



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

December 1, 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 most recent monitoring report on November 29, 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;*
- d. *Placement;*
- e. *Implementation of IEPs and Section 504 plans;*

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

- 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.*

In our previous monitoring letters, we approved Bill Bethke and Linda Hunt as the trainers, as well as their training materials. We also notified the School that Term I(A) of the Agreement had been fulfilled.

Please remember that, **within sixty (60) calendar days of receiving our November 14, 2017 monitoring 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.*
- C. *Within thirty (30) calendar days of the School's Executive Director sending the memo to all School staff, the School will provide to OCR:*
 - i. *A copy of the final memo that was sent to all School staff; and*
 - ii. *Documentation showing that the memo was sent to all School staff (e.g., an email showing the "To" line or read receipts).*

In an email to OCR on September 6, 2017, the School provided a draft of the memo to be sent to staff. Enclosed with our September 19, 2017 monitoring letter was feedback on the memo.

In an email to OCR on October 4, 2017, the School provided an updated draft of the memo. Enclosed with our November 14, 2017 monitoring letter was feedback on the memo. The letter read, "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."

In an email to OCR on November 29, 2017, the School provided an updated draft of the memo. We approve the memo, and thus, **Term II(A) has been met.**¹ Please remember that, **within 30 calendar days of receiving this letter**, the School's Executive Director (ED) will send the memo to all School staff. Then, **within thirty (30) calendar days of the ED sending the memo to all School staff**, the School will provide to OCR: (i) a copy of the final memo that was sent to all School staff; and (ii) documentation showing that the memo was sent to all School staff (e.g., an email showing the "To" line or read receipts).

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;*

¹ The latest draft of the memo reads, in part, "Adams 12 District Policy 8400 establishes guidelines related to allegations of discrimination and/or harassment of or by students or staff." However, the District expressed concern about this language and the possibility that it may cause confusion about who is the compliance coordinator for Stargate. Subsequent to the latest draft being submitted, the School's attorney and the District's attorney agreed to delete the sentence from the memo before it is sent to Stargate staff.

- 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 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]

[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. Our November 14, 2017 monitoring letter read, "Within fifteen (15) calendar days of the date on this letter, please provide us with a written update on the remaining issues."

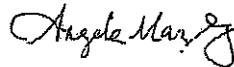
In an email to OCR on November 29, 2017, the School's attorney provided us with a written update on the remaining issues. **Please provide another update in the School's January 2018 monitoring report.**

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