



**U.S. Department of Justice  
Civil Rights Division  
Educational Opportunities Section**

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DJ 169-27-5

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October 6, 2020

**Via Electronic Mail Only**

Superintendent Noreen Bush  
Cedar Rapids Community School District  
2500 Edgewood Rd. NW  
Cedar Rapids, Iowa 52405  
nbush@crschools.us

**Re: Cedar Rapids Community School District (N.D. Iowa) – Request for Information**

Dear Superintendent Bush:

The Educational Opportunities Section of the Civil Rights Division of the United States Department of Justice (the “Department”) has received allegations that the Cedar Rapids Community School District (the “District”) engages in improper seclusion and restraint practices that deny students with disabilities access to the District’s programs and services.

The Department enforces Title II of the Americans with Disabilities Act (“Title II”). Title II provides that no “individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132. Pursuant to this authority, the Department is requesting information and documents to evaluate the District’s policies and practices regarding restraint and seclusion and to determine what further action, if any, is warranted.<sup>1</sup> At this preliminary stage, the Department has reached no conclusion as to whether the District has violated federal law.

Please respond to the enclosed Request for Information within thirty days (i.e., on or before November 5, 2020). To expedite our review, please provide your responses to the following

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<sup>1</sup> The Family Education Rights and Privacy Act and its implementing regulations expressly authorize disclosure of education records and students’ personally identifiable information (“PII”) to, among others, “authorized representatives of the Attorney General [of the United States],” 20 U.S.C. § 1232g(b)(1)(c)(ii), in “an audit or evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to those programs.” *Id.* § 1232g(b)(3); *see also* 34 C.F.R. §§ 99.31(a)(3), 99.35.

requests for information in electronic formats that are accessible using common office software. For all lists, tables, or other database information, please: produce the data in native Microsoft Excel format or contact us to discuss what format we can access; delineate the data by appropriate columns, rows, tabs, and worksheets; and include a data dictionary/key that explains all codes, acronyms, and abbreviations. For documents, such as policies or reports, please produce searchable PDF files (e.g., optical character recognition), and/or provide us with the URL address if the document is available online.

Please submit responses in a secure electronic format. We have separately provided our Justice Enterprise File Sharing System ("JEFS") External User Agreement form, which must be completed for access to our secure electronic transmission system. The individual who will upload information to the platform should: complete the "external user information" section and acknowledge compliance with the Rules of Behavior by checking the box on page 1; read the Terms and Conditions, User Security Guide, Confidentiality Agreement, and Privacy Statement; and acknowledge receipt by completing "signature," "date," and "printed name" on pages 5, 6, and 7. Please then email the completed form to our email addresses provided below. After the agreement has been submitted to the Department, the user will receive additional instructions via email to upload responses to the electronic platform. Alternatively, the District can e-mail the District's responses to us with appropriate folder/file names, encrypt or otherwise password protect all files containing PII using WinZip or a similar software program, and provide the password in a separate email. To ensure receipt, each email sent to the Department containing the District's responses should not exceed 25MB.

Please feel free to provide any additional information or documents that would help clarify our understanding of the alleged practices referenced in this correspondence or facilitate our review of the documents produced in response to this request. If you have any questions about this request, please do not hesitate to contact us by email ([jonathan.newton@usdoj.gov](mailto:jonathan.newton@usdoj.gov); [brigid.benincasa@usdoj.gov](mailto:brigid.benincasa@usdoj.gov)) or phone ((202) 532-3280; (202) 598-6855). Thank you in advance for your assistance with this inquiry.

Sincerely,

A handwritten signature in blue ink, appearing to be "J-D-N-B", representing Jonathan D. Newton and Brigid M. Benincasa.

Jonathan D. Newton  
Brigid M. Benincasa  
Trial Attorneys

Enclosure

**UNITED STATES' INFORMATION REQUEST  
TO CEDAR RAPIDS COMMUNITY SCHOOL DISTRICT  
October 6, 2020**

**Definitions**

1. "Disability status" means, for purposes of this Information Request,<sup>2</sup> whether the student is eligible for special education or related services under the Individuals with Disabilities Education Act ("IDEA") or qualified for regular or special education and related aids and services under Section 504 of the Rehabilitation Act ("Section 504").
2. "Seclusion" or "secluded" includes any involuntary removal from the classroom or any other District program or activity of a District student in response to that student's behavior and the isolation of that student in a room or other space where no other students are present.<sup>3</sup> "Seclusion" or "secluded" includes, but is not limited to, any involuntary placement of a student in a seclusion room, time out room, quiet area, or any other padded or empty room, hallway, or closet. It also includes any incident that meets the definition of "physical confinement and detention" under Iowa Admin. Code r. 281-103.6 (2020).
3. "Restraint" or "restrained" includes all mechanical and non-mechanical restraint, including, but not limited to: handcuffing, binding, transport position restraint, cradle carry transport, cradle transport, and kneeling cradle position. "Restraint" or "restrained" also includes any action by District employees/contractors that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely because of physical contact by another individual, including grabbing a student's arm to compel or coerce the student to move to another location within the school, but not including a temporary touching of the hand, wrist, arm, shoulder, or back without force for the purpose of guiding or directing a student to another location. "Restraint" or "restrained" also includes any action specified in the additional provisions concerning physical restraint under Iowa Admin. Code r. 281-103.8.

**Documents Requested** (*Underlined terms are defined above*) – Unless otherwise indicated, please provide the requested information for the period from August 1, 2018 through the date of this letter.

1. A list of all schools in the District that have seclusion room(s) or seclusion spaces within rooms and the location of each such room/space (e.g., in a self-contained special education classroom or a closet of a first-grade classroom). Please also produce all

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<sup>2</sup> The definitions listed in this letter are limited to this investigation. We included these definitions only to clarify the scope of the requested information, and the definitions are not binding or preclusive in any investigation or matter.

<sup>3</sup> This includes any involuntary removals from a virtual classroom or other virtual District program or activity even if the removed student happened to have other students in the room because they were present in the student's home or the student was in a room among other students participating in other virtual classrooms, programs, or activities.

digital photographs, if any exist, of the District's seclusion rooms or spaces, and indicate which photograph corresponds with each seclusion room or space on the District's list.

2. Separately, for the 2018-19 and 2019-20 school years, provide in native Microsoft Excel or similar sortable electronic format a list of:
  - a. the number and percentage of students attending each of the District's schools, disaggregated by grade, race/ethnicity, sex, and disability status.
  - b. every instance in which a District employee or contractor restrained a student. For each such incident specify: the date and location of the incident; the name, unique student identifier, school attended, grade, race/ethnicity, sex, disability status, disability or disabilities (if applicable) of the student restrained; the amount of time the student was restrained; the name(s) and title/position of District employee(s)/contractor(s) who restrained the student; whether the District employee(s)/contractor(s) received the training required by Iowa Admin. Code r. 281-103.7(2) before restraining the student (Yes/No); date of parent/guardian notification (if any); whether the parent/guardian was provided with a copy of the written documentation regarding the incident (Yes/No), as outlined in Iowa Admin. Code r. 281-103.7(5) and required by Iowa Admin. Code r. 281-103.7(7) ("Seclusion and Restraint Incident Report"); and whether the student's parent/guardian expressly authorized the use of restraint in the student's Individualized Education Program ("IEP") or Section 504 Plan (indicating "Yes" or "No" for each student with an IEP or Section 504 Plan and "N/A" for students without a Section 504 Plan or IEP).
  - c. every instance in which a student was subjected to seclusion. For each such incident specify: the date and location of the incident; the name, unique student identifier, school attended, grade, race/ethnicity, sex, disability status, disability or disabilities (if applicable) of the student subjected to seclusion; the amount of time the student was secluded; the name(s) and title/position of District employee(s)/contractor(s) who secluded the student; whether the District employee(s)/contractor(s) received the training required by Iowa Admin. Code r. 281-103.7(2) before secluding the student (Yes/No); the date of the parent/guardian notification (if any); whether the parent/guardian was provided with a copy of the Seclusion and Restraint Incident Report (Yes/No); and whether the student's parent/guardian expressly authorized the use of seclusion in the student's IEP or Section 504 Plan (indicating "Yes" or "No" for each student with an IEP or Section 504 Plan and "N/A" for students without a Section 504 Plan or IEP).
3. For each instance identified above in which a District employee(s) or contractor(s) restrained or subjected a student to seclusion during the first six months of the 2018-19 and 2019-20 school years (i.e., August 2018 through January 2019, and August 2019 through January 2020), provide all documents related to each incident, including but not limited to: the Seclusion and Restraint Incident Report, the names of all District employee(s)/contractor(s) who were present or involved, all time-out forms, investigative reports, disciplinary forms, referral forms, observation forms, notices to

parents/guardians required by Iowa Admin. Code r. 281-103.7(7), log book entries, manifestation determinations, behavior intervention plans for the student involved, relevant employee/contractor notes and communications, and any reports made to any State agency. In addition, where applicable, for each student involved in such incidents, please provide student identifiers and all information from individual IEPs or Section 504 Plans that expressly authorizes, proscribes, or otherwise describes or defines limits or circumstances in which use of seclusion or restraint could be considered appropriate by the IEP team or Section 504 team.

4. A copy of all complaints and concerns (including informal complaints and the documentation of verbal complaints) filed by or on behalf of any current, former, or prospective District student, or any parent/guardian or employee/contractor, since 2017 to the present regarding:
  - a. the use of restraint or seclusion; or
  - b. discrimination based on disability status.

For each complaint, please specify (1) the date and location of the incident(s) upon which the complaint is based; (2) the name, unique student identifier, school attended, grade, disability status, and disability or disabilities (if applicable) of the student who is the subject of the complaint; and (3) the name and title/position of the District employee(s) or contractor(s) against whom the complaint was made.

5. All documents relating to the evaluation, processing, investigation, and adjudication of each complaint responsive to Request No. 4 including but not limited to: investigative reports, disciplinary forms, interview reports or notes, correspondence/communications (e.g., letters, emails, text messages, voicemails), meeting notes, and complaint dispositions. Please include information about any IDEA due process review, mediation, or hearing.
6. For the first six months of the 2018-19 and 2019-20 school years (i.e., August 2018 through January 2019, and August 2019 through January 2020), provide a sortable, native Microsoft Excel file listing every disciplinary referral (exclusionary or otherwise). For each referral, please provide the following information in separate columns:
  - a. referred student's unique identification number;
  - b. race/ethnicity;
  - c. school where student is enrolled;
  - d. grade-level;
  - e. disability status;
  - f. disability or disabilities (if applicable);
  - g. the disciplinary infraction(s);
  - h. a narrative description/summary of the disciplinary infraction(s);
  - i. date the infraction occurred;

- j. location where infraction occurred;
- k. disciplinary disposition (e.g., in-school suspension (“ISS”), out-of-school suspension, detention, alternative placement, expulsion) or action taken (e.g., parent conference);
- l. duration of punishment (e.g., 4 days of ISS);
- m. name and title/position of District employee or contractor who referred the student for the infraction(s);
- n. name and title/position of District employee who made the disciplinary disposition;
- o. whether the student was restrained related to the infraction(s);
- p. whether the student was secluded related to the infraction(s); and
- q. whether law enforcement or a school resource officer was involved.

Alternatively, if it is easier for the District, the District may provide a copy of its full discipline reporting or tracking database, in native Microsoft Excel or similar sortable electronic format (if possible), for the time-frames requested, as long as the database contains the fields listed in (a)-(q) above, including all narrative information about each discipline incident. In either case, please include a data dictionary defining all codes, acronyms, terms, abbreviations used by the District in the spreadsheets.<sup>4</sup>

- 7. All policies, procedures, practices/protocols, forms, checklists, memoranda of agreement, memoranda of understanding, employee manuals, employee handbooks, or student handbooks currently in effect in the District or in any individual school or program that mention or relate to:
  - a. restraint;
  - b. seclusion;
  - c. crisis prevention;
  - d. crisis intervention;
  - e. conflict de-escalation techniques;
  - f. positive behavior interventions and supports;
  - g. disciplinary alternatives to seclusion and restraint;
  - h. behavior management (including meeting the needs of students with disabilities);
  - i. the assignment of students to self-contained classrooms for students with emotional disabilities and the operation of those classrooms;

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<sup>4</sup> If the District is unable to produce the student discipline data requested or has questions about this request, please let us know so that we can confer with the appropriate District employee/contractor regarding the District’s student discipline database and data collection.

- j. the policies or practices related to the creation or modification of functional behavioral assessments, behavior improvement plans, or crisis plans; and
  - k. the use of abbreviated or shortened school days.
- 8. A list of all training sessions for District employees or contractors (including both in-service and new hires) regarding:
  - a. restraint;
  - b. seclusion;
  - c. crisis prevention;
  - d. crisis intervention;
  - e. conflict de-escalation techniques;
  - f. positive behavior interventions and supports;
  - g. disciplinary alternatives to seclusion and restraint;
  - h. behavior management (including meeting the needs of students with disabilities);
  - i. the assignment of students to self-contained classrooms for students with emotional disabilities and the operation of those classrooms;
  - j. the policies or practices related to the creation or modification of functional behavioral assessments, behavior improvement plans (“BIPs”), or crisis plans;
  - k. the policies or practices related to the completion of manifestation determination reviews (“MDRs”);
  - l. the use of abbreviated or shortened school days; and
  - m. the training required by Iowa Admin. Code r. 281-103.7(2).
- 9. For each training session identified in response to Request No. 8, indicate whether the training was mandatory or voluntary for certain categories of employees and/or contractors and identify the name and date(s) of the training, the names and position/schools of the attendees, and the name(s) and qualification(s) of the trainer(s). Produce all training materials (including PowerPoint presentations and handouts) used during the session or distributed to attendees. (Note: The District does not need to provide duplicate copies of materials used during identical trainings.)
- 10. State whether the District currently contracts—or previously has contracted—with third-parties (e.g., Four Oaks) to operate therapeutic classrooms, as defined by Iowa Code § 256.25(7) (2020), or other alternative education programs within or outside of the District’s schools. If the District currently has any such contracts, describe in detail the District’s therapeutic classroom or alternative education program, including how long each program has operated, how students are assigned to each program, the number of students assigned to each program, the number of students with disabilities assigned to each program, the location(s) of the therapeutic classrooms or alternative education

programs, and produce copies of all contracts regarding therapeutic classrooms or alternative education programs. State whether the District has applied or plans to apply to the Iowa Department of Education's ("IDOE") therapeutic classroom incentive grant program to obtain funding for therapeutic classrooms. If applicable, produce a copy of the District's grant application for therapeutic classrooms and the amount of funding awarded (if any) or timeline of the IDOE's evaluation/approval process.

11. State whether the Grant Wood Area Education Agency ("AEA") provides programs or services to the District regarding its special education program and services or its policies, practices, procedures, and related trainings for the use of restraint and seclusion. If the Grant Wood AEA has provided such programs or services to the District, please describe the nature of the assistance provided and produce copies of any written arrangements between the District and Grant Wood AEA.
12. From the 2015-16 school year to present, provide a copy of all investigations, reports, analyses, studies, and recommendations regarding the District's (a) use of restraint or seclusion or student discipline, or (b) discrimination on the basis of disability status created by the State of Iowa, the IDOE, the Grant Wood AEA, any other State or local agencies (e.g., law enforcement), the District, or any other entity, including but not limited to the District's Seclusion and Restraint Task Force ("Task Force") reports and the restraint and seclusion longitudinal study referenced on page 150 of the October 23, 2017 Board Meeting and Work Session's "Data Analytics Update" presentation. For each investigation, report, analyses, study, and recommendation, please describe all actions the District took in response.
13. Regarding the District's Task Force,
  - a. provide the name, title/position, employer/affiliated institution(s), and relevant qualifications (if any) of each Task Force member and any Task Force consultants;
  - b. for each Task Force recommendation presented at the February 28, 2018 Board meeting or subsequently proposed to the District—including but not limited to reforms regarding parent/guardian involvement, documentation, systemic improvement, and professional learning/training—(i) identify all actions the District has taken to implement each recommendation from February 2018 to present, unless all such actions have already been described in response to Request No. 12; (ii) produce copies of all records demonstrating the District's implementation of each recommendation; and (iii) if the District has not implemented one or more of the Task Force's recommendations, describe in detail the reason(s) why the District has not implemented each recommendation; and
  - c. for all Task Force meetings since February 2018, provide the dates of the meetings, the names of the attendees for each meeting, copies of all materials from the meetings (e.g., PowerPoint presentations, handouts), and meeting minutes, and describe in detail the Task Force's work from February 2018 to present.



14. State whether the District's remote learning platform for online instruction allows teachers or other employees to respond to disruptive student behavior by: (a) silencing the student through a mute button; (b) turning off the student's video; or (c) excluding or removing students from virtual classrooms. If the District allows teachers to exclude or remove students from virtual classrooms, describe in detail the circumstances under which such exclusion or removal is permissible, state whether and describe how the District documents such incidents, and identify the applicable District policies, procedures, or guidance and any related training.
15. A copy of the District's organizational chart, including but not limited to the District's Department of Special Services, which clearly identifies the chain of oversight for special education services among the District's leadership. Additionally, provide a list of all Central Office employees/contractors who work in the District's Special Services Department, identifying for each person their (a) name, (b) title/position, and (c) role and responsibilities related to special education, including but not limited to the use of restraint or seclusion. Please also provide the information in (a)-(c) above for the IT employee(s)/contractor(s) responsible for maintaining and producing data from the District's electronic student information system regarding restraint, seclusion, and student discipline.

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