



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
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COLORADO
NEW MEXICO
UTAH
WYOMING

November 14, 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, and issued our first monitoring letter on September 19, 2017. We received the School's second monitoring report in the form of emails on September 19, 2017 and October 4 and 10, 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;"*

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

- b. *Evaluations;*
 - c. *Eligibility;*
 - 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.*
- C. *Within thirty (30) calendar days of the training being provided to staff at the School, the School" will provide to OCR:*
- i. *The date, time, and location of the training;*
 - ii. *Confirmation that the approved trainer(s) delivered the training in full;*
 - iii. *The agenda and materials from the training;*
 - iv. *The names and titles of all staff who attended the training, and a copy of the sign-in sheet; and*
 - v. *The name(s) and title(s) of all staff who did not attend the training, an explanation for each person's absence, and a plan to train each person.*

On September 11, 2017, the School's Executive Director (ED) proposed to train staff using the Charter School Law Institute. Then, 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 did 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, in our September 19, 2017, we notified the School that OCR did not approve the Charter School Law Institute training to serve as the training for administrators required by the Agreement. We wrote, "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)."

In our September 19, 2017 monitoring letter, we approved Mr. Bethke as the trainer and his training materials.

The ED's September 11, 2017 email to OCR indicated that "SPED Teachers" would be trained; however, Term I(A)(i) of the Agreement requires all teachers at the School to be trained. Therefore, we wrote in our September 19, 2017 monitoring letter, "Please ensure that *all* teachers at the School are trained."

After receiving our monitoring letter, the ED emailed a message to us on September 19, 2017:

For the Staff training, All administrators, counselors, sped staff, special service providers, counselors, nurses, etc., will participate in the training from Mr. Bethke using the approved materials. We will not submit the Charter Law Institute training as part of our OCR compliance but will still have our administrators participate in that inservice outside of this agreement.

Following the training provided by Mr. Bethke, Linda Hunt, Stargate Lead Learning Specialist will train the entire Stargate staff. Mrs. Hunt will participate in Mr. Bethke's presentation and use the same materials you have already approved during her staff training. Mrs. Hunt earned her BA and MA in Psychology from State University of New York at Buffalo. Prior to coming to Stargate, she was a Learning Specialist at The Academy of Charter Schools for four years. She holds a K-12 Special Education Generalist license and has completed the Adams 12 ELL training, Special Education Providers Summer Symposium and follow up trainings. Linda has been in education as a research psychologist and/ or learning specialist for 13 years.

Within 60 calendar days of your approval of Mrs. Hunt will train teaching staff, we will complete the training and submit to you the roster of attendees for your review.

We approve Mrs. Hunt as the trainer, as well as her plan to use Mr. Bethke's training materials. Term I(A) of the Agreement has been met.

Please remember that, **within sixty (60) calendar days of receiving this letter**, the School will provide the trainings to all staff at the School identified in Term I(A) of this Agreement. Then, **within thirty (30) calendar days of the trainings being provided**, the School will provide us with the items required by Term I(C).

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 with our September 19, 2017 monitoring letter was feedback on the memo. The ED provided an updated draft memo in an email to OCR on October 4, 2017. Enclosed with this letter is additional feedback on the memo. **Within fifteen (15) calendar days of the date on this letter, please provide us with an updated draft of the memo that incorporates our feedback.**

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]

The letter indicated that the School is continuing to negotiate with the Student's parents and their attorney with regard to attorney's fees, reimbursement [REDACTED] payment for [REDACTED] and removal of [REDACTED]

The monitoring reports did not include Term IV(B)(vii) – documentation that the Student's parents were notified, in writing, of the compensatory services offered by the School. [REDACTED]

In our September 19, 2017 monitoring letter, we accepted [REDACTED]. We wrote, "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." On October 4, 2017, the ED provided us with a copy of the letter sent to the Student's parents.

In our September 19, 2017 monitoring letter, we wrote, "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." The School's second group of monitoring reports did not address the remaining issues; therefore, we assume that there are still outstanding issues. **Within fifteen (15) calendar days of the date on this letter, please provide us with a written update on the remaining issues.**

Please remember that, pursuant to Term IV(D) of the Agreement, the School will submit documentation to OCR demonstrating about the compensatory services and that all of the compensatory services 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.

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