



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VIII  
ARIZONA  
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NEW MEXICO  
UTAH  
WYOMING

September 19, 2017

Mr. Chris Gdowski, Superintendent  
Adams County School District 12  
1500 East 128th Avenue  
Thornton, Colorado 80241-2602

Re: **Adams County School District 12**  
OCR Case Number: 08-17-1155

Dear Superintendent Gdowski:

On July 7, 2017, Adams County School District 12 ("District") and Stargate Charter School ("School") voluntarily entered into a Resolution Agreement ("Agreement") with the Office for Civil Rights (OCR) of the U.S. Department of Education ("Department") to resolve allegations raised under Title VI of the Civil Rights Act of 1964 ("Title VI"), Section 504 of the Rehabilitation Act of 1973 ("Section 504"), and Title II of the Americans with Disabilities Act of 1990 ("Title II"), and their implementing regulations, which prohibit discrimination on the bases of race, color, and national origin by recipients of Federal financial assistance from the Department, on the basis of disability by recipients of Federal financial assistance from the Department, and on the basis of disability by public entities, respectively. The District and School agreed to report to us on their progress regarding implementing the Agreement.

We received the School's first monitoring reports in the form of emails on September 6, 11, 15, and 18, 2017. This letter summarizes the relevant provisions of the Agreement, the School's submissions, and our comments regarding next steps.

Term I: School Staff Training

- A. *Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval:*
- i. *Draft materials to train, at a minimum, all administrators, teachers, counselors, nurses, psychologists, and other special education staff at the School about: non-discrimination in the administration of student discipline under Title VI; and disability discrimination and a free appropriate public education, including, at a minimum on the following topics:*
    - a. *"Child Find;"*
    - b. *Evaluations;*
    - c. *Eligibility;*

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

- d. *Placement;*
- e. *Implementation of IEPs and Section 504 plans;*
- f. *Manifestation determinations; and*
- g. *The names and titles (or positions) of designated individuals to whom parents/guardians and staff should refer students for possible evaluation, and the process for making the referral in writing.*

ii. *The name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to staff.*

B. *Within sixty (60) calendar days of receiving OCR's final approval of the materials and trainer(s), the School will provide the training to all staff at the School identified in Term I(A) of this Agreement.*

On September 6, 2017, the School's Executive Director (ED) emailed to OCR, "I am meeting with Adams 12 Staff Friday to discuss the training we are participating in. I should have draft materials and information for your review by next week." On September 8, 2017, the ED emailed to OCR, "I am meeting with Adams 12 SPED director and legal team today to discuss our training per term IA of resolution for case 08-17-1155." Then, on September 11, 2017, the ED emailed to OCR:

I met with Adams 12 Staff on Friday September 8th to discuss Term IA of resolution 08-17-1155.

At this time I am proposing the following for your review.

Administrators will attend the Charter School Law Institute seminar on Friday Oct. 27th on Student Civil Rights which will cover the following topics.

- Managing school discipline policies
- Preventing and responding to bullying, harassment, and sexual violence
- Navigating immigration issues facing students and schools
- Preventing race discrimination, including unintentional and unconscious bias
- Serving English Learners in your community
- State and federal laws regarding LGBT students
- Anticipated changes in state and federal civil rights laws as they relate to charter schools
- How the U.S. Supreme Court is raising expectations for public schools serving special education students

SPED Teachers, Counselors, Psychologists, Administrators, RN and Special Service Providers will participate in a site based training provided by the Charter Law Institute. Topics covered will be,

- IDEA (FAPE) Compliance,

- ADA (504) Compliance
- Evaluations
- Eligibility
- Placement
- Implementation of 504's and IEP's

I am also requesting an extension on sending you the draft materials for your review until September 27th, 2017.

Finally, on September 15, 2017, the ED emailed to OCR draft training materials – three PowerPoint presentations titled, “Section 504 and Special Education Nuts & Bolts,” “Special Education & School Discipline,” and “The Framework of Special Education Law” – for the site-based training.

The ED's description of the Charter School Law Institute's training does not include the topics required by Term I(A)(i) of the Agreement. Additionally, the School did not submit to OCR, as required by Term I(A)(ii), the name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to staff. Therefore, OCR **does not approve** the Charter School Law Institute training to serve as the training for administrators required by the Agreement. **Within fifteen (15) calendar days of the date on this letter**, please provide a new proposed plan to train the School's administrators, the draft materials for the training (pursuant to Term I(A)(i)), and the information required by Term I(A)(ii).

On September 18, 2017, the ED confirmed, via email, that the School's attorney, William Bethke, is the proposed site-based trainer who will use the PowerPoints provided in the ED's September 15th email. The School did not submit to OCR, as required by Term I(A)(ii), the qualifications of Mr. Bethke to provide the training. However, based on a review of Mr. Bethke's qualifications as described online,<sup>1</sup> **we hereby approve Mr. Bethke as the trainer.**

With respect to the PowerPoint training materials, we reviewed only the slides that are directly related to the topics listed in Term I(A)(i). Therefore, we did not review any of the file titled, “The Framework of Special Education Law;” we did not review slides 1-4 and 15-17 of the file titled, “Section 504 and Special Education Nuts & Bolts;” and we did not review slides 1-6 and 23-27 of the file titled, “Special Education & School Discipline.” We do not propose edits to the slides that we reviewed. **Therefore, we hereby approve Mr. Bethke's training materials.**

The ED's September 11th email to OCR indicates that “SPED Teachers” will be trained; however, Term I(A)(i) of the Agreement requires all teachers at the School to be trained. **Please ensure that all teachers at the School are trained.**

<sup>1</sup> <http://www.lawkb.com/styled/index.html>; see also <http://www.ncsecs.org/bill-bethke/>.

Term II: Communication to School Staff

A. *Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval a draft memo (or similar document) to be sent to all School staff reminding them of the School's obligations under Section 504, Title II, and Title VI, including, at a minimum:*

- i. *"Child Find;"*
- ii. *Evaluations;*
- iii. *Eligibility;*
- iv. *Placement;*
- v. *Implementation of IEPs and Section 504 plans;*
- vi. *Manifestation determinations; and*
- vii. *Non-discrimination in the administration of student discipline, including the prohibition of different treatment on the basis of race, color, and national origin.*

*The memo will also include the names and titles (or positions) of designated individuals to whom parents/guardians and staff should refer students for possible evaluation, and the process for making the referral in writing. The memo will also explain that teachers are to refer current students whom a teacher believes or a parent has requested that a student should be referred for a special education evaluation.*

B. *Within thirty (30) calendar days of receiving OCR's final approval of the memo, the School's Executive Director will send the memo to all School staff.*

In an email to OCR on September 6, 2017, the ED provided a draft of the memo to be sent to staff. Enclosed is our feedback on the memo. The ED may wish to consult with a special education expert or the District when revising the memo. **Within fifteen (15) calendar days of the date on this letter**, please provide us with an updated draft of the memo in Microsoft Word format.

Term III: On-Going Monitoring

A. *By January 31, 2018, the School will provide to OCR a report on all special education referrals (including both oral and written referrals, and referrals from both parents/guardians and staff) for evaluations made between July 15, 2017 and December 31, 2017. The report will include, at a minimum, for each referral:*

- i. *A copy of the referral (including the date of the referral) and any supporting documentation;*
- ii. *A copy of records reflecting the decision about whether to evaluate the student for possible special education placement, the rationale for the decision, and who made the decision;*
- iii. *A copy of the notice to the student's parent/guardian of the decision about whether to evaluate the student; and*

- iv. *If the decision was made to evaluate the student, the date(s) that the evaluation was conducted.*

As a reminder, by **January 31, 2018**, the School will provide to OCR a report on all special education referrals for evaluations made between July 15, 2017 and December 31, 2017. Please maintain records and plan accordingly.

Term IV: Compensatory Services

A. *Within thirty (30) calendar days of this Agreement being signed, the School will convene the Student's IEP Team to determine whether the Student is entitled to compensatory services, including educational, social, or emotional, as a result of the Student not receiving special education or related services during the 2016-2017 school year. In discussing possible compensatory services, the Team will consider, but its considerations are not limited to, the following issues: the School's failure to evaluate the Student in a timely manner, the School's failure to follow placement procedures that are mandated by Section 504 (including the failure to conduct a manifestation determination), and the School's exclusion of the Student.*

- i. *If the Team decides that the Student is entitled to compensatory services, the Team will then determine the type of services and number of hours of services, and develop a written plan for providing, within six months, those compensatory services to the Student. The School will promptly notify the Student's parents, in writing, of the compensatory services being offered, at no cost to the Student's parents, and the proposed, prompt initiation date of such services.*

*The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. §§ 104.35 and 104.36. The School will ensure that: (a) any decisions reflect the judgment of the Team and not the judgment of a single individual; (b) the Student's parents are invited to the meeting; (c) the Student's parents are permitted to invite persons knowledgeable about the child to attend the meeting; (d) the Team carefully considers all information provided by the Student's parents and their invitees; and (e) the Team includes School employees who have knowledge of the matters being considered by the Team.*

B. *Within thirty (30) calendar days of the meeting described in Part IV(A), the School will submit documentation to OCR that includes the following:*

- i. *A list of the individuals who attended the meeting, and each individual's name, title or position, and role in the meeting;*
- ii. *Documentation of the School's invitation to the parents to attend the meeting and provide their input;*
- iii. *A copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;*

- iv. *Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;*
  - v. *Documentation of the Team's decisions regarding the type and number of hours of compensatory services that are appropriate for the Student and the bases for those decisions;*
  - vi. *A plan for the prompt provision of compensatory services to the Student at no cost to the parents;*
  - vii. *Documentation that the Student's parents were notified, in writing, of the compensatory services offered by the School; and*
  - viii. *Documentation that the School provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II.*
- C. *After OCR has reviewed and accepted the determinations of the IEP Team, the School will take steps to implement the compensatory services, if any, agreed upon by the IEP Team.*
- D. *Within six (6) months of the meeting, the School will submit documentation to OCR demonstrating that all of the compensatory services, if any as determined by the Team, have been provided to the Student.*

In an email to OCR on September 6, 2017, the ED provided documentation showing that the

[REDACTED]

[REDACTED]

[REDACTED]

**Within fifteen (15) calendar days of the date of this letter, please provide us with a copy of the letter sent to the Student's family regarding the compensatory education agreement.**

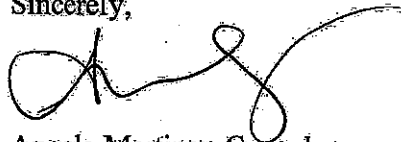
**Within fifteen (15) calendar days of reaching an agreement with the Student's attorney with regard to the remaining issues, please provide us with updated description of the disposition of these remaining issues.**

Please remember that, pursuant to Term IV(D) of the Agreement, the School will submit documentation to OCR demonstrating that all of the compensatory services, if any as determined by the Team, have been provided to the Student.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will protect personal information to the extent provided by law.

We appreciate the District's and School's continued cooperation in this matter. If you have any questions regarding this letter or the monitoring of this case, please contact the assigned attorney, Jason Langberg, at (303) 844-6299 or [jason.langberg@ed.gov](mailto:jason.langberg@ed.gov).

Sincerely,



Angela Martinez-Gonzalez  
Supervisory General Attorney

cc: Josh Cochran, Executive Director of the School (via email)

Walt Kramarz, Deputy General Counsel for the District (via email)

William Bethke, Attorney for the School (via email)

Jacque Phillips, Attorney for the Student (via email)

Enclosure