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DJ 169-27-5

September 12, 2022

Via Electronic Mail Only

Superintendent Noreen Bush
Cedar Rapids Community School District
2500 Edgewood Road NW
Cedar Rapids, IA 52405
NBush@crschools.us

Re: Cedar Rapids Community School District Investigation

Dear Superintendent Bush:

We write about the U.S. Department of Justice's (the "Department") investigation into the Cedar Rapids Community School District's (the "District") seclusion and restraint practices with respect to students with disabilities. The Civil Rights Division's Educational Opportunities Section and the United States Attorney's Office for the Northern District of Iowa conducted the investigation jointly on behalf of the Department under Title II of the Americans with Disabilities Act ("Title II") as amended, 42 U.S.C. § 12132, and the Department's implementing regulations, 28 C.F.R. pt. 35, which prohibit disability discrimination by public entities. The Department appreciates the District's cooperation throughout our investigation. Specifically, we appreciate the time that the District's staff dedicated to responding to our Requests for Information, participating in meetings with us, and providing us access to the District's schools so that we could directly observe its facilities and speak with a wide array of District staff about each school's seclusion and restraint practices.

The Department's investigation found that the District engaged in disability discrimination through its seclusion and restraint practices by: (1) denying students with

disabilities equal opportunity to participate in or benefit from the District’s education program, *see* 28 C.F.R. § 35.130(b)(1)(i); (2) using eligibility criteria that effectively subject students with disabilities to discrimination, *see* 28 C.F.R. § 35.130(b)(8); and (3) failing to make reasonable modifications to avoid disability discrimination in the District’s program, *see* 28 C.F.R. § 35.130(b)(7).

Our review principally focused on school years 2018-2019, 2019-2020, and 2020-2021 (the “Relevant Period”). The Department reviewed the following documents and data: District and school-level policies and procedures on seclusion and restraint as well as school codes of conduct and discipline policies; Iowa statutes and regulations on seclusion and restraint; seclusion and restraint complaints, including a student complaint filed with the Iowa Department of Education (“IDOE”) under the Individuals with Disabilities Education Act and the resulting IDOE ruling; materials from the seclusion and restraint “Task Force,” which the District convened during the 2017-2018 school year; seclusion, restraint, and crisis management training materials; over 2,000 student incident reports describing seclusions, restraints, and transports; Individualized Education Plans (“IEP”), Functional Behavior Assessments, and Behavioral Intervention Plans for students with disabilities who had been secluded or restrained; District spreadsheets containing seclusion, restraint, and discipline data; service plans for the Grant Wood Area Education Agency (“Grant Wood AEA”), the State-created agency with which the District contracts to provide certain special education services; and other documents related to the District’s seclusion and restraint practices. The Department also interviewed dozens of District and school administrators, teachers, staff, and Grant Wood AEA employees who provide special education services and trainings to the District’s students and employees.

During the Relevant Period, the District documented 4,968 seclusions, restraints, and transports, of which 4,145 (83.4%) involved a student with an IEP, even though students with IEPs constitute only 15% of the District’s student population. In other words, during the Relevant Period, there were *30 times* more seclusions, restraints, and transports per student with an IEP than per student without an IEP. Harrison Connections and Polk Alternative Education Center, two District schools where all students have an IEP, accounted for between 24.5% and 32.2% of all seclusions, restraints, and transports in the District during the Relevant Period, although these schools served less than 0.5% of the District’s students.¹

The investigation uncovered noncompliance with Title II in various respects. Despite state regulations and the District’s own policy that seclusion and restraint cannot be used “as a substitute for appropriate educational or behavioral support,” Iowa Admin. Code r. 281-103.7(2)“h”, our investigation found that the District has done so. In lieu of anticipating, appropriately addressing, and de-escalating students’ disability-related behaviors, the District improperly uses seclusion and restraint to subdue these students for excessive periods of time. Instead of adequately conducting Functional Behavior Assessments or substantively reviewing or implementing student Behavioral Intervention Plans, the District secluded and restrained

¹ Notably, the District did not provide data for students with disabilities who did not have an IEP. Therefore, for the purposes of our data analysis, some students with disabilities may have been, and likely were, counted as students without disabilities. The data for students with IEPs also likely includes many students whose disabilities do not impact their behavior. Therefore, our calculations likely understate the percentage of students with behavior-related disabilities who have IEPs and were subjected to seclusions, restraints, and transports.

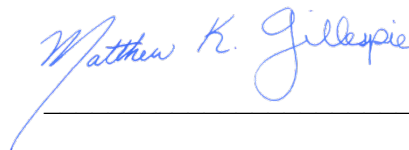
students repeatedly and for periods of time beyond what was necessary to obviate any immediate risk of harm. The District continued to seclude and restrain students with disabilities even though District personnel knew, or should have known, that seclusion and restraint escalated students' behavior and risked traumatizing or re-traumatizing these students. Moreover, the District did not end individual seclusion incidents where students showed signs of crisis, or when there was no longer any threat to safety, nor did the District implement appropriate evidenced-based interventions in response to student behavior. Instead, the District imposed vague and inconsistent criteria to initiate and continue seclusions and restraints. The District's inappropriate use of seclusion and restraint and lack of appropriate individualized behavior management tools resulted in students with disabilities missing hundreds of hours of instructional time.

As you know, on May 31, 2022, the Department met with District administrators to discuss a voluntary settlement agreement to address the Department's concerns about the District's use of seclusion and restraint on students with disabilities. After that meeting and throughout the investigation, the District expressed a commitment to continually improving its practices and making positive changes for its students with disabilities, including by ending the use of seclusion in its schools. We recognize and support the District's desire to implement such changes. On September 12, 2022, the District and the Department entered into the attached settlement agreement to remedy the non-compliance with Title II that the Department identified. We appreciate the District and its counsel's assistance throughout our investigation and commend the District for its openness to better serve its students with disabilities through a comprehensive settlement agreement. We look forward to working with the District to ensure that its seclusion and restraint practices comply with Title II. If you have any questions about this letter or the attached agreement, please do not hesitate to contact Brigid Benincasa (Brigid.Benincasa@usdoj.gov) or Christine Bischoff (Christine.Bischoff@usdoj.gov) with the Civil Rights Division or Matthew Gillespie (Matthew.Gillespie@usdoj.gov) with the U.S. Attorney's Office.

Sincerely,

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