



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

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MICHIGAN
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January 19, 2022

Via E-mail Only to teri.thompson@hvs.org

Dr. Paul Salah
Superintendent
Huron Valley Schools
2390 South Milford Road
Highland, Michigan 48357

Re: OCR Docket No. 15-19-5002

Dear Dr. Salah:

This letter is to notify you of the disposition of the above-referenced compliance review initiated by the U.S. Department of Education, Office for Civil Rights (OCR) against the Huron Valley Schools (District) on January 29, 2019. OCR's review focused on whether the District's use of restraint and seclusion denied students with disabilities who participate in the District's programs a free appropriate public education (FAPE), in violation of the District's obligation to comply with Section 504 and Title II.

OCR conducted this compliance review pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794 *et seq.* (Section 504), and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs or activities receiving financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 *et seq.* (Title II), and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The District receives federal financial assistance from the Department of Education and is a public entity. Accordingly, OCR had jurisdiction to investigate and resolve this compliance review under Section 504 and Title II.

OCR is required to conduct periodic compliance reviews of recipient practices to determine whether they comply with the laws OCR enforces. 34 C.F.R. § 104.61; 28 C.F.R. § 35.172(a). As explained below, the evidence obtained through the District's documents and data, as well as interviews of its staff, raised several serious concerns about the District's compliance with Section 504 and Title II. Prior to OCR's completion of its investigation, the District expressed an interest in resolving this compliance review under Section 302 of OCR's *Case Processing Manual*, and OCR determined that such resolution would be appropriate. The District signed the enclosed 302 Agreement to address OCR's compliance concerns. When fully implemented, the Agreement will resolve this compliance review.

I. Summary of the Compliance Review

In its initial request for information, OCR asked that the District identify each incident involving the use of restraint or seclusion of District students during the 2017-2018 and 2018-2019 school years (the Review Period). In its response, the District identified 279 incidents of restraint and seclusion that occurred from September 7, 2017, through July 2018, and from September 6, 2018, through January 17, 2019. The District did not provide information about incidents occurring from January 18, 2019, through the end of the 2018-2019 school year, with the exception of one incident that occurred on February 28, 2019.

OCR also asked the District to produce certain documentation regarding each incident of restraint and seclusion that occurred during the Review Period. The District provided documentation evidencing the incidents of restraint and seclusion that occurred between September 7, 2017, through January 17, 2019, and on February 28, 2019 (the Reporting Period). OCR also reviewed Individualized Education Programs (IEPs) and behavior intervention plans submitted by the District for its students with disabilities who were subjected to the use of restraint and seclusion between September 7, 2017, and January 17, 2019, and on February 28, 2019.¹ OCR reviewed and analyzed District data for each instance of restraint or seclusion that the District identified.² In addition, OCR reviewed other documentation provided by the District, including District policies, procedures, practices, records, forms, and staff training regarding the use of restraint and seclusion.

On December 12, 2019, and January 30, 2020, OCR obtained additional information by speaking with the District's director of student support services (the director) and the student support services xxxxxxxxxx xxxxxx xxx xxxxxxxx xxxxxxxxxx about OCR's data requests and the District's responses. OCR also interviewed 11 District staff members in June 2020, including four teachers, two teacher consultants, a paraprofessional, three principals, and an assistant principal.³

¹ As discussed below in Section VII, despite OCR's request for information related to each incident involving the use of restraint or seclusion of District students during the 2017-2018 and 2018-2019 school years, the District did not provide information related to incidents that occurred between January 18, 2019, through February 27, 2019, and from March 1, 2019, through the end of the 2018-2019 school year.

² Throughout this document the phrase "restraint and seclusion" or the phrase "restraints and seclusions" refers to situations in which there was a restraint, a seclusion, or both a restraint and a seclusion.

³ Specifically, OCR interviewed a teacher and the principal from Highland Elementary, a teacher from Heritage Elementary, a teacher and the principal from Milford High, a teacher from Lakewood Elementary, a paraprofessional from Muir Middle, a teacher consultant and the principal from Johnson Elementary, and a teacher consultant and an assistant principal from Oak Valley Middle. OCR selected these witnesses for interviews because they participated in the restraint and/or seclusion of individual students with the highest number of incidents at a particular school, did not complete documentation forms following their involvement in the restraint and/or seclusion of District students, represented schools that lacked documentation of restraints and/or seclusions, or represented the school with the highest incidence of restraints and/or seclusions.

II. Summary of OCR’s Compliance Concerns

As discussed below, the information OCR obtained to date in this compliance review shows the following about the District’s restraint and seclusion practices, and raises several FAPE-related compliance concerns. OCR also found that the District has a clear policy defining the emergency circumstances in which restraint and seclusion may be used and prohibiting the use of mechanical restraints. OCR also found that the District provides staff with annual or biennial training about the use of restraint and seclusion and a system for documenting each use with students. However, OCR learned during interviews with trained District staff and our review of District documents that some trained staff do not understand when to use restraint or seclusion, used mechanical restraints on a student at least five times during the Review Period when the District’s policy prohibited such use, did not consistently notify parents when their children were restrained or secluded, and did not properly document the use of restraint and seclusion. Indeed, OCR found that the District lacked documentation for 100 of the 325 incidents of restraint and seclusion identified during the Review Period.

The foregoing information and practices raise six FAPE-related compliance concerns. First, the District’s incomplete documentation of the use of restraint and seclusion, coupled with its documentation of multiple uses of restraint and seclusion with students with disabilities, raised serious concerns that this repeated use may have denied students with disabilities FAPE. Specifically, without complete documentation, the District had no way of knowing whether students were being restrained and secluded repeatedly and for lengthy periods of time, causing them to miss instruction and other services necessary to receive FAPE. Second, the District’s documentation raised concerns that students with disabilities did not receive educational and related services during periods of restraint and seclusion and that the District did not make up missed instruction or services. Third, the information obtained to date also raised concerns that the District did not consistently reevaluate students subjected to multiple restraints and seclusions prior to their annual IEP reviews to determine whether the use of restraint and seclusion had affected their receipt of FAPE and what additional aids and services, if any, were appropriate to provide FAPE. Fourth, OCR is concerned that all 325 incidents of restraint and seclusion during the Review Period involved students with disabilities when the District has not provided evidence that only students with disabilities posed an imminent risk to their safety or that of others – the basis for using restraint or seclusion under Board policy. Fifth, because the District was not consistently notifying parents and District administrators when a restraint or seclusion occurred, OCR is concerned that parents and administrators may not have been sufficiently informed to request a reevaluation or participate meaningfully in IEP or Section 504 meetings. Lastly, OCR has concerns that the District’s incomplete and inconsistent records impede its ability to monitor staff’s use of restraint and seclusion to ensure compliance with the FAPE requirements of Section 504.

III. Legal and Regulatory Standards

A. Definitions

OCR defines “mechanical restraint” as the use of any device or equipment to restrict a student’s freedom of movement. The term does not include devices implemented by trained school

personnel or used by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed.⁴

OCR defines “physical restraint” as a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching, or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

OCR defines “seclusion” as the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. The term does not include a timeout, which is a behavior management technique that is part of an approved program involving monitored separation of the student in a non-locked setting and is implemented for the purpose of calming.

B. Section 504 and Title II

The Section 504 regulation at 34 C.F.R. § 104.33 requires school districts to provide a FAPE to all students with disabilities in their jurisdictions, regardless of the nature or severity of the disability. An appropriate education is defined as regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of students without disabilities are met and are based on adherence to procedures that satisfy the requirements of 34 C.F.R. §§ 104.34-36. Implementation of an individualized education program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting these requirements.

The Section 504 regulation at 34 C.F.R. § 104.35(a) provides that a district shall conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement. The regulation at 34 C.F.R. § 104.35(b) provides that a district shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education or related services.⁵

⁴ Examples of specific and approved purposes include: adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; restraints for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

⁵ The procedures must ensure that: (1) tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer; (2) tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and (3) tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory,

Moreover, the Section 504 regulation at 34 C.F.R. § 104.35(c) provides that in interpreting evaluation data and in making placement decisions, a district shall (1) draw upon information from a variety of sources, including physical condition and adaptive behavior;⁶ (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered; (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and (4) ensure that the placement decision is made in conformity with § 104.34, which requires placement in the regular education environment to the maximum extent appropriate.

When a student exhibits behavior that interferes with the student's education or the education of other students in a manner that would reasonably cause teachers or other school personnel to suspect that the student has a disability, as defined under Section 504, the school district must evaluate the student to determine if the student has a disability and needs special education or related services because of that disability. For a student who has already been identified as a student with a disability, repeated behaviors that may precipitate the use of restraint and seclusion may suggest that the student's current array of regular or special education and related aids and services is not sufficient to provide FAPE.

As a general rule, because Title II provides no less protection than Section 504, violations of Section 504 also constitute violations of Title II. 28 C.F.R. § 35.103.

IV. Facts

The District is located in Highland, Michigan, a township located approximately 45 miles north of Detroit, Michigan. The District is comprised of eight elementary schools, three middle schools, and three high schools (including one alternative high school). During the 2017-2018 school year, a total of 9,855 students attended the District, 1,153 of whom were students with disabilities and 8,702 of whom were students without disabilities. During the 2018-2019 school year, a total of 9,704 students attended the District, 1,152 of whom were students with disabilities and 8,552 of whom were students without disabilities.

Upon review of the documentation provided by the District, OCR identified 325 incidents of restraint and seclusion during the Reporting Period, 46 more than the 279 that the District initially reported to OCR during this compliance review. All 325 incidents involved students with disabilities. Information produced by the District through data, documents, and interviews did not reveal any restraints or seclusions of students who were not identified as having disabilities during the Reporting Period. While the information set forth below pertains to the Reporting Period, the documentation OCR obtained to date, particularly the missing and incomplete forms for incidents of restraint and seclusion, raised concerns that there were more

manual, or speaking skills (except where those skills are the factors that the test purports to measure). 34 C.F.R. § 104.35(b)(1)-(3).

⁶ The regulation at 34 C.F.R. § 104.35(c)(1) also lists the following possible sources: aptitude and achievement tests, teacher recommendations, and social or cultural background.

incidents of restraint and seclusion, possibly involving students without identified disabilities, during the Review Period that the District did not report, as discussed further below.

A. The District's Policies and Training Regarding Restraint and Seclusion

OCR reviewed the District's policy in effect during the Review Period, which states that "the use of emergency seclusion and physical restraint is a last resort intervention which may be used only when a student's behavior poses an imminent risk to the safety of the student or others and an immediate intervention is required." The policy further directs that any use of emergency seclusion and physical restraint be consistent with state law, Michigan Department of Education policy, and any related guidelines. The District's policy related to the use of restraint and seclusion may be found in the District's Student Services Procedures Manual and the District's Board Policy 5105, titled "Board of Education Seclusion and Restraint Policy 5105 – Seclusion and Restraint."

The District's policy defines "seclusion" as "the confinement of a pupil in a room or other space from which the pupil is physically prevented from leaving." The policy defines "emergency seclusion" as "a last resort emergency safety intervention involving seclusion that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others."

The District's policy defines "restraint" as "an action that prevents or significantly restricts a pupil's movement," and "physical restraint" as a "restraint involving direct physical contact." The policy defines "mechanical restraint" as "the use of any device, article, garment, or material attached to or adjacent to pupil's body to perform [a] restraint" and prohibits the use of mechanical restraints "under all circumstances, including emergency situations."

The District further adopted as its own the Michigan State Board of Education's Policy for the Emergency Use of Seclusion and Restraint, which directs all staff to use positive behavior interventions and support (PBIS) to enhance the academic and social behavior outcomes for all students.

The District's Board Policy 5140, titled "Health and Safety", prohibits the use of seclusion and restraint as disciplinary measures and requires staff training on the use of "Positive Behavior Support and the very limited circumstances in which seclusion and restraint are permitted."

All but one of the interviewed staff told OCR that they received training on the use of restraint and seclusion and the District's related policies during the Review Period. Specifically, they stated they received annual or biennial training regarding the District's policies and legal updates related to the use of restraint and seclusion. Two of the three District administrators and five of the seven District staff members stated that they also receive biennial training on nonviolent crisis intervention through a third party to maintain their certification.⁷ One District administrator told OCR that he did not receive any training on the use of restraint and seclusion during the Review Period.

⁷ The third party's nonviolent crisis intervention training provides "staff with an effective framework for decision making and problem solving to prevent, de-escalate, and safely respond to disruptive or assaultive behavior."

Despite the biennial training, some District staff members did not understand the emergency circumstances in which the District permits the use of restraint and seclusion. For example, one District staff member stated that a student may be secluded for his or her own privacy and to allow a student to de-escalate. Two administrators and one staff member told OCR that the District’s policy simply states that restraint or seclusion are to be used as a last strategy but did not identify the limited emergency circumstances in which to utilize the strategy.

Some District staff members OCR interviewed identified what constitutes a restraint and seclusion consistent with District policy and understood when to apply them per the District’s policy. However, other staff did not know the definitions and how to apply them. For example, one administrator stated that a seclusion involved the removal of a student, while another District staff member told OCR that a seclusion may occur wherever the student is, such as a classroom or an office. A different staff member stated that a seclusion does not occur if staff remove all but one student from a classroom and ensure that the student remains in the classroom. Another staff member stated that a seclusion may be warranted when a student needs a sensory break. District staff members and administrators also gave definitions of the term “physical restraint” that were not consistent with District policy, including: specific holds dictated by a third-party training; utilizing interventions and techniques such as holding a student until the student is safe; preventing a student from doing something that may harm himself, herself, or others; escorting a student from one location to a seclusion room; and utilizing a hold to move a student to a place where the student and others are safe.

When asked to provide the District’s policy regarding the use of mechanical restraints, many District employees stated that they did not receive training on the prohibition of mechanical restraints. Two District staff members and one District administrator asked OCR staff to define the term “mechanical restraint.” One District administrator and one District staff member stated that they did not know the District’s policy on mechanical restraints. One District staff member stated that the District’s policy permitted the use of mechanical restraint as a last resort if a student is harming himself, herself, or others. One District staff member correctly stated that District policy prohibited the use of mechanical restraints; however, the staff member also expressed her mistaken belief that utilizing wheelchair escorts with arm restraints did not constitute a mechanical restraint.

B. Documentation of Incidents of Restraint and Seclusion During the Review Period

As part of its compliance review, OCR analyzed the District’s practices for documenting incidents of restraints and seclusion during the Review Period, including its monitoring logs and documentation forms. OCR also interviewed District staff about these practices and forms.

The director told OCR that during the Review Period, the District tracked incidents of restraint and seclusion through monthly logs and documentation forms. Then, at the start of the 2019-2020 school year, she stated that the District implemented a new online documentation system to track each incident of restraint and seclusion. She stated that, under the new system, staff input basic information related to the use of restraint and seclusion (e.g., the student’s name, race, and medical information and the start and end times of the restraint and seclusion) onto the electronic

portal, and the online system transcribes the information onto two separate forms: a documentation form and a debriefing form. She stated that staff must print each form and handwrite additional information related to the use of restraint and seclusion on the forms (e.g., the duration of the restraint and seclusion, whether extended time was utilized, etc.).

The District provided OCR with a three-page printout identifying the basic information that staff are required to input onto the online portal. The District also sent OCR a sample documentation form and a debriefing form, but the District did not indicate whether these forms are currently in use. OCR did not obtain completed documentation and debriefing forms from the District since it implemented its new online documentation system. The information below pertains to the District's prior documentation system that staff used during the Review Period.

1. Monthly Logs

The director told OCR that District teachers were required to complete a monthly log identifying each incident of restraint and seclusion of District students. She stated that each log entry required: the date; the student's name, race, gender, age, grade, IEP eligibility, and medical condition; whether a restraint and seclusion occurred; and the District staff member's initials. Upon completion, teachers were to forward their monthly logs to the student support services xxxxxxxx xxxxxxxx, who transcribed the information onto a spreadsheet. The District provided OCR with three different monthly log templates that were used during the Review Period and 48 monthly logs completed by various staff during the Reporting Period.⁸ All three of the monthly log templates were titled, "Seclusion/Restraint Data." The first template (template 1) contained columns labeled: "Student Name"; "Race"; "Gender"; "Age"; "Grade"; "Eligibility"; "Medical Condition"; "Seclusion/Restraint"; and "Staff Initials." The second template (template 2) added a column labeled "Date" and the third template added a column labeled "Time" (template 3). None of the monthly log templates requested the name of the school.

OCR noted that 12 of the 48 monthly logs completed by District staff during the Reporting Period contained entries covering more than one month, and at least one referenced incidents that occurred over seven months. Only one of the 39 monthly log entries, spanning from September 2017 through March 6, 2018, noted zero incidents of restraints and seclusions. Thus, it is unclear whether the District required its teachers to submit a monthly log during months where there were zero incidents of restraint and seclusions.

Upon review of the monthly logs, OCR found that many entries were incomplete (e.g., entries were blank under columns labeled "Race," "Age," "Medical Condition," and/or "Staff Initials"). OCR noted that other entries were inaccurate. For example, under the column labeled "Medical Condition," one entry listed a student's eligibility (i.e., "OHI, EI"), while other entries appeared to describe student behaviors that led to the use of restraint and seclusion (e.g., "ran into parking lot trying to leave", "ran out of room", and "sudden refusal [to walk down a hall]").

⁸ The District provided 51 monthly logs; however, OCR determined that three monthly logs were duplicates of a prior submission to OCR.

OCR also found that staff completed the log forms in an inconsistent manner. For example, some template 1 “Seclusion/Restraint” column entries only identified whether the incident involved a restraint or a seclusion, while other entries included the date, time, and/or duration of the restraint or seclusion. Some “Student Name” column entries identified only the student’s name while others also included the date. Some template 1 entries renamed the column titled “Race” as “Date/Time” and noted the date and timeframe of the restraint or seclusion. Some template 2 “Date” column entries reflected only the date of the restraint and seclusion, while others also included the time and/or timeframe of the restraint or seclusion. Template 3 “Time” column entries varied from noting the time, timeframe, and/or duration. While most “Seclusion/Restraint” column entries indicated whether the incident involved a restraint or seclusion, one entry stated “Hold.”

Further, OCR found that 21 of the 325 restraints and seclusions that occurred during the Reporting Period were not reflected on any monthly logs. Based on a review of documentation related to the 21 incidents, OCR determined that they consisted of eight seclusions, five restraints, and eight incidents where OCR was unable to determine whether the student was restrained or secluded as the District’s documentation was missing, incomplete, and/or contradictory.

2. Documentation Forms

In addition to completing monthly logs during the Review Period, District teachers were required to complete a documentation form for each incident involving a restraint or seclusion. The director told OCR that the type of form utilized by staff varied by school, school year, and/or staff preference. The director stated that staff did not always complete the required documentation forms.

The District identified three forms approved for use by District staff during the Review Period:

- the Michigan Department of Education Seclusion and Restraint Documentation Form (the Michigan DOE Form);
- the Emergency Seclusion Emergency Physical Restraint Documentation Form (the Emergency Seclusion and Restraint Form); and
- The Behavior Intervention Documentation Report (the Behavior Intervention Form).

The Emergency Seclusion and Restraint Form is a two-page document, the second page of which is titled “Emergency Seclusion Emergency Physical Restraint Debriefing Form.” Of the 195 Emergency Seclusion and Restraint Forms provided to OCR by the District, none contained the Emergency Seclusion Emergency Physical Restraint Debriefing Form. The Behavior Intervention Form is a three-page document, but none of the 28 Behavior Intervention Forms provided to OCR by the District contained the third page, which appears to act as notice to students’ parents regarding the use of restraint and/or seclusion. For example, the third page requires the identification of the type of restraint and/or seclusion used, a description of the behaviors that occurred prior to the use of restraint and/or seclusion, and the length of time it

took for the student to “recover.” Page three of the Behavior Intervention Form further states, “If you have any questions or concerns, please contact your student’s teacher.”

OCR found that various forms approved for use by the District during the Review Period, including the Michigan DOE Form, the Emergency Seclusion and Restraint Form, and the Behavior Intervention Form, did not request certain information necessary for the District to determine if the restraint or seclusion of a student resulted in a denial of FAPE. For example:

- Despite the District's requirement that administrator notification be given after each incident of restraint and seclusion, neither the Michigan DOE Form nor the Behavior Intervention Form required that staff document whether an administrator was notified after the use of restraint or seclusion. Without this notification, administrators may not have been aware when a student was subjected to one or more restraints or seclusions that denied the student a FAPE or that should have triggered a reevaluation.
- The Behavior Intervention Form did not require that staff document whether the student subjected to restraint and seclusion had a known medical condition. While the Emergency Seclusion and Restraint Form required that staff indicate whether a student had a known medical condition, the form did not require staff to identify or describe the medical condition. This omission could impact staff members’ responses to students whose medical conditions could be impacted by the use of restraint and seclusion, thus resulting in a denial of a FAPE.
- The Emergency Seclusion and Restraint Form did not require the name of the staff member completing the form or the identities of all staff members involved in the use of restraint or seclusion. Without this information, the District could encounter difficulties in identifying and training staff members who restrain and/or seclude students in a manner that denies these students FAPE.

The District submitted to OCR 225 documentation forms completed during the Reporting Period: 195 Emergency Seclusion and Restraint Forms, 28 Behavior Intervention Forms, and two Michigan DOE Forms. OCR found that documentation forms were not completed for 100 of the 325 incidents of restraint and seclusion that occurred during the Reporting Period. These 100 incidents consisted of 62 seclusions, 25 restraints, and 13 incidents in which OCR was unable to determine whether the student was restrained or secluded, as documentation was missing, incomplete, and/or contradictory.

Of the 225 documentation forms reviewed by OCR, 178 forms were missing information needed to ascertain whether staff had followed District policies and used restraint or seclusion properly. Missing information included: whether the incident involved a restraint or seclusion; the start and end times of the restraint or seclusion; the total duration of the restraint or seclusion; which staff member initiated the restraint or seclusion; whether and/or why extended time was utilized during the incident; whether the student had a known medical condition; what precipitated the student’s behavior; strategies used by staff to deescalate the student; whether or when the student’s parent was notified of the incident; whether the student’s parent received a written report; and whether or when a District administrator was notified of the incident. Staff did not

document the start and end times of a restraint or seclusion on 39 of the 223 forms that required such times. Staff also did not record the duration of the restraint or seclusion on 70 forms. In addition, many documentation forms contained contradictory and inaccurate information. For example, one form stated that a student was restrained from 3:45 p.m. until 3:47 p.m., but then stated that the restraint lasted a total of five minutes. Another form stated that a student was secluded from 11:52 a.m. until 12:27 p.m., but then stated that the seclusion lasted only 13 minutes. Additionally, although many forms defined the use of “extended time,” in part, as the seclusion of elementary school students past 15 minutes, one form stated that extended time was not utilized during a 44-minute seclusion of a 4th-grade student.

OCR found that District staff also completed the documentation forms in an inconsistent manner. For example, the director told OCR that where forms required the start time, end time, and duration of the restraint or seclusion, staff should have noted all three. Yet one District staff member told OCR that she believed the duration encompassed the time period from when the student started the behavior that led to the use of restraint or seclusion through the end of the student’s process of de-escalation after the restraint or seclusion ended. Additionally, OCR found that some staff members altered documentation forms by inserting handwritten columns titled “Open” and “Closed,” and by noting times under each column. One District staff member told OCR that the handwritten times indicated when staff members opened and closed the door while a student was secluded. This staff member completed a documentation form indicating that a student was secluded from 1:14 p.m. until 1:21 p.m., for a total of six minutes; she also inserted handwritten columns indicating that the door was closed at 1:14, opened at 1:15, closed at 1:20, and opened at 1:21. When asked how long the student was secluded, the staff member told OCR that, according to the handwritten notations, the seclusion lasted two minutes; she stated that she did not know why the duration on the form indicated that the student was secluded for six minutes.

Because of the missing and inconsistent documentation, OCR was unable to determine in many instances whether students were restrained or secluded and, if so, for how long during the Reporting Period.

3. District Notification of Restraint and Seclusion Incidents to Parents and Administrators

When OCR requested the District’s communications with parents regarding its policies, procedures, and practices related to the use of restraint and seclusion for students with disabilities, the District responded that it “do[es] not hold [D]istrict-wide parent seminars or place in broad communication written details around the practice of restraint and seclusion.” The director told OCR that during the Review Period, the District’s policy required that staff notify parents after each restraint and seclusion of their child, but the policy did not dictate the method of notification. She stated that staff could notify parents via phone call, e-mail, or a copy of the documentation form. The director also acknowledged that some District staff members did not provide any form of parent notification after engaging in a restraint and seclusion. Thus, a student could have been subjected to multiple restraints and seclusions without his or her parent or guardian’s knowledge. Upon review of the District’s documentation related to the 325 incidents of restraint and seclusion identified during the Reporting Period, OCR found that 116

incidents of restraint and seclusion did not have any documentation of parent notification. OCR found that parent notification was provided: via written report on 141 occasions; via phone call on 25 occasions; via Class Dojo⁹ on 24 occasions; via text on three occasions; via e-mail on two occasions; in person on one occasion; and via a daily note on one occasion. Twelve incidents of restraint and seclusion had documentation of parent notification, but the method of notification was omitted.

In terms of notifying District administrators of the use of restraint and seclusion, the director told OCR that each incident of emergency restraint and seclusion “requires immediate administrator notification.” During the Reporting Period, OCR found that District staff reported 189 incidents of restraint and seclusion to District administrators. OCR was unable to determine if District staff notified administrators of 136 incidents of restraint and seclusion as documentation for seven incidents and did not note whether notification was given, 29 documentation forms did not ask whether notification was given, and 100 incidents did not have any documentation indicating that notification was given.

C. Overview of District Use of Restraint or Seclusion During the Reporting Period

OCR received information regarding 325 incidents of restraint and seclusion in the District during the Reporting Period. These incidents involved 38 District students with disabilities across nine schools. None of the 325 incidents involved students without disabilities:

- Highland Elementary School had 48 students with disabilities (13% of the student population) in the 2017-2018 school year and 50 (13%) in the 2018-2019 school year. During the 2017-2018 school year, 9 students (19% of students with disabilities) were restrained and/or secluded, and 10 students (20% of students with disabilities) were restrained and/or secluded in the 2018-2019 school year through January 17, 2019, based on the limited documentation submitted to OCR. Highland Elementary School had the highest number of restraint and seclusion incidents at the District during the Reporting Period, representing 198 (61%) of the 325 total incidents.
- Lakewood Elementary School had 57 students with disabilities (11% of the student population) in the 2017-2018 school year, and 58 (12%) in the 2018-2019 school year. During the 2017-2018 school year, 3 students (5% of student with disabilities) were restrained and/or secluded based on the limited documentation submitted to OCR. The District did not submit any documentation for this school for the 2018-2019 school year, leaving unclear if the school had no restraints or seclusions that year or staff did not document them. Lakewood Elementary School had the second highest number of restraint and seclusion incidents at the District during the Reporting Period, representing 50 of the 325 (15%) incidents across both school years.

⁹ Per the company’s website, ClassDojo is “a school communication platform that teachers, students, and families use to build close-knit communities by sharing what’s being learned in the classroom home through photos, videos, and messages.”

- Milford High School had 230 students with disabilities (15% of the student population) in the 2017-2018 school year, and 247 (15%) in the 2018-2019 school year. During the 2017-2018 school year, 5 students (2% of students with disabilities) were restrained and/or secluded, and 5 students (2% of students with disabilities) were restrained and/or secluded in the 2018-2019 school year through January 17, 2019, based on the limited documentation submitted to OCR. Milford High School had the third highest number of restraint and seclusion incidents at the District during the Reporting Period, representing 26 of the 325 (8%) incidents across both school years.
- Johnson Elementary School had 55 students with disabilities (12% of the student population) in the 2017-2018 school year, and 53 (12%) in the 2018-2019 school year. During the 2017-2018 school year, 3 students (5% of student with disabilities) were restrained and/or secluded, and 3 students (6% of students with disabilities) were restrained and/or secluded during the 2018-2019 school year through October 4, 2018, based on the limited documentation submitted to OCR. Johnson Elementary School represented 18 of the District's 325 (6%) incidents of restraint and seclusion during the Reporting Period.
- Muir Middle School had 119 students with disabilities (14% of the student population) in the 2017-2018 school year, and 113 (13%) in the 2018-2019 school year. During the 2017-2018 school year, 1 student (0.8% of students with disabilities) was restrained and/or secluded, and 1 student (0.9% of students with disabilities) was restrained and/or secluded in the 2018-2019 school year through February 28, 2019, based on the limited documentation submitted to OCR. Muir Middle School represented 12 of the District's 325 (4%) incidents of restraint and seclusion during the Reporting Period.
- Oak Valley Middle School had 69 students with disabilities (9% of the student population) in the 2017-2018 school year, and 63 (9%) in the 2018-2019 school year. During the 2017-2018 school year, 2 students (3% of students with disabilities) were restrained and/or secluded based on the limited documentation submitted to OCR. The District did not submit any documentation for this school for the 2018-2019 school year, leaving unclear if the school had no restraints or seclusions that year or staff did not document them. Oak Valley Middle School represented 10 of the District's (3%) incidents of restraint and seclusion during the Reporting Period.
- Kurtz Elementary School had 53 students with disabilities (11% of the student population) in the 2017-2018 school year, and 53 (12%) in the 2018-2019 school year. During the 2017-2018 school year, 2 students (4% of students with disabilities) were restrained and/or secluded based on the limited documentation submitted to OCR. The District did not submit any documentation for this school for the 2018-2019 school year, leaving unclear if the school had no restraints or seclusions that year or staff did not to document them. Kurtz Elementary School represented 7 of the District's 325 (2%) incidents of restraint and seclusion during the Reporting Period.
- Heritage Elementary School had 79 students with disabilities (13% of the student population) in the 2017-2018 school year, and 77 (13%) in the 2018-2019 school year.

During the 2017-2018 school year, 2 students (3% of students with disabilities) were restrained and/or secluded, and 1 student (1% of students with disabilities) was restrained and/or secluded during the 2018-2019 school year through November 12, 2018, based on the limited documentation submitted to OCR. Heritage Elementary School represented 3 of the District's 325 (1%) incidents of restraint and seclusion during the Reporting Period.

- White Lake Middle School had 106 students with disabilities (13% of the student population) in the 2017-2018 school year, and 100 (13%) in the 2018-2019 school year. During the 2017-2018 school year, 1 student (0.9% of students with disabilities) was restrained and/or secluded. The District did not submit any documentation for this school for the 2018-2019 school year, leaving unclear if the school had no restraints or seclusions that year or staff did not document them. White Lake Middle School represented 1 of the District's 325 (less than 1%) incidents of restraint and seclusion during the Reporting Period.

During the Reporting Period, 25 District students experienced more than one restraint and seclusion. Students with the highest number of restraints or seclusions included the following and most were enrolled at Highland Elementary School:

- One Highland Elementary School student was restrained and/or secluded 43 times;
 - staff did not properly document the duration of 16 of the 43 incidents, with the remaining 27 incidents amounting to the student being restrained and/or secluded for 130 minutes;
- One Highland Elementary School student and one Lakewood Elementary School student were each restrained and/or secluded 32 times;
 - staff did not properly document the duration of 14 of the 32 Highland Elementary School student's incidents, with the remaining 18 incidents amounting to the student being restrained and/or secluded for 210 minutes;
 - staff did not properly document the duration of 28 of the 32 Lakewood Elementary School student's incidents, with the remaining 4 incidents amounting to the student being restrained and/or secluded for 63 minutes;
- One Highland Elementary School student was restrained and/or secluded 24 times;
 - staff did not properly document the duration of 18 of the 24 incidents, with the remaining 6 incidents amounting to the student being restrained and/or secluded for 64 minutes;
- One Highland Elementary School student was restrained and/or secluded 22 times;
 - staff did not properly document the duration of 9 of the 22 incidents, with the remaining 13 incidents amounting to the student being restrained and/or secluded for 87 minutes;
- One Highland Elementary School student was restrained and/or secluded 19 times;
 - staff did not properly document the duration of 4 of the 19 incidents, with the remaining 15 incidents amounting to the student being restrained and/or secluded for 112 minutes;
- One student who attended Muir Middle School and Milford High School was restrained and/or secluded 17 times;

- staff did not properly document the duration of 13 of the 17 incidents, with the remaining 4 incidents amounting to the student being restrained and/or secluded for 32 minutes;
- One Lakewood Elementary School student was restrained and/or secluded 16 times; and
 - staff did not properly document the duration of 14 of the 16 incidents, with the remaining 2 incidents amounting to the student being restrained and/or secluded for 140 minutes;
- One Highland Elementary School student was restrained and/or secluded 15 times;
 - staff did not properly document the duration of 9 of the 15 incidents, with the remaining 6 incidents amounting to the student being restrained and/or secluded for 28 minutes.

During the Reporting Period, there were 87 restraint incidents involving 27 District students across eight schools. OCR was unable to determine the duration of 42 of these restraints, which involved 23 District students across eight schools, because the District’s documentation was missing, incomplete, and/or contradictory. Of the 44 incidents with known durations, restraint times ranged from one minute to 120 minutes.

OCR was unable to determine whether mechanical restraints were utilized in 82 of the 87 restraints because 25 restraints did not have accompanying documentation forms, 49 restraints had accompanying documentation forms that did not require staff to specify the type of restraint used, and eight restraints had documentation forms that only required staff to select if they used a wheelchair escort with or without arm restraints.

During the Reporting Period, there were 220 seclusion incidents involving 28 District students across nine schools. OCR was unable to determine the duration of 141 seclusion incidents involving 25 District students across nine schools because documentation was missing, incomplete, and/or contradictory. Of the 79 incidents with known durations, seclusion times ranged from one minute to 100 minutes.

During the Reporting Period, there were 18 incidents involving eight District students across three schools in which OCR was unable to determine whether the students were restrained or secluded because documentation was missing, incomplete, and/or contradictory. Of these 18 incidents, OCR was unable to determine the duration of 10 involving four District students across three schools due to missing, incomplete, and/or contradictory documentation. The remaining eight incidents had duration times noted that ranged from one minute to 30 minutes.

D. FAPE-Related Compliance Concerns

OCR found multiple instances in the District’s documentation of students with disabilities for which the use of restraint and seclusion raised FAPE and Section 504 procedural concerns. Interviews with District staff also raised these procedural concerns. OCR interviewed five District staff members who participated in IEP meetings and were involved in the restraint and seclusion of eight District students during the Reporting Period. The eight District students experienced between three to 43 restraints and/or seclusions during the Reporting Period.

As noted above, a school's repeated use of restraint or seclusion may suggest that the student's current array of regular or special education and related aids and services is not sufficient to provide FAPE and reevaluating the student and/or their services and aids may be appropriate. According to interviewed staff, only one of these eight students was reevaluated during the Reporting Period due to the use of restraint and seclusion.

Three out of four District administrators interviewed by OCR stated that they did not know if the District had policies or rules regarding when a student with a disability should be reevaluated after the use of a restraint or seclusion. OCR's review of the IEPs of students subjected to numerous restraints and seclusions during the Reporting Period indicated that District staff often did not timely reconvene these students' IEP teams after numerous incidents of restraint and seclusion.

- One Highland Elementary School student, who had an IEP because of her emotional impairment, was subjected to 32 restraints and seclusions during the Reporting Period. OCR was unable to determine whether the student was restrained or secluded during one of those incidents due to conflicting documentation completed by staff. Documentation for 18 of the 32 incidents indicated that the student missed three hours and 35 minutes of educational instruction while she was restrained and/or secluded over a period of 15 school days. Due to the District's conflicting or incomplete documentation, OCR was unable to determine the duration of the student's remaining 14 restraints and seclusions, the total amount of time the student missed educational instruction during the Reporting Period, or whether the District provided for the recoupment of the lost instructional time.

Furthermore, though the student was subjected to 32 restraints and seclusions between September 27, 2017, and June 7, 2018, at no point did the student's IEP team convene to consider whether a change to the student's placement or revision of her IEP would be appropriate with regard to the use of restraints or seclusions. The student's IEP team acknowledged that the student's behavior was impacting her ability to keep up with the third-grade curriculum, noting that "[b]eing touched always sets her off." All of the student's IEPs stated that if her behavior escalated to the point that she was a danger of harming herself, others, or becoming destructive to property and did not remove herself from the situation, she could be directed to an alternative location until she regained control of herself.

OCR interviewed the student's teacher, who stated that the District did convene an IEP meeting to change the student's placement to a center-based program located outside the District at the beginning of the 2018-2019 school year. However, the District did not provide any documentation to substantiate that this meeting occurred or that the student's placement was changed and that such change was made in conformance with procedural requirements.

- OCR also reviewed the IEPs in effect for the Highland Elementary School student who was subjected to 43 incidents of restraint and seclusion between October 3, 2017, and December 18, 2018. The student was subjected to five restraints and 37 seclusions; OCR was unable to determine whether the student was subjected to a restraint or a seclusion on

one occasion due to inconsistent documentation. OCR noted that the student's IEP did not provide for the use of restraint and seclusion as a method for addressing the student's behavior. The District also provided an undated copy of the student's Behavior Intervention Plan (BIP). As the BIP was not dated, OCR could not determine whether it was in effect during the Reporting Period. However, the student's BIP identified various interventions to address the student's behavior, and the use of restraint or seclusion was not included.

After 15 incidents of restraint and seclusion, the student IEP team met for an annual review of the student's IEP in May 2018. While the team mentioned the student's behaviors and their impact on his education, the team did not make any changes to the student's IEP to specifically address the District's repeated restraints and seclusions of the student. The student was subsequently subjected to 28 additional restraints and seclusions. When OCR asked the student's teacher whether the District convened an IEP meeting to discuss the behavior interventions, she stated they tried different techniques with the student and discussed whether the student's placement was correct at the end of the 2017-2018 school year, but they did not change his placement until after the 2018-2019 school year.

- OCR also reviewed the IEPs in effect for the Lakewood Elementary School student who was subjected to 32 incidents of restraint and seclusion over a period of 48 calendar days within the Reporting Period. While OCR determined that the student was secluded on 27 occasions, OCR could not determine whether the student was restrained and secluded during the remaining five incidents due to incomplete and inconsistent documentation. Although the student's IEPs required adult support for behavior intervention and to redirect the student's behavior, the IEPs did not provide for the use of restraint and seclusion. The student's IEPs also required that staff implement the student's Behavior Plan. Because the District did not provide OCR with a copy of the student's Behavior Plan, OCR was unable to determine whether the plan provided for the use of restraint and seclusion.

After 24 incidents of restraint and seclusion, the student's IEP team reconvened to conduct an annual review of the student's IEP, not due to the numerous incidents of restraint and seclusion. The student's teacher told OCR that she participated in monthly or bi-monthly meetings to discuss students' behaviors and utilizing different strategies, but she did not recall discussing behavior interventions or calling for a re-evaluation or convening an IEP meeting for this particular student to address the District's repeated use of restraints and seclusions.

- During the Reporting Period there were five known incidents involving the use of mechanical restraints (wheelchair escorts with arm restraints) involving one Milford High School student. The student had an IEP for a disability classified as "other health impairment." His IEPs provided for support sensory strategies and equipment use in both the classroom and sensory break spaces, as well as other strategies in his positive behavior support plan. The student's IEPs and behavioral support plan did not provide

for the use of restraint and seclusion, though they did provide for the use of an adult stroller with safety apparatus for certain community outings.

OCR staff interviewed the teacher involved in all five mechanical restraint incidents, who stated that the student was placed in a wheelchair to escort him from the classroom to the sensory room while two staff members held his arms down to prevent him from grasping at staff. She told OCR that she did not believe the incidents amounted to mechanical restraints, as the student was not strapped to the wheelchair. She stated that the student did not use a wheelchair and did not have physical limitations that prevented him from walking from the classroom to the sensory room. She also stated that the student's IEPs did not identify the use of a wheelchair as a disability related aid or service during the Reporting Period.

The teacher also described 30-to-45-second holds where District staff would hold the student's arms so he could not hit or pinch. She stated that these holds were also used to restrain the student, and she described an incident where District staff restrained the student with a hold that lasted for five minutes. Again, the student's IEPs did not provide for the use of such holds.

V. Voluntary Resolution and Conclusion

OCR's review of information to date indicates that the District did not document many instances of restraint and seclusion during the Reporting Period. The District did not have any documentation forms for 100 of the 325 incidents of seclusion or restraint over the Reporting Period. OCR's review of the District's documentation also indicates that the District did not accurately document the length of each restraint and seclusion in a consistent manner. In 39 incidents the documentation did not include a start and/or end time and in 70 incidents the documentation forms did not include the duration. OCR also identified multiple incidents where the District did not document the nature of the restraint or seclusion imposed and other relevant information, such as whether District staff notified administrators and parents of the restraint or seclusion. As discussed above, OCR was unable to determine the duration of 14 restraints and seclusions of one student, and thus could not determine the total amount of time the student did not receive educational instruction. This lack of consistent documentation was not isolated. Almost every student who was restrained or secluded had at least one incomplete or inconsistent documentation of the restraint or seclusion. In interviews with District staff, they were unable to consistently explain how they were supposed to fill out the documentation forms and several were not sure how to use the forms despite biennial training provided by the District.

The evidence reviewed thus far indicates that the lack of documentation and the numerous instances of inaccurate documentation occurred because:

- District staff lacked proper training on the definitions of mechanical restraint, physical restraint, and seclusion, and how the definitions of these terms differ from time-outs, escorts, and terminology used in CPI training. For example, when asked to provide the District's policy regarding the use of mechanical restraints, four District employees stated that they did not receive training on the use of mechanical restraints and two District staff

members and one District administrator asked OCR staff to define the term “mechanical restraint.” Notably, one District staff member correctly stated that District policy prohibited the use of mechanical restraints, but mistakenly believed that utilizing wheelchair escorts with arm restraints does not constitute a mechanical restraint.

- The lack of proper training contributed to staff confusion regarding the District’s restraint and seclusion policies. For example, many District employees stated that they did not receive training on the use of mechanical restraints. Interviews revealed that a staff member used mechanical restraints on at least one student five times, but she did not recognize this because she believed that two staff members holding a student’s arms down and forcing him to remain in a wheelchair while he was wheeled to a different room was not a mechanical restraint.
- The District did not have a standardized form to collect information related to incidents involving the restraint and seclusion of District students. District staff acknowledged that multiple forms were being used, and there was some confusion regarding which forms were required. Without a uniform system to collect the data, the District was unable to properly instruct staff on how to document restraints and seclusions or to provide accurate information to OCR regarding restraints and seclusions, including the amount of time students were restrained or secluded and how much instruction they missed.
- District staff were not trained in how to document incidents involving the restraint and seclusion of District students. Some of the staff were unsure what needed to be filled out or even what the forms were asking for in some places. This made it difficult to determine how long individual students were restrained or secluded and how much instruction they missed.

Although the District asserted that it has since implemented a new online documentation system to track incidents of restraint and seclusion, the documentation provided by the District to date does not demonstrate that the online system resolved the serious compliance concerns raised above. Specifically, the District did not provide information to demonstrate whether staff were trained on the meaning of the information sought in the online portal, the documentation form, and the debriefing form (e.g., time start, time end, total time, etc.).

OCR’s review of information to date finds that the District did not consistently maintain timely, complete, and accurate records of restraints and seclusions, which raises concerns as to whether the District can systemically monitor the use of restraint and seclusion and whether the District is adhering to the requirements set forth in Section 504. For example, the monitoring system in place during the Reporting Period resulted in the District’s failure to identify and report at least 46 incidents of restraint and seclusion.

The District’s lack of accurate documentation regarding the restraint and seclusion of students with disabilities also raises a concern that the District did not evaluate whether the use of restraint and seclusion may have denied FAPE to students with disabilities during the Reporting Period. Of the 325 incidents of restraint and seclusion during the Reporting Period, all of which involved students with disabilities, District staff: did not complete documentation forms for 100

incidents; did not complete monthly log entries for 21 incidents; and did not complete portion(s) of 179 documentation forms. Without accurate documentation of when students with disabilities were restrained and/or secluded and the amount of time they were restrained and/or secluded, it is unclear how the District could have identified students who may have been denied FAPE because they were denied instruction or other educational services due to periods of restraint or seclusion.

The District's lack of documentation regarding the use of restraints and seclusions in a complete and timely way, coupled with its high use of restraints and seclusions for several students with disabilities (e.g., 15 to 43 times), also raises a concern that the District may not have reevaluated students with disabilities subjected to multiple restraints and seclusions to determine whether their existing IEPs/Section 504 plans were sufficiently providing these students with a FAPE. This concern is heightened by the fact that all of the interviewed District staff mentioned possible behavior interventions for the students who had been repeatedly restrained and secluded, but staff did not add these potential interventions the students' IEPs or Section 504 plans.

Further, the evidence obtained to date did not indicate whether the District has a practice that provides for students subjected to restraint and seclusion to recoup lost instructional time, which based on the limited available documentation from the Reporting Period could range up to 3½ hours for a student. This raises a further compliance concern as to whether the students with disabilities who are being restrained and secluded are being denied a FAPE.

The evidence also shows that even though the District's restraint and seclusion policy applies to all students, including students without disabilities, all reported use of restraint and seclusion was limited to students with disabilities. The District offered no justification or explanation for limiting the use of these behavioral intervention methods to students with disabilities. To date, OCR has not obtained information that would support that only students with disabilities engaged in behaviors that may pose a danger to themselves or others.

The evidence OCR obtained to date further raises concerns that District administrators and parents of students subjected to restraint and/or seclusion were not sufficiently informed to request a reevaluation of a student or to participate meaningfully in IEP meetings or Section 504 meetings due to the inconsistency with which District staff notified parents and administrators of the use of restraint and/or seclusion. The evidence OCR obtained to date also raises concerns that the District did not notify parents and/or administrators regarding the educational placement of students who need, or are believed to need, special instruction or related services and the right to challenge such placement, based on the lack of documentation available showing notice to parents of what was occurring with their children at school.

Under Section 302 of OCR's CPM, allegations under investigation may be resolved at any time when, prior to the issuance of a final investigative determination, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. As noted above, the District expressed an interest in resolving the allegation prior to the conclusion of OCR's investigation and OCR determined resolution was appropriate. On

January 10, 2022, the District signed the enclosed Agreement, which, when fully implemented, will address the compliance concerns OCR identified. OCR will monitor the District's implementation of the Agreement.

This concludes OCR's compliance review of whether the District's use of restraint and seclusion denies students with disabilities FAPE in violation of Section 504 and Title II. This letter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the District may not harass, coerce, intimidate, discriminate, or otherwise retaliate against any individual because that individual asserts a right or privilege under a law enforced by OCR or has files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR looks forward to receiving the District's first monitoring report by **March 15, 2022**. For questions about implementation of the Agreement, please contact OCR attorney Mr. David Schwark, who will be overseeing the monitoring of this Agreement. Mr. Schwark can be reached by telephone at (216) 522-7629 or by e-mail at David.Schwark@ed.gov. If you have questions about this letter, please contact me by telephone at (216) 522-4979, or by e-mail at Brian.Gnandt@ed.gov.

Sincerely,

/s//

Brian Gnandt
Acting Regional Director