



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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May 16, 2018

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

Re: Adams County School District 12
Case Number: 08-17-1361

Dear Superintendent Gdowski:

This letter updates the reporting requirements for the December 22, 2017 Resolution Agreement signed by Adams County School District 12 (District) and Stargate School (School) (collectively, Recipients). We have completed our review of the School's documentation received on March 29 and April 9, 11, and 26, and May 7, 2018 on its actions to ensure compliance with:

- Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the U.S. Department of Education;
- Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504), which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department; and
- Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability by public entities.

Our review and analysis of the Recipients' progress in implementing the Agreement is summarized below. The relevant terms of the Agreement are provided below, in italics, for your reference.

1. *The School's Board will administer a staff climate survey to assess staff perceptions of the retaliation at the School, including the presence and impact of any actual or perceived retaliation and suggestions for how to eliminate any actual or perceived retaliation. Based on the results of the climate survey, the Board will consider whether any further revisions to its nondiscrimination (including non-retaliation) policies, practices, or procedures, additional staff training, or other remedial measures are appropriate. If the Board determines that any remedial measures are appropriate, it shall take such measures no more than 90 days after the administration of the climate survey.*

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

REPORTING REQUIREMENT A: By December 31, 2017, the Board will submit, for OCR review and approval, its proposed climate survey instrument; a list of all staff, by name and job title, to whom the survey will be administered; and a description of how and when the survey will be administered, including the identity of the person compiling the survey results. The Board will fully and promptly address any comments by OCR as to these documents and will continue to modify them until it receives final OCR approval.

REPORTING REQUIREMENT B: Within 15 days of OCR's approval of the above, the Board will administer the climate survey to staff, providing a period to respond of no fewer than 7 days. Within 45 days of the conclusion of the survey administration period, the Board will provide (1) the District a copy of the survey results, and (2) OCR documentation of (a) the survey results and (b) the Board's determination as to whether any further revisions to its nondiscrimination (including non-retaliation) policies, practices, or procedures, additional staff training, or other remedial measures are appropriate, and if so, a description of those measures, including a timeline for implementation, which shall be no longer than 90 days after the administration of the climate survey. The Board will fully and promptly address any comments by OCR as to the remedial measures and will continue to modify the remedial measures until it receives final OCR approval.

REPORTING REQUIREMENT C: Within 15 days of the last of any remedial measures being implementing, the Board will provide OCR documentation of its efforts to implement the remedial measures.

The School's Board provided a copy of the survey results, a description of how the survey was conducted, and the Board's determination as to remedial measures. The Board indicated that the School is undergoing a restructuring of its Administration Team, including adjustment to the Executive Director's role. The Board also indicated that, after review of the survey results and its consultation with the former Colorado school district human resources administrator, the Board has determined it will not take further action "regarding the retaliation question."

OCR reviewed the survey results and the information from the former HR administrator. We request additional information related to the survey results and the Board's decision to take no actions, beyond the not-yet-complete restructuring, with respect to retaliation. In the School's (i.e., the Board's) next monitoring report, **due within 30 days of this letter**, please provide the comments collected via the survey (as opposed to the summary document provided to date) and any further explanation or description of actions the Board wishes to offer with respect to other measures taken to date.

- 2. The School will create a written policy and procedure through which staff may file complaints of discrimination, including retaliation. The policy and procedure will provide for notice of the policy and procedure to staff, including where to file complaints; application of the policy and procedure to complaints alleging discrimination by staff, students, or third parties; adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; designated and reasonably prompt timeframes for major stages of the complaint process; written notice to the parties of the outcome of the complaint; and an assurance that steps will be taken to prevent recurrence of*

any discrimination and to correct its effects. The policy and procedure will also provide that the District will be notified of any complaints filed pursuant to the School's policy and procedure.

REPORTING REQUIREMENT A: By December 31, 2017, the School will submit, for OCR review and approval, its revised policies and procedures. The School will fully and promptly address any comments by OCR as to the procedure and will continue to modify the procedure until it receives final OCR approval.

REPORTING REQUIREMENT B: Within 15 days of OCR's approval of the procedure, the School will disseminate the procedure to staff. Within 30 days of OCR's approval of the procedure, the School will provide OCR documentation of its efforts to disseminate the procedure, including via email and any websites used to disseminate information to staff.

The School previously provided its draft "Governance Board Communication and Complaint Policy," on which OCR commented with respect to the provisions for staff complaints of discrimination, including retaliation. The School subsequently provided a revised draft, on which the District provided comments and which OCR reviewed. In response to comments from the District, the School indicated that it was amenable to revise the policy to provide for the Board to refer complaints for investigation/resolution under the terms of the Nondiscrimination/Equal Opportunity Policy. OCR agrees that this change is a good one and asks that the School make it. Therefore, in the School's next monitoring report, **due within 30 days of this letter**, please provide a revised draft policy.

5. *The School will provide training to all staff, including administrators, teachers, and related service providers, addressing:*
 - a. *The fact that retaliation is a prohibited form of discrimination;*
 - b. *The School's prohibitions against retaliation, including its revised grievance procedure;*
 - c. *Examples of prohibited retaliation; and*
 - d. *Ways to avoid engaging in prohibited retaliation.*

REPORTING REQUIREMENT A: Within 90 days of this Agreement, the School will provide OCR, for OCR's approval, its draft training materials; identify who will be providing the training, by name, title, and qualifications; and provide a list of personnel required to participate in the training, by name and title. The School will fully and promptly address any comments by OCR and will continue to modify the materials, trainers, or personnel list until it receives final OCR approval.

REPORTING REQUIREMENT B: Within 60 days of OCR's approval, the School will provide documentation demonstrating that the training was provided and a copy of the training sign-in sheets.

The School previously provided its proposed training materials. OCR reviewed the materials for compliance with this Resolution Agreement, found that the materials sufficiently addressed 5(a), (b), and (d), and requested that the materials more clearly state (c), examples of prohibited retaliation. The School provided updated training materials, which OCR reviewed. We note that

Slide 35 contains the three elements of the first step of a retaliation analysis; and ask that the School add the remaining two elements: if a causal link exists between any adverse action and any protected activity, the next step is to determine whether the school has a legitimate, non-retaliatory reason for its action; and whether such reason is a pretext for retaliation. Therefore, in the School's next monitoring report, **due within 30 days of this letter**, please provide revised training materials..

Conclusion

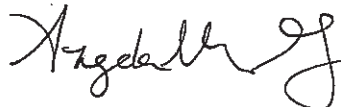
We look forward to hearing from you with additional monitoring reports as those reports come due.

Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law. Please be advised that the Recipients may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint investigation. If this happens, the individual may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personal information, which if released, could constitute an unwarranted invasion of privacy.

We thank the Recipients for their commitment to completing the terms of the Agreement. If you have any questions, please contact the attorneys assigned to the case, Sarah Morris, at 303-844-3682 or Sarah.Morris@ed.gov or Jason Langberg, at 303-844-6299 or Jason.Langberg@ed.gov.

Sincerely,



Angela Martinez-Gonzalez
Supervisory General Attorney

cc: Walt Kramarz, Deputy General Counsel, Adams County School District 12
Josh Cochran, Executive Director, Stargate School
Jan Kulmann, President, Stargate Governance Board
Tony Dyl, Kutz & Bethke LLC, counsel for Stargate School
Complainant