

**RESOLUTION AGREEMENT**  
**Tucson Unified School District**  
**Case Number 08-14-1017**

In order to resolve the allegation in case number 08-14-1017, filed against the Tucson Unified School District and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the District agrees to implement this Resolution Agreement. This case was initiated pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulation at 28 C.F.R. part 35.

During the investigation, before OCR made findings, the District indicated its willingness to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

1. The District will draft policies regarding the use of restraint and seclusion in District schools, giving consideration to the U.S. Department of Education's resource document on this topic.<sup>1</sup> The District will ensure that its restraint and seclusion policies are equitable to students with disabilities.

**REPORTING REQUIREMENT:** By **June 13, 2014**, the District will provide OCR with the proposed District policies regarding the use of restraint and seclusion, for OCR's review and approval. Within 30 days of OCR's approval of the District's policies, the District will submit documentation indicating that the approved revised policies have been officially adopted by the District and demonstrate that the policies have been disseminated using its standard methods for disseminating new information that is important to students, parents/guardians, employees, and other members of the public.

2. The District will ensure that the new policies implemented pursuant to Paragraph 1 above are disseminated to all certificated staff in the District and to any support staff that would have responsibility supervising students with disabilities or for carrying out the restraint and seclusion policies

**REPORTING REQUIREMENT:** Within 30 days of OCR's approval of the policy<sup>2</sup>, the District will provide OCR with a description of how the new policies were disseminated to staff members, and documentation showing that the policies were disseminated to those required to receive them.).

3. The District will provide training on the new policies to all staff who are responsible for implementing the policies identified in Paragraph 1, regarding the appropriate use of

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<sup>1</sup> "Restraint and Seclusion: Resource Document" is available at [www.ed.gov/policy/restraintseclusion](http://www.ed.gov/policy/restraintseclusion).

<sup>2</sup> If the 30 days expires prior to the start of the 2014-15 school year, the date will be 30 days after the start of the school year.

restraint and seclusion techniques. The District will ensure that any teachers or paraprofessionals in the classroom at issue in this case receive this training.

**REPORTING REQUIREMENT:** Within 30 days of OCR's approval of the policy in Paragraph 2<sup>3</sup>, the District will provide OCR with documentation demonstrating implementation of the training for required staff, including documentation that the required staff completed the training, and a copy of the training materials.

4. The District will provide periodic training to all staff responsible for carrying out the restraint and seclusion techniques to ensure that those individuals maintain their Crisis Prevention Institute (CPI) or other applicable credentials.

**REPORTING REQUIREMENT:** By **June 13, 2014**, the District will provide OCR with a plan that indicates which staff members are currently trained and/or will be trained, identifies the training program to be used, the frequency with which the training will occur, and the timeframe for providing the training for relevant employees.

5. The District will hold an IEP team meeting for the student, which will include (1) consideration of any changes to the student's IEP that may be necessary to ensure that the student is not subject to inappropriate restraint; and (2) consideration of whether the student requires any compensatory services as a result of any incident of restraint that occurred. The District will ensure that the IEP team meeting is a team of persons knowledgeable about the Student, the evaluation data, and the placement options including the student's parents, to individually assess the amount of compensatory services, if any, that would be appropriate for the student 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. The District will provide the student's parents 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.

**REPORTING REQUIREMENT:** Within 60 days of this Agreement, the District will submit to OCR documentation showing implementation of Paragraph 5, including a copy of any meeting minutes, a copy of any IEP developed for the student, documentation of any input provided by the student's parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached in accordance with Paragraph 5. Should the District determine that no compensatory education or other remedial services were 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.

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<sup>3</sup> If the 30 days expires prior to the start of the 2014-15 school year, the date will be 30 days after the start of the school year.

§§ 104.34, 104.35 and 104.36, in making these determinations, and notify the District when it has completed this review.<sup>4</sup>

6. After OCR has reviewed and accepted the District's determination the District will take steps to implement the compensatory services, if any, agreed upon by the IEP team.

**REPORTING REQUIREMENT:** Within 30 days from the date of OCR's acceptance of the proposed compensatory services (if any) or remedial measures, the District will provide documentation that it has provided or is in the process of providing the compensatory services or remedial measures. 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 student is to receive compensatory services, the case will remain in monitoring until all compensatory services and remedial measures have been provided in full

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which were at issue in this case.

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 a minimum of sixty (60) calendar days to cure the alleged breach.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of the Agreement, if necessary, OCR may visit the District, interview District 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 and is in compliance with the regulation implementing Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, which were at issue in this case.

For Tucson Unified School District:

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<sup>4</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the IEP team described in provision 5 proposes compensatory services or remedial actions *and* those actions are clearly insufficient to provide equitable relief to the Student, OCR will notify the District of its concerns, and the District will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

/s/

5/2/2014

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Name  
Title

Date