

Colorado Department of Education  
Decision of the State Complaints Officer  
Under the Protection of Individuals from Restraint and Seclusion Act (PPRA)

---

**State-Level Complaint 2023:901  
Littleton Public Schools**

**AMENDED DECISION**

**INTRODUCTION**

On April 17, 2023, the parent (“Parent”) of a student (“Student”) filed a complaint (“Complaint”) against Littleton Public Schools (“District”) alleging improper restraint of Student in violation of the Protection of Individuals from Restraint and Seclusion Act (“PPRA”)<sup>1</sup> and its implementing regulations, the Rules for the Administration of the Protection of Persons from Restraint Act (the “Rules”).<sup>2</sup> The State Complaints Officer (“SCO”) determined that the allegations in the Complaint fell within the SCO’s jurisdiction under the PPRA and the Rules. *See* C.R.S. § 22-32-147(6); Rule 2620-R-2.07. Therefore, the SCO has jurisdiction to resolve the Complaint.

**RELEVANT TIME PERIOD**

The Colorado Department of Education (“CDE”) has jurisdiction to investigate alleged violations of the PPRA that occurred within one year of the date the original complaint was filed. *Id.* at 2620-R-2.07(2)(f). Accordingly, in determining whether a violation of the PPRA occurred, this investigation considers only events occurring on or after April 17, 2022. Any consideration of events prior to this date shall be for context only and not for determining whether a violation occurred. Findings of noncompliance, if any, shall be limited to violations occurring after April 17, 2022.

**SUMMARY OF COMPLAINT ALLEGATIONS**

Whether the District improperly secluded Student on or about September 2, 2022, specifically by:

1. Secluding Student in a non-emergency situation, in violation of C.R.S. § 26-20-103(1)(a) and Rule 2620-R-2.01(1)(a);

---

<sup>1</sup> The Protection of Individuals from Restraint and Seclusion Act, C.R.S. § 26-20-101 *et seq.*, was previously titled the Protection of Persons from Restraint Act and referred to as the “PPRA.” This acronym lives on despite amendment of the Act’s title.

<sup>2</sup> The Rules are codified at 1 C.C.R. 301-45.

2. Secluding Student without first using less restrictive alternatives or determining that less restrictive alternatives would be inappropriate or ineffective under the circumstances, in violation of C.R.S. § 26-20-103(1)(b) and Rule 2620-R-2.01(1)(b);
3. Secluding Student as a punitive form of discipline or as a threat to control or gain compliance of Student’s behavior, in violation of C.R.S. § 26-20-103(1.5)(a) and Rule 2620-R-2.01(2);
4. Secluding Student in a space of inadequate size and safety, in violation of C.R.S. § 26-20-111(5) and Rule 2620-R-2.02(2)(e)(ii);
5. Failing to provide Student with relief periods from seclusion, in violation of C.R.S. § 26-20-104(3) and Rule 2620-R-2.02(2)(e)(i);
6. Failing to end the seclusion when it was no longer necessary to protect the Student or others, and failing to reintegrate the Student or clearly communicate that the Student was free to leave the seclusion area, in violation of C.R.S. § 26-20-103(2)(a)-(b) and Rule 2620-R-2.02(1)(a)(iv)-(v);
7. Secluding Student without continually monitoring Student, in violation of C.R.S. § 26-20-111(5) and Rule 2620-R-2.02(2)(e)(ii);
8. Failing to ensure seclusion was administered by staff who have received required training, in violation of C.R.S. § 26-20-105(1) as well as Rules 2620-R-2.02(1)(a)(iii) and 2620-R-2.03;
9. Failing to comply with the documentation and notification requirements for seclusion, in violation of C.R.S. § 26-20-106(1) and Rule 2620-R-2.04; and
10. Failing to comply with a review process, in violation of C.R.S. § 26-20-107 and Rule 2620-R-2.05.

### **FINDINGS OF FACT**

After thorough and careful analysis of the entire Record,<sup>3</sup> the SCO makes the following FINDINGS OF FACT (“FF”):

#### **A. Background**

1. Student attended seventh grade at a District middle school (“School”) at the time of the alleged violation of the PPRA. *Complaint*, p. 1; *Response*, p. 4.

---

<sup>3</sup> The appendix, attached and incorporated by reference, details the entire Record.

2. Student has no disciplinary history and has been in gifted and talented programs for as long as he has been in school. *Response*, p. 4; *Interview with Parent*. He has been the victim of severe bullying and is a survivor of a school shooting. *Exhibit N*, pp. 1-2; *Interview with Parent*.
3. The concerns in this Complaint arise from School's alleged seclusion of Student sometime between 9:00 a.m. and 10:47 a.m. on September 2, 2022. Parent's concern is that the District placed Student alone in a five-foot square "seclusion room" for "over an hour," where Student's egress was "prevented by the use of intimidation by having a fully armed [police officer]" sitting at a desk "outside of the room . . . monitoring the seclusion rooms." *Complaint*, pp. 13, 15, 17. Parent adds that Student was denied "reasonable access to toilet facilities" during that time. *Id.* at p. 17.
4. The District denies these concerns, stating that the "seclusion room" was one of several study-type rooms with large windows and doors that cannot be locked, and nobody told Student he could not leave. *Response*, pp. 1, 4-6; *Interview with Assistant Principal*. The District states that the office is busy with staff and Student sat in the room for less than half an hour while Assistant Principal interviewed him and other students involved in an incident. *Id.* The District also argues that there could be no "seclusion" under the PPRA because physical force was not used to prevent Student from leaving. *Response*, pp. 5-6.

#### **B. The Events of September 2, 2022**

5. The factual record is sparse. Only two persons had first-hand knowledge of the critical facts underlying the allegations: Student and Assistant Principal. *Complaint*, pp. 3-6; *Response*, pp. 4-5. Student's memories have been relayed through Parent, and this relayed narrative is not in full accordance with the Record as a whole. *See Complaint; Interview with Parent; Exhibit H; Exhibit N*, p. 10. Assistant Principal, for her part, admits both that she has forgotten details with the passage of time and that her current narrative of the events does not match the timeline that the District gave to Parent on September 7, 2022. *Interviews with Parent and Assistant Principal; see Exhibit G*, pp. 59-60. Accordingly, these findings are limited to the facts essential to decide Parent's PPRA concerns, and the SCO has relied heavily on video and photographic evidence. *See Exhibits H and N*.
6. At about 9:15 a.m. on September 2, 2022, Student and a classmate had a dispute in class during a group warm-up exercise. *Complaint*, pp. 3-4; *Exhibit G*, p. 59; *Interviews with Parent and Assistant Principal*. The classmate slapped Student's hand, and the classroom teacher put both students into the hallway. *Id.*
7. At about 9:35 a.m., the teacher sent Student to School's Student Services Office. *Complaint*, p. 4; *Exhibit G*, p. 59. There, Student's assigned school counselor asked Student what was going on, interpreted his response as indicating that he had a physical conflict with another student, and reported that to Assistant Principal to be investigated as a potential disciplinary incident. *Interview with Assistant Principal*.

8. At 9:49 a.m., School’s time-stamped surveillance video shows that Assistant Principal brought Student into the main administrative office. *Exhibit H-4*. She spoke to him for about ten seconds and gestured for him to go into one of three small rooms called the “blue rooms,” because they are painted white with broad blue stripes near the ceiling and floor. *Id.*; *Exhibit N*, pp. 3-9; *Interviews with Parent and Assistant Principal*. She placed him in the third blue room from the doorway that she and Student had used to enter the main office. *Exhibit H-4*. This room abutted the large, primary workspace of the administrative office. *Id.* She followed him into the blue room and exited about fifteen seconds later, pulling the door closed behind her. *Id.*
9. At this point in the timeline—when Assistant Principal first put Student into the blue room—there are two key facts in dispute: First, the parties agree that Assistant Principal gave Student a paper form to fill out, but they dispute what that form was. *Complaint*, pp. 4-5; *Response*, p. 5. Second, they dispute what Assistant Principal said to Student at that time. *Id.*
10. On the first point, Parent states that Assistant Principal gave Student a form with “What did you do wrong” at the top and “What could you have done better” at the bottom. *Complaint*, p. 5. However, the Record—particularly a statement by Student’s classroom teacher at the time of the incident—makes clear that the document Parent refers to was either a form or writing directions given by the classroom teacher to Student and his classmate when she sent them to the hallway. See *Exhibit G*, p. 59; *Exhibit N*, p. 10; *Interviews with Assistant Principal and Assistant Superintendent*.
11. That teacher customarily asked students who had a conflict to reflect in writing on “what happened and what they could have done differently.” *Exhibit G*, p. 59; *Interview with Assistant Principal*. There is no document in the Record that matches Parent’s description. There is only one form or statement in the Record, and that is a “Student Statement” form with two narrative sections for a student to fill out:

Please describe the incident. Include as much detail as possible regarding full names, locations, dates, days of week, and times.

...

Is there anyone else we should speak to about this incident?

*Exhibit N*, p. 10. This “Student Statement” is the form that Assistant Principal gave to Student to fill out in the blue room. See *Exhibit G*, p. 59; *Exhibit N*, p. 10; *Interviews with Assistant Principal and Assistant Superintendent*.

12. Second, the parties dispute what Assistant Principal said to Student when she placed him in the blue room. Parent’s Complaint indicates both that Assistant Principal said, “Can you fill this [form] out?” and also that Assistant Principal “verbally prevented” Student from leaving

“by telling him he could not leave until he filled out the form.” *Complaint*, pp. 4, 13. At other times, as well, Parent has indicated that Assistant Principal said, “You need to fill this [form] out before you come out” or otherwise generally told Student that he could not leave the room until he filled out the form. *See Exhibit F*, p. 75; *Exhibit 5* at 00:11:15-00:11:25. Assistant Principal cannot remember exactly what she said. *Interview with Assistant Principal*.

13. However, whenever Assistant Principal places a student in the blue room for any reason, she habitually tells the student that they can go use the restroom. *Id.* When she places students there to fill out an incident statement, she also habitually tells them that it is an opportunity for them to give their side of events, that she and the student would have a conversation afterward to figure out what is going on, and that she would check in after a few minutes. *Id.* Assistant Principal indicated she probably did so in Student’s case as well. *Id.* She is certain that she did not tell him that he was not allowed to leave unless he wrote a statement, because she has never told students anything like that. *Id.* Here, the Record is clear that Student *was* allowed to leave after five minutes even though he had *not* filled out the form. *See below* FF # 16. Accordingly, the SCO finds that Assistant Principal neither told Student he could leave only if he filled out the form nor did she otherwise indicate that he was forbidden from leaving the room.
14. At 9:54 a.m., five minutes after Student was placed in the blue room, the video shows that the classmate who had slapped Student’s hand walked unaccompanied into the administrative office, found Assistant Principal in her office, and was directed by Assistant Principal to sit in the blue room adjacent to Student’s room. *Id.*; *Interview with Assistant Principal*. She followed him into the room and exited about thirty seconds later, closing the door behind her. *Exhibit H-4*.
15. Assistant Principal then immediately entered Student’s blue room and, about ten seconds later, exited with a sheet of paper in her hand and gestured for Student to leave the blue room and enter her office, which he did. *Exhibit H-4*; *Exhibit H-3*.
16. From 9:55 a.m. to 10:03 a.m., Student sat in Assistant Principal’s office, and she filled out the Student Statement form based on what he told her. *Exhibits H-3* (timestamped 9:55 a.m.), *H-2* (timestamped 10:03 a.m.); *Exhibit N*, p. 10; *Interview with Assistant Principal*. She wrote that the classmate was teasing Student and then slapped a pencil out of Student’s hand, and at the top is written “student declined to write, [Assistant Principal] scribed as student spoke.” *Exhibit N*, p. 10.
17. At 10:03 a.m., Student and Assistant Principal walked out of her office, and she gestured for him to sit in the blue room again, which he did. *Exhibit H-2*.
18. From 10:03 a.m. to sometime prior to 10:25 a.m., Student sat in the blue room while Assistant Principal spoke with the classmate who had hit Student as well as another student who had

been a bystander and witness to the altercation. *Interview with Assistant Principal; Exhibit H-5.*

19. At 10:25 a.m., video from a school corridor shows that Student exited the administrative office where the blue rooms were located. *Exhibit H-5.*
20. Parent, Assistant Principal, and a written timeline created by School on September 7, 2022, all provide conflicting versions about what happened at this point. *See Interviews with Parent and Assistant Principal; Complaint, p. 5; Response, p. 5; Exhibit G, pp. 59-60; Exhibit N, p. 10.* Specifically, it is unclear whether Assistant Principal called Parent just prior to 10:25 a.m. with Student in her office or whether she called Parent at 10:47 a.m. after Student left the administrative office and sat in the Student Services area for about 22 minutes. *Id.* The SCO finds only that Student's time in the blue room ended no later than 10:25 a.m. when the video shows him exiting the administrative office.
21. In sum, Student spent a maximum of 28 minutes in the blue room: From 9:49 a.m. to 9:55 a.m., when he sat in the room with the blank Student Statement form, and then from 10:03 a.m. to 10:25 a.m., at the latest, while Assistant Principal took statements from the classmate and bystander. *Exhibits H-1 through H-5; Interview with Assistant Principal.*

### **C. The Blue Rooms**

22. The first two of the three blue rooms are off a short, broad hallway that connects the School's large, main administrative office to one of School's main corridors. *See Exhibits H-1 through H-5.* Two or three study carrels are on the other side of this hallway. *Id.* After the second blue room, the hallway opens up to become part of the main administrative area. *See id.* Student was in the third blue room, and Assistant Principal's office is kitty-corner about twelve feet away. *See id.; Exhibit N, p. 9; Exhibit H-4.* Assistant Principal's office and the office of the School Resource Officer ("SRO") form a short cul-de-sac off the main office area, and the SRO's office is roughly opposite the third blue room, about twenty- to twenty-five feet away. *Exhibit N, p. 9; Exhibits H-1 through H-5.*
23. The doorways of Assistant Principal's office and the SRO's office are visible from the center of the third blue room, but little of the office interiors can be seen from the blue room. *Id.*
24. The administrative office is a very large, open, brightly lit, and busy hub joining staff offices, meeting rooms, and the blue rooms, with exits to School's main corridors. *See Exhibit H-4.* The videos in the Record show several staff passing in and out, as well as one student working briefly at a separate desk in the main area. *Exhibits H-1 through H-5.* The videos show ample space for two full administrative work areas (i.e., each had a chair, computer, monitors, drawers, and desk space), three large lounge-style chairs, cabinets, two console tables with plants and photos, and another desk with two plastic chairs, a laptop, and an office phone. *Id.* Assistant Principal's office has a door with a window and a large glass wall next to the

door. *Id.* At least two of the walls of the administrative office are largely taken up by glass windows. *Id.*

25. Although Parent has stated that an armed man sat at a desk in front of Student's blue room, none of the videos show the SRO, anyone in a uniform, anyone armed, or any similar person. *Compare Complaint*, p. 13 with *Exhibits H-1 through H-5*. There is no desk in front of the blue rooms; there are two study carrels across the hallway from the blue rooms, and a person sitting at one of the carrels would face the wall away from the blue rooms. *Id.*
26. It is unknown whether the SRO was in his office at the time Student was in the blue room. *Interview with Assistant Principal*. He spent most of his time out of his office. *Id.* If anyone had attempted to loiter in front of any of the blue rooms, they would have blocked the flow of people wandering in, out, and around the administrative office. *See Exhibits H-1 through H-5*. If the SRO had been in his office, Student could not have seen him unless Student stood in the middle of the blue room—the desk was off to the side—looking out the door. *See id.*; *Exhibit N*, p. 9.
27. The blue rooms themselves are roughly six feet by seven feet, well lit, and contain only a small desk and two chairs. *Exhibit N*, pp. 3-9; *Response*, p. 5; *Interview with Assistant Principal*. The blue room doors each have a large, clear, single-pane window that occupies almost the entire door. *Exhibit N*, p. 6. Each door has a lever-style handle without any locking mechanism. *Id.*; *Response*, p. 5.
28. School uses the blue rooms for multiple purposes: They serve as areas for students to take assessments, as cooling-off spaces for students who have had conflicts, as a place for those students to write their statements, as break rooms for students who want to use them to sit or eat lunch in relative quiet, and as rooms for students with after-school detention, lunch detention, or in-school suspension to sit in and do homework. *Interview with Assistant Principal*. Students who are there for any reason can leave to use the restroom. *Id.*
29. This was not the first time Student had been in a blue room. *Interview with Parent*. At one point during the prior school year, when Parent reported that Student was being bullied in the lunchroom, he ate his lunch in one of the blue rooms one time and in the main office area outside of the blue room a second time. *Interview with Parent*; *Exhibit 4* at 00:08:45-00:09:15.

#### **D. The District's Annual Review of Restraint and Seclusion**

30. As part of this investigation, the District provided, at the SCO's request, the District's Annual Restraint Review for the 2021-2022 school year. *Exhibit A*; *Response*, p. 1.
31. The Annual Restraint Review is one page. *Exhibit A*. The text of Rule 2.05(2) fills three-quarters of the page. *Id.*

32. The remainder of the page states, in full:

SUMMARY DATA

Total Students Involved: 15 students (10 elementary; 5 middle school; 0 high school)

Total Incidents: 28 incidents (7 restraint; 18 seclusion; 3 both restraint and seclusion)

Reason for Restraint:

- Danger to Self = 2/10
- Danger to Others = 7/10
- Danger to Self/Others by Destruction of Property = 1/10

Length of Incidents: 1-15 min = 17 16-44 min = 8 45+ min = 3 Avg. length = 17min

Injuries: 3 minor injuries to staff (cuts, abrasions, bruising), 0 minor student injuries

*Id.* (sic throughout).

33. This and the quotation of the Rules comprise the Annual Restraint Review in its entirety. *Interview with Assistant Superintendent.* The District has no policy or procedure guiding the creation of the Review, apart from the text of the Rules. *Id.* The District School Board has a policy stating simply that there will be a review process and that the annual report will be created in accordance with the Rules. *Id.*

34. The restraint incidents occurred almost entirely in the District's affective needs settings. *Id.* The seclusion incidents occurred entirely in those settings. *Id.* Assistant Principal, who has been trained in the legal definitions of "restraint" and "seclusion," also states that Student has never been secluded at School. *Interviews with Assistant Superintendent and Assistant Principal.*

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact above, the SCO enters the following CONCLUSIONS OF LAW:

**Conclusion to Allegation Nos. 1 through 9: The District's September 2, 2022 placement of Student in the blue room did not constitute seclusion because Student's egress was not involuntarily prevented. As a result, no restraint occurred under the PPRA.**

Parent raises nine concerns about the District's placing of Student in the blue room. All assume that the District "secluded" Student within the meaning of the PPRA. Accordingly, the SCO must first consider whether Student was secluded.

#### **A. The PPRA's Requirements for "Seclusion"**

The PPRA forbids school districts from using any form of restraint or seclusion except in a narrow set of circumstances. *See C.R.S. §§ 26-20-102 et seq.; Rule 2620-R-1.00 et seq.* The PPRA imposes

strict requirements on any use of restraint or seclusion. *See id.* The PPRA defines “seclusion” as “the placement of an individual in a room or area from which egress is involuntarily prevented, except during normal sleeping hours.” C.R.S. § 26-20-102(7). The Rules further clarify this definition by describing two situations that are not seclusion:

“Seclusion” does not mean:

Placement of a student in residential services in his or her room for the night; or

“Time-out” which is the removal of a student from potentially rewarding people or situations. A Time-out is not used primarily to confine the student, but to limit accessibility to reinforcement. In a Time-out, the individual is not physically prevented from leaving the designated Time-out area. Such a Time-out requires effective monitoring by staff.

Rule 2620-R-2.00(9).

A student’s egress may be “involuntarily prevented” when there is no physical barrier to egress if other circumstances show that egress will be prevented. *See Skyline Academy, 2023:528* (Colo. SEA May 22, 2023) (where student had previously exited unlocked room only to be restrained and returned to it, student reasonably believed he could not leave); *Douglas County Sch. Dist. RE-1, 2022:543, 123 LRP 5321* (Colo. SEA Nov. 25, 2022) (where student had previously been secluded in a certain room, student reasonably believed he could not leave that room). *Compare* C.R.S. § 26-20-102(7) and Rule 2620-R-2.00(9) (the PPRA defining seclusion to require that egress is “involuntarily” prevented) *with* U.S. Dept. of Ed. Office of Civil Rights, *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities (“OCR Letter”)* (Dec. 28, 2016) (the U.S. Department of Education defining seclusion to require that egress is “physically” prevented).

#### **B. Student Was Not “Secluded” on September 2, 2022**

The SCO finds and concludes that Student was not “secluded” within the meaning of the PPRA. Nothing in the Record shows that Student was prevented, or could reasonably have believed he was prevented, from leaving the blue room.

First, there was no physical barrier that “involuntarily prevented” Student’s egress from the blue room. (FF #s 25-27); Rule 2620-R-2.00(9). It is important to note that the lack of a physical barrier does not mean there was no seclusion, because a student may be “involuntarily prevented” from leaving absent a physical barrier. *See* C.R.S. § 26-20-102(7); Rule 2620-R-2.00(9). Even so, the lack of a physical barrier is a strong indication that a student can leave. Here, nothing physically prevented Student from leaving: The door had no lock, nobody held it closed, nobody stood

nearby to physically prevent Student from leaving, and there was no other physical impediment to egress. (FF #s 25-27).

Second, no other circumstance or factor prevented egress. Nobody told Student that he could not leave the room. (FF # 13). In fact, he *did* leave the room after the first five minutes, without filling out the Student Statement form, to speak with Assistant Principal. (FF #s 14, 16). Every aspect of the situation suggested that he knew, or should have known, that Assistant Principal was investigating the classmate's slapping as a potential disciplinary incident and that Student would leave the blue room once she had finished talking to everyone. (See FF #s 7-20, 28-29).

Student simply had no reasonable basis to believe he could not leave: Nobody stood by to intimidate him or visually indicate that he could not leave; nobody verbally intimidated or threatened him into thinking he could not leave; and nobody suggested that he would be punished if he left. (See FF #s 8-20, 28-29). To the contrary, all the circumstances should have informed him that he could step out of the room if necessary: Students regularly chose to eat or take a break in the rooms; School regularly placed students in the rooms to do homework over detention, to take a test, or to take an assessment; and there were plenty of people walking and working nearby who Student could ask if he needed or wanted to leave. (FF #s 22-29).

Indeed, Student knew that the blue room was not a seclusion room by his own experience, because he had eaten his lunch there before to escape bullying in the lunchroom. (FF # 29). At most—and even this is unsupported by the Record—Student may have felt that he “should not” leave because staff wanted him to stay. However, feeling that he “should not” leave is different from reasonably believing he “could not” leave if he needed the bathroom, felt ill, or realized that there was an emergency like a fire that would endanger him if he stayed. See *El Paso County Sch. Dist. 38*, 2019:902 (Colo. SEA Feb. 25, 2020) (finding that a student was not secluded even though he may have felt as if he “should not” leave the unlocked conference room, because the student left the room to go meet with an administrator).

For these reasons, the SCO finds and concludes that Student was not “secluded” in the blue room. Allegations 1 through 9 all rely on the assumption that Student was secluded on September 2, 2022. Because he was not secluded, the District did not violate the PPRA by placing Student in the blue room on September 2, 2022.

Although no violation is found, the SCO cautions the District that its legal interpretation of the PPRA is incorrect. The District, through its Response, suggested that a student cannot be secluded unless the student's egress is *physically* prevented. (FF # 4). To the contrary, the Colorado Legislature has chosen to define seclusion as a situation where egress is “*involuntarily* prevented” rather than adopting the U.S. Department of Education's narrower definition that requires egress to be “*physically* prevented.” Compare C.R.S. § 26-20-102(7) with *OCR Letter*. The District must ensure that any use of seclusion conforms with the PPRA's requirements, as these are the law in Colorado.

**Conclusion to Allegation No. 10: The District’s Annual Restraint Review fails to satisfy the requirements of the PPRA, resulting in a violation of Rule 2620-R-2.05(2).**

As part of this investigation, the SCO requested and reviewed the District’s annual restraint review for the 2021-2022 school year. (FF # 30). Under the PPRA, each school district must conduct an annual review of the use of restraint within the school district. Rule 2620-R-2.05(2). The purpose of the review is to:

- Determine whether the district is properly administering restraints;
- Analyze the procedures used during the restraint, preventative or alternative techniques tried, the documentation, and follow-up activities;
- Identify additional training needs;
- Minimize and prevent the use of restraint by increasing positive behavioral interventions;
- Identify staff-to-student ratio in incidents; and
- Identify relevant environmental considerations, such as the physical space, student seating arrangements, and noise levels in incidents.

*Id.*

The District’s Annual Restraint Review is composed solely of a long quote from the Rules followed by a scant statistical summary of the number of restraints and seclusions used district-wide. (FF #s 31-33). The Annual Restraint Review contains no analysis; it is merely a few data points. (*See id.*). Further, the data could not be used to conduct an analysis and accomplish the purposes of an annual review. (*Id.*). *See* Rule 2620-R-2.05(2). Specifically, the data contains neither measurement nor evaluation of whether the restraints are being administered properly. (*See* FF #s 31-33). It does not analyze the procedures used, preventative or alternative techniques attempted, the documentation created following restraint or seclusion, or the District’s follow-up activities conducted after incidents. (*See id.*). It does not identify training needs. (*See id.*). It does not examine how restraints might be minimized by increasing positive behavioral interventions. (*See id.*). It does not identify student-to-staff ratios for incidents or discuss why those ratios might relate to the incidents. (*See id.*). And it neither tracks nor discusses the environments in which restraints occur or how environmental factors might play into the number of incidents involving restraint. (*See id.*).

For these reasons, the SCO finds and concludes that the District’s Annual Restraint Review, as currently prepared, fails to satisfy the requirements of the PPRA, resulting in a violation of Rule 2620-R-2.05(2).

**REMEDIES**

The CDE has the authority to order the District to take remedial actions to bring the District into compliance with the PPRA. C.R.S. § 22-32-147(6). The SCO concludes that the District has violated the following PPRA requirement:

- a. Failing to establish and complete an adequate annual review process, in violation of Rule 2620-R-2.05(2).

To remedy this violation, the District is ORDERED to take the following actions:

**1. Corrective Action Plan**

- a. By **Friday, July 14, 2023**, the District shall submit to the CDE a corrective action plan (“CAP”) that adequately addresses the violation noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur. The CDE will approve or request revisions that support compliance with the CAP. Subsequent to approval of the CAP, the CDE will arrange to conduct verification activities to confirm the District’s timely correction of the areas of noncompliance.

**2. Final Decision Review**

- a. Assistant Superintendent must review this Decision as well as the requirements of 2620-R-2.05(2). This review must occur no later than **Friday, July 14, 2023**. A signed assurance that these materials have been reviewed must be completed and provided to CDE no later than **Friday, July 21, 2023**.

**3. Procedure Development**

- a. The District must develop written procedures to strengthen the annual restraint review process and ensure it complies with the PPRA’s requirements as set forth in Rule 2620-R-2.05(2), as well as the requirements of C.R.S. § 22-32-147. Such procedures must outline the required content of the annual restraint review and how the District will conduct the analysis required by the PPRA. The District must develop these procedures and submit them to the CDE for approval by **Friday, August 4, 2023**.

Please submit the documentation detailed above to the CDE as follows:

Colorado Department of Education  
Exceptional Student Services Unit  
Attn.: CDE Special Education Monitoring and Technical Assistance Consultant  
1560 Broadway, Suite 1100  
Denver, CO 80202-5149

**NOTE:** Failure by the District to meet any of the timelines set forth above may adversely affect the District's annual determination under the IDEA and subject the District to enforcement action by the CDE.

### **CONCLUSION**

The Decision of the SCO is final and is not subject to appeal. *CDE State-Level Complaint Procedures*, ¶ 13. If either party disagrees with this Decision, the filing of a Due Process Complaint is available as a remedy provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *CDE State-Level Complaint Procedures*, ¶ 13; *See also* 34 C.F.R. § 300.507(a); 71 Fed. Reg. 46607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned SCO.

The Decision, dated June 16th, 2023, is hereby amended this 7th day of August, 2023.

A handwritten signature in black ink, appearing to read "Nicholaus Podsiadlik", written over a horizontal line.

Nicholaus Podsiadlik  
State Complaints Officer

## **APPENDIX**

### **Complaint, pages 1-23**

- Exhibit 1: Emails

### **Response, pages 1-7**

- Exhibit A: Annual Restraint Review
- Exhibit B: List of staff with CPI training
- Exhibit F: Emails
- Exhibit G: Emails
- Exhibit H: Video
- Exhibit I: Training materials
- Exhibit J: District policies
- Exhibit K: School calendar
- Exhibit N: Other documents

### **Reply, pages 1-6**

- Exhibit 2: Recording of conversation with District staff
- Exhibit 3: Recording of conversation with District staff
- Exhibit 4: Recording of conversation with District staff
- Exhibit 5: Recording of meeting with District staff
- Exhibit 6: Recording of meeting with District staff

### **Telephone Interviews**

- Parent: May 24, 2023
- Assistant Superintendent: May 24, 2023
- Assistant Principal: May 24, 2023