Section 504 and are receiving appropriate services pursuant to any developed Section 504 plans and IEPs and, if not, whether students' IEP and Section 504 teams have been reconvened to consider the matter.
5. Examination of whether certain District staff members are engaged in disproportionately high numbers of incidents of restraint and seclusion as compared to their student population.
6. Examination of whether restraint and/or seclusion is being used solely with students with disabilities and to ensure the use of restraint and/or seclusion is not resulting in discrimination on the basis of disability.
7. Examination of the use for students with disabilities of sensory rooms and PEAK rooms for purposes other than those rooms are designed, including the use of PEAK rooms for in-school suspensions or other classroom removals of students with disabilities.

**Reporting Requirements:** By **July 31, 2018, and July 31, 2019**, the District will provide to OCR the evaluations referenced in Item II.E for the just completed school years, as well as documentation of any remedial actions the District took to address the information obtained from the District's evaluations, including any revisions to practices, procedures, and/or staff training.

- F. For any student with a disability identified as being inappropriately restrained and/or secluded or suspected of such, as a result of the evaluations conducted pursuant to Item II.E above, the District will:
1. Convene the students' Section 504/IEP teams to determine whether the students require any compensatory services for the provision of a free appropriate public education (FAPE) or other instructional services missed as a result of the restraint or seclusion.
  2. Ensure that the IEP team meeting is a team of persons knowledgeable about the students, the evaluation data, and the placement options, including the students' parents or guardians, to individually assess the amount of compensatory services, if any, that would be appropriate for the students and, if necessary, draft an action plan

containing proposed compensatory services or remedial measures that will be offered or taken, the specific timelines for implementation, and the person(s) responsible for overseeing full and timely implementation.

3. Provide the students' parents or guardians with a meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree.
4. In instances in which the District finds that students were excessively restrained or secluded, the District will offer to provide these students with counseling at its expense to address emotional or psychological issues related to or arising out of the restraint and seclusion.

**Reporting Requirements:** By **July 31, 2018, and July 31, 2019**, the District will submit to OCR documentation showing implementation of Item II.F, including a copy of any meeting minutes, a copy of any IEPs and/or Section 504 plans developed for the students, compensatory education services plans, documentation of any input provided by the students' parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached. For compensatory services and remedial measures that will occur over time, the District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services and remedial measures are being provided as specified. If the students are to receive compensatory services, the case will remain in monitoring until all compensatory services and remedial measures have been provided in full. Should the District determine that no compensatory education or other remedial services are necessary the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33-104.36, in making these determinations, and notify the District when it has completed this review.

### **III. Training**

**By September 1, 2018, and annually thereafter**, the District will provide training to **all** District principals, intervention specialists teaching students with multiple disabilities and emotional disturbances, instructional assistants working with students with multiple disabilities and emotional disturbances, and building student support teams using the OCR approved training materials regarding the District's legal obligations under Section 504 and Title II regarding restraint and seclusion and its OCR-approved practices and procedures, including its documentation and tracking practices, as developed pursuant to Items II.C and D of the Agreement.

**Reporting Requirement:** By **September 30, 2018**, the District will provide documentation to OCR that it has provided the training required by this Item.

### **General Requirements**

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 regulation at 34 C.F.R. §§ 104.4, 104.33, and 104.34 and Title II and its implementing regulation at 28 C.F.R. § 35.130, which were at issue in this compliance review. Upon completion of the obligations under this Agreement, OCR will close this compliance review.

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. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effectively immediately upon the signature of the District's representative below.

/s/

8/30/15

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Superintendent or designee

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Date