

**RESOLUTION AGREEMENT**  
**Saco School Department**  
***OCR Compliance Review No. 01-19-5001***

The Saco School Department (District) agrees to resolve the above-referenced compliance review initiated by the U.S. Department of Education, Office for Civil Rights (OCR) by voluntarily entering into this Resolution Agreement (Agreement). In this compliance review, OCR investigated whether the District's use of restraint and seclusion denies 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 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12101 et seq., and its implementing regulation, 28 C.F.R. Part 35.

The District assures OCR that it will take the following actions to ensure compliance, and documentation of that compliance, with the requirements of Section 504 and its implementing regulation, 34 C.F.R. Part 104, and Title II and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of federal financial assistance and public entities, respectively.

The District has agreed to resolve the issues relating to this compliance review pursuant to Section 302 of OCR's *Case Processing Manual*. OCR has made no final determinations of noncompliance by the District, and this Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. However, to ensure compliance with Section 504 and Title II and resolve this compliance review, the District agrees to take the following actions:

**Action Item 1**

For students with disabilities who were subjected to restraint and/or seclusion during the 2017-2018, 2018-2019, or 2019-2020 school years (Review Period), are still enrolled in the District, and are listed in Confidential Attachment A to this Agreement, the District will provide written notice to the student's parents/guardians and will convene an Individualized Education Program (IEP)/Section 504 team meeting by January 15, 2022. At the meeting, the District will:

- a. Invite the student's parents/guardians to share any concerns with the District's use of restraint and/or seclusion.
- b. If needed, revise and/or more clearly define any provisions concerning restraint and/or seclusion in the student's IEPs/Section 504 plans as appropriate to meet the student's needs under Section 504.
- c. Determine whether any additional remedies or services are appropriate at this time to provide the student a FAPE under Section 504.
- d. Determine whether the number, duration, and/or nature of the instances of restraint and/or seclusion each student was subjected to during the Review Period may have resulted in the student being denied FAPE during this time period, and if so, what compensatory

education and/or remedial services are necessary. In making this determination, the team will also consider:

- i. the extent of missed instruction and/or related services during incidents of restraint and/or seclusion; and
  - ii. any instances in which the student was sent home early or required to stay home after an incident of restraint and/or seclusion.
- e. If any compensatory and/or remedial services are necessary:
- i. The team will develop written plans for providing the student with any compensatory education and/or other remedial services deemed necessary.
  - ii. Any such plan will identify the type, frequency, and duration of services to be provided at no cost to the student's parents and/or guardians, the title and qualifications of the provider(s), and when the services will be provided.
  - iii. The plan will become a part of the student's IEP or Section 504 plan directly and/or incorporated by reference.
  - iv. The District will commence promptly to provide such services and will complete the delivery of such services within one (1) year of the execution of this Agreement.
- f. Within ten (10) calendar days of each student's IEP meeting or Section 504 team meeting, the District will provide the student's parents and/or guardians with a copy of any written plan for providing the student with compensatory education and/or remedial services, and written notification of the team's decision.

**Reporting Requirement:**

1. By January 31, 2022, the District will submit to OCR documentation to demonstrate its implementation of Action Item 1, including:
  - a. the names and titles of the individuals who attended the IEP / Section 504 meetings;
  - b. a copy of any District notes of the meeting ;
  - c. copies of the students' behavior intervention plans (BIPs), if applicable, and IEPs or Section 504 plans;
  - d. a copy of any plans for compensatory education and/or other remedial services;
  - e. documentation of any input provided by the students' parents and/or guardians;
  - f. copies of any notifications sent to the students' parents and/or guardians pursuant to Action Item 1(f); and
  - g. any other documentation relied on or relevant to the determinations reached in accordance with Action Item 1.
2. Should a team determine that compensatory education and/or other remedial services for a particular student are not necessary, the District will provide a written explanation to OCR for the determination, along with 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. §§ 104.34, 104.35, and 104.36.
3. By June 10, 2022, the District will provide OCR with documentation that it provided all services deemed necessary in accordance with Action Item 1(e) above. If services cannot be delivered as required, the District will provide evidence to OCR of its reasonable efforts to provide these services to the student.

### **Action Item 2**

By January 1, 2022, the District will develop and/or revise criteria to guide decisions about when, in light of instances of restraint or seclusion, the District may need to assess a student's current interventions and supports and whether any changes are needed. If these criteria already exist, the District will develop a review process to ensure that staff are following it.

**Reporting Requirement:** By January 31, 2022, the District will provide OCR with a copy of the criteria and/or review process for OCR's review and approval. The District will implement the criteria and/or review process within thirty (30) days of OCR's approval.

### **Action Item 3**

By January 15, 2022, the District will provide OCR a list of students identified as a student with a disability who were subjected to restraint or seclusion during the 2020-2021 academic year, and for each such student specify: (a) the student's school, (b) the number of instances of restraint or seclusion, (c) whether any of those instances of restraint or seclusion resulted in physical injury to the student, and (d) the total number of minutes that each student spent in restraint or seclusion during the 2020-2021 school year.

**Reporting Requirement:** By February 1, 2022, the District will provide OCR a list as outlined in Action Item 3. If OCR requests any student records for students on the list, the District will provide such records within thirty (30) days of such request. If, after receiving the student records, OCR determines that the District must take any different or further action(s), OCR will provide the District with timely notice of the proposed corrective action and an opportunity to discuss the scope of the action. The District will initiate the corrective action(s) within 30 calendar days of receipt of OCR's determination and provide OCR with documentation of the corrective action taken within 60 calendar days of receipt of OCR's determination. All services required under Action Item 3 shall be completed during the 2021-2022 school year.

### **Action Item 4**

By January 15, 2022, the District will develop or revise its policy and/or written guidelines regarding non-disciplinary behavior-related dismissals or stay-home directives following restraint and/or seclusion incidents for students with a disability, consistent with the following:

- a. the District may not require the parent or guardian to take a student home from school or keep a student home from school (or encourage the parent or guardian to do so) unless the student has been assigned a suspension or expulsion;
- b. the District will conduct a re-evaluation of the student, which may include developing a functional behavioral assessment (FBA) and an accompanying BIP for that student. Any FBA and BIP must be properly completed by an appropriately trained professional and promptly implemented; and
- c. the District will complete a report of the incident no later than the next school day that lists the name and grade of the student and describes the student's behavior, actions taken

by school staff (including de-escalation strategies), why the District requested the parent or guardian come to school and/or keep the student home from school, the result (including whether the parent or guardian took and/or kept the student home, and when and how that occurred), and the District's action to ensure that the student was provided a reasonable opportunity to make up missed work.

**Reporting Requirement:** By January 15, 2022, the District will provide OCR with a copy of the policy and/or written guidelines for OCR's review and approval. The District will implement the policy and/or written guidelines within thirty (30) days of OCR's approval.

### **Action Item 5**

By February 1, 2022, the District will consult with administrators, the current School Resource Officer (SRO), the Director of Instructional Support, the Director of Special Services, the Behavior Specialist, and parents and students to review current practices regarding the relationship with and involvement of the SRO, and identify ways to minimize involvement of the SROs for student misconduct that does not involve threats to safety or for conduct that can be safely and appropriately handled by school personnel, and to provide clear guidance to school personnel on when and how such referrals should occur.

**Reporting Requirement:** By February 15, 2022, the District will provide OCR a report listing ways to minimize involvement of SROs developed in accordance with Action Item 5 above.

### **Action Item 6**

By March 1, 2022, the District will train the SRO on the District's disciplinary policies and procedures and on responding to the behavior of students with disabilities, including relevant content of the training required by Action Item 9.

**Reporting Requirement:** By March 15, 2022 the District will provide to OCR materials demonstrating compliance with Action Item 6.

### **Action Item 7**

By March 1, 2022, the District will consult with the SRO regarding its policy governing SRO access to educational records of students with disabilities, including the portions of the student's IEP, 504 plan, or behavior plan that address accommodations or approaches related to behavioral concerns, under The Family Educational Rights and Privacy ACT (FERPA) (20 U.S.C. § 1232g; 24 CFR Part 99). This will include the District's practice that whenever an SRO is anticipated to be involved with a student with a disability, the District will make a staff member available to assist the SRO in understanding this information.

**Reporting Requirement:** By March 15, 2022, the District will provide to OCR materials demonstrating its compliance with Action Item 7, including a copy of any policy (revised, if necessary).

### **Action Item 8**

By January 1, 2022, the District will revise its restraint and seclusion incident report form to ensure that it includes:

- i. if the student is not identified as a student with a disability, whether the person completing the form recommends that the student be referred for an evaluation, and why or why not;
- ii. if the student is a student with a disability, whether the person completing the form: (a) believes that the student’s IEP or Section 504 plan was followed, and (b) recommends that the student’s IEP team or Section 504 team should convene to discuss follow-up actions (e.g., reevaluating the student, modifying the student’s IEP or Section 504 plan, discussing compensatory education and/or other remedial services for the student, etc.); and
- iii. any instruction or related services that the student missed during the restraint or seclusion that was not made up during the student’s re-entry to class, and the plan for making up the services.

**Reporting Requirement:** By January 1, 2022, the District will provide the revised restraint and seclusion incident report form to OCR.

### **Action Item 9**

By February 15, 2022, the District will provide Section 504 and Title II training to all District administrators, and all District staff who interact with students. The training will include, as appropriate to the roles and responsibilities of District staff:

- a. the District’s obligation to provide a FAPE to students with disabilities;
- b. the definitions of restraint and seclusion;
- c. a description of the type of conduct to be recorded on the restraint and seclusion incident report form, including whether transports, escorts, and movement should be recorded;
- d. how the restraint and seclusion of a student with a disability can result in the student being denied FAPE;
- e. how District staff can report concerns related to the use of restraint and/or seclusion, including how and whether it is being recorded, and how the District will respond;
- f. the information described in Action Item 7 above;
- g. guidance that the IEP / Section 504 team meetings should address restraints and/or seclusions that have happened since the last meeting; that the IEP/Section 504 team will conduct a review there are repeated restraints and/or seclusions; and if appropriate, the IEP/Section 504 team will revisit strategies and services to ensure the student receives a FAPE; and
- h. the revised restraint and seclusion incident report form.

### **Reporting Requirement:**

1. By January 1, 2022 the District will provide, for OCR’s review and approval, a copy of the training materials it will use, as well as the credentials of the trainer/presenter.

2. By March 1, 2022, the District will provide to OCR:
  - a. A list of the individuals who attended the training and their positions;
  - b. The date(s) the training was conducted;
  - c. Copies of participant evaluations from the training; and
  - d. Copies of any training materials disseminated.

### **Action Item 10**

The District will inspect all rooms available for seclusions to ensure that they are free of conditions that may result in or contribute to physical harm of students. By November 15, 2021, the District will conduct thorough inspections of, and make any necessary repairs or modifications to, these rooms. The inspections will involve, at a minimum: each principal, the District's Director of Instructional Support and/or the Director of Special Services, and the District's Director of Facilities.

**Reporting Requirement:** Within 30 calendar days of the District conducting the inspections and, if necessary, the repairs, the District will submit to OCR: (i) videos and/or photographs taken during the inspections, including videos and/or photographs showing the rooms' floors, ceilings, walls, doors, windows, light, and door knobs or handles, as well as any other objects or items in the room; (ii) documentation of the inspection, including who was present during the inspections, how the inspection was conducted, and what repairs or modifications were noted; (iii) documentation that any repairs or modifications were made, including videos and/or photographs; and (iv) a written plan to ensure regular, ongoing monitoring of the conditions of the rooms. The District will promptly and fully address OCR's feedback, if any.

### **Action Item 11**

The District will assess how and why it submitted incorrect restraint and seclusion data to the Civil Rights Data Collection (CRDC) for the 2017-2018 school year, and the District will develop a plan to ensure its employees submit accurate restraint and seclusion data to the CRDC in the future. By January 15, 2022, the District will:

- a. identify steps that it has taken to ensure data quality,
- b. submit written correspondence to the CRDC including the correct data from the 2017-2018 school year and
- c. ensure that all employees charged with reporting data to the CRDC review the CRDC's [Restraint & Seclusion Module](#).

**Reporting Requirement:** By February 1, 2022, the District will provide OCR with a written description of the steps that it has taken to ensure accurate reporting to the CRDC, and confirmation that all employees charged with reporting data to the CRDC have reviewed the CRDC's [Restraint & Seclusion Module](#).

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 the 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 and obligations of this Agreement. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the compliance review.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR shall give the Recipient written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the District's representative below.

By: \_\_\_\_\_ /s/ \_\_\_\_\_ Date: 10/24/21  
Jeremy Ray  
Interim Superintendent  
Saco School Department

**CONFIDENTIAL**

**RESOLUTION AGREEMENT – CONFIDENTIAL APPENDIX A**  
**Saco School Department**  
***OCR Compliance Review No. 01-19-5001***

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