



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
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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: 08-17-1218

Dear Superintendent Gdowski:

On August 23, 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 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 basis of disability by recipients of Federal financial assistance from the Department and public entities, respectively. The District and School (collectively, “the Recipients”) agreed to report to us on their progress regarding implementing the Agreement.

We received the Recipients’ first monitoring reports on September 22, 2017, and issued a monitoring letter in response on September 29, 2017. We then received monitoring reports from the School on October 17, 20, and 23, 2017. This letter summarizes the relevant provisions of the Agreement, the Recipients’ submissions, and our comments regarding next steps.

Term I: Staff Training

- A. *Within thirty (30) calendar days of this Agreement being signed, the School will submit to OCR for review and approval a list of all School board members and staff who are or may be involved in recruitment and admissions of students, including, but not limited to, all board members and staff who: interact with parents and guardians of prospective students (e.g., answering phone or email inquiries, or staffing open houses or open enrollment/school choice events); receive, review, evaluate, and decide upon applications for admissions; issue admissions decisions; or hear appeals of admissions decisions. For each board member and staff member listed, the School will provide:*
- i. First and last name;*
 - ii. Title or position; and*
 - iii. A brief description of the individual’s role(s) in the School’s admissions process.*

- B. *Within thirty (30) calendar days of this Agreement being signed, the District will submit to OCR for review and approval a list of all staff who are involved in recruitment and admissions of students to the School.¹ For each staff member listed, the District will provide:*
- i. First and last name;*
 - ii. Title or position; and*
 - iii. A brief description of the individual's role(s) in connection with admissions to the School.*
- C. *The Recipients will respond to OCR's concerns, if any, about the lists provided to OCR pursuant to Term I(A) and Term I(B) of this Agreement until OCR considers the concerns resolved and issues final approval of the lists.*
- D. *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 all individuals on the lists approved pursuant to Term I(C) of this Agreement about disability discrimination, including, at a minimum, prohibited different treatment of students with disabilities in recruitment, admissions, and enrollment, including training on how staff will properly respond to oral and written inquiries from parents regarding the School's willingness or ability to admit and serve students with disabilities; and*
 - ii. The name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to staff.*
- E. *The School will respond to OCR's concerns, if any, about the training materials and trainer(s) described in Term I(D) of this Agreement until OCR considers the concerns resolved and issues final approval of the materials and trainer(s).*
- F. *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 of the individuals on the lists approved pursuant to Term I(C) of this Agreement.*
- G. *Within thirty (30) calendar days of the training being provided, 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;*
 - iii. The agenda and materials from the training;*
 - iv. The names and titles of all individuals who attended the training; and*
 - v. The name(s) and title(s) of all individuals who did not attend the training, an explanation for each person's absence, and a plan to train each person (if possible).*

¹ For example, staff in the District's Admissions Department and Learning Services Department who speak with parents about admission to the School.

In our September 29th monitoring letter, we indicated that Terms I(A)-(C) had been fulfilled and no further reporting was required.

The District's attorney, William Bethke, submitted to OCR a proposed training PowerPoint for School staff on charter school admissions and enrollment, among other topics. We reviewed the relevant portions of the training; we did not review the sections on state law, grants, other forms of discrimination, or the other provisions that are not about disability discrimination. The PowerPoint does not explicitly include recruitment. Nevertheless, in the interest of the training being conducted in a timely manner, we hereby approve the training material, as long as Mr. Bethke adds a provision about recruitment. Term I(D)(i) has been fulfilled and no further reporting is required.

The School did not submit Mr. Bethke's qualifications; however, we recently reviewed his qualifications in the course of monitoring an agreement in another case involving the School (08-17-1155). We hereby approve Mr. Bethke as the trainer. Therefore, Term I(D)(ii) has been fulfilled and no further reporting is required.

Within 60 calendar days of receiving this letter, the School will provide the training to all of the individuals on the lists approved pursuant to Term I(C) of this Agreement. Then, within 30 calendar days of the training being provided, the School will provide to OCR the information and documentation required by Term I(G).

Term II: Admissions Webpages and Materials

- A. *Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval revised public admissions webpages and documents (including documents available online and/or in hardcopy format), including applications for admissions. The revised webpages and documents will:*
- i. Include a statement that the School does not discriminate on the basis of disability in recruitment and admissions;*
 - ii. Include the name, title, and contact information (i.e., mailing address, phone number, and email address) for the School's Section 504/Title II Coordinator;*
 - iii. Include the name, title, and contact information for an individual whom parents may contact if they suspect disability discrimination in admissions and enrollment, if different from the Section 504/Title II Coordinator; and*
 - iv. Not include any requests for information or documents related to disability, including application questions about whether a student has a disability, individualized education program (IEP), or Section 504 plan, or requests for special education records.*
- B. *The School will respond to OCR's concerns, if any, about the revised webpages and documents described in Term II(A) of this Agreement until OCR considers the concerns resolved and issues final approval of the webpages and documents.*

C. *Within thirty (30) calendar days of receiving OCR's final approval of the revised webpages and documents, the School will provide to OCR:*

- i. *Links to, screen shots of, or printouts of all final revised webpages;*
- ii. *Copies of all revised, final admissions documents; and*
- iii. *Written assurances that the School will use the revised documents.*

On October 17, 2017, the School's Executive Director ("the Director") submitted to OCR, via email, PDFs of a revised versions of:

1. "Why Choose Stargate" webpage;
2. "Stargate K-8 Admissions Policy;"
3. "Stargate High School Admissions Policy;"
4. Admissions "Frequent Questions and Answers" webpage;
5. "2018-2019 Stargate Application" for grades k-8; and
6. "2018-2019 Stargate Application" for grades 9-12.

For PDFs 1, 4, 5, and 6, the following language appears:

Equal Opportunity: Stargate School is committed to a policy of nondiscrimination/harassment in relation to race,color, sex, religion, creed, national origin, marital status, sexual orientation and disability. Adams 12 Five Star Schools District Policy 8400 establishes guidelines related to allegations of discrimination and/or harassment of or by students or staff.

For PDF 1, the following language appears:

504 Coordinators:
Elementary (K-5) Lauren Gibson-
lauren.gibson@stargateschool.org (303)450-3936
Secondary (Middle and High School)- Brandon
Holter- brandon.holter@stargateschool.org
(303)450-3936

For PDFs 2 and 3,² the following language appears:

a. Students with Special Needs: Stargate School will not reject a student for admission on the basis that a student is currently on an Individual Education Plan (IEP) as provided for by the Individuals with Disabilities Act (IDEA) or 504 Plan as provided for by the Americans with Disabilities Act (ADA), or on the basis of previously identified special needs. To contact the Stargate Section 504/Title II Coordinator: Brandon Holter (303)450-3936 brandon.holter@stargateschool.org (Secondary applicants) or Lauren Gibson (303)450-3936 lauren.gibson@stargateschool.org (Elementary applicants). Should you suspect disability discrimination during admissions and/or enrollment, please contact the Section 504/Title II Coordinator as listed above.

² The language for PDF 3 does not include the contact information for Lauren Gibson because it is solely for high school students.

d. Equal Opportunity: Stargate School is committed to a policy of nondiscrimination/harassment in relation to race, color, sex, religion, creed, national origin, marital status, sexual orientation and disability. Adams 12 Five Star Schools District Policy 8400 establishes guidelines related to allegations of discrimination and/or harassment of or by students or staff.

Term II(A)(i) requires that the webpages and documents include a statement that the School does not discriminate on the basis of disability in recruitment and admissions. The Equal Opportunity statements do not mention recruitment and admissions.

PDFs 5 and 6 appropriately do not reflect any requests for information or documents related to disability, including application questions about whether a student has a disability, individualized education program (IEP), or Section 504 plan, or requests for special education records, as required by Term II(A)(iv).

Although PDFs 4, 5, and 6 do not include the name, title, and contact information for the School's Section 504/Title II Coordinator, as required by Term II(A)(ii), we believe adding the information may mislead parents and guardians into believing special education is a factor in admissions.

The language in PDFs 2 and 3 reads, in part, "504 Plan as provided for by the Americans with Disabilities Act (ADA)[.]" The language should also reference Section 504 of the Rehabilitation Act of 1973.

Within fifteen (15) calendar days of receiving this letter, please provide to OCR documentation showing that:

- Language reflecting Term II(A)(i) has been added to all six documents and webpages provided in the most recent monitoring report;
- Language reflecting Terms II(A)(i) and (iii)³ has been added to the School's "How to Apply"⁴ and "Applying to Stargate School"⁵ webpages, which were not included in the monitoring reports and must be provided to OCR for approval; and
- Language reflecting the recommended change to the language in PDFs 2 and 3.

Term III: Policy Revisions

- A. *Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval a revised "Community Handbook" that adds language to the "Mission, Goals, and Objectives" section indicating that the School does not discriminate against students with disabilities in recruitment or admissions. This notification will be developed in accordance with the requirements of Section 504 at 34 C.F.R. Section 104.8.*

³ e.g., "If you suspect that your child was discriminated against on the basis of disability in admissions or enrollment, please contact..."

⁴ <http://www.stargateschool.org/admissions/how-to-apply>

⁵ <http://www.stargateschool.org/admissions>

- B. *The School will respond to OCR’s concerns, if any, about the revised “Community Handbook” until OCR considers the concerns resolved and issues final approval of the document.*
- C. *Within thirty (30) calendar days of receiving OCR’s final approval of the revised “Community Handbook,” the School will provide to OCR:*
- i. *A copy of the final, revised “Community Handbook;”*
 - ii. *A link to, screen shot of, or a printout from the School’s website showing that the revised “Community Handbook” has been posted; and*
 - iii. *Written assurances that the School will use the revised document.*

On October 17, 2017, the School’s Executive Director submitted to OCR, via email, pages of the Community Handbook with revisions. The following language appears:

Equal Opportunity: Stargate School is committed to a policy of nondiscrimination/harassment in relation to race, color, sex, religion, creed, national origin, marital status, sexual orientation and disability. Adams 12 Five Star Schools District Policy 8400 establishes guidelines related to allegations of discrimination and/or harassment of or by students or staff.

This language does not mention recruitment and admissions, as required by Term III(A). Additionally, Term III(A) reads, in part, “This notification will be developed in accordance with the requirements of Section 504 at 34 C.F.R. Section 104.8.” Section 104.8 reads, in part, “The notification shall also include an identification of the responsible employee designated pursuant to 104.7(a).”⁶

The Executive Director also highlighted the following language from the revised Community Handbook:

Special educational program(s): The School works together with the District to fulfill Individual Education Plans (IEPs) under the Individuals with Disabilities Education Act and provides reasonable modifications to students covered by Section 504 of the Rehabilitation Act of 1973. Stargate School is committed to a policy of nondiscrimination/harassment in relation to race, color, sex, religion, creed, national origin, marital status, sexual orientation and disability. Adams 12 Five Star Schools District Policy 8400 establishes guidelines related to allegations of discrimination and/or harassment of or by students or staff.

Although the Agreement does not require the first sentence, we reviewed it and recommend changing it to read: “...to provide eligible students with disabilities a free and appropriate public education (FAPE)⁷ through their individualized education programs (IEPs)⁸ under the Individuals with Disabilities Education Act (IDEA) and their Section 504 plans under Section 504 of the Rehabilitation Act of 1973.”

Within fifteen (15) calendar days of receiving this letter, please provide to OCR a revised Community Handbook.

Term IV: Guidance

⁶ *i.e.*, the School’s Section 504 coordinator.

⁷ *See* 34 C.F.R. § 104.33(a).

⁸ *See e.g.*, 34 C.F.R. § 104.33(b)(2).

- A. *Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval written guidance designed to ensure non-discrimination in the enrollment of students with disabilities. The guidance will include:*
- i. *A statement that the School will not deny enrollment to, un-enroll, or otherwise transfer or remove an admitted student solely based on the student having a disability or a specific type of disability, or needing a particular disability-related service, accommodation, or modification;*
 - ii. *A statement that the rare decision to change the educational placement or educational setting (i.e., location of a student's school or program) of a student with a disability will be made on an individualized, case-by-case basis;*
 - iii. *A statement that, if the School believes that it cannot provide a student with a free appropriate public education (FAPE), after having attempted in good faith to provide the student with a FAPE, and thus believes there is a need to explore other educational placements or settings, the School will:*
 - a. *Convene a meeting with a team of persons knowledgeable about the Student (including the Student's parents), the evaluation data, and the placement options;*
 - b. *Provide the student's parents with a meaningful opportunity to provide input into the determination, notice of the determination made, and notice of the procedural safeguards available to them under 34 C.F.R. Section 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree; and*
 - iv. *A statement that, if a student with a disability is moved to another school or program for reasons related to the provision of FAPE, the School will ensure that the specific rationale for the move and the parent's input are documented in the student's educational file.*
- B. *The School will respond to OCR's concerns, if any, about the new guidance until OCR considers the concerns resolved and issues final approval of the document.*
- C. *Within fifteen (15) calendar days of receiving OCR's final approval of the new guidance, the School will disseminate the new guidance to all staff.*
- D. *Within thirty (30) calendar days of receiving OCR's final approval of the new guidance, the School will provide to OCR:*
- i. *A copy of the final new guidance; and*
 - ii. *Written assurances that the School will use the new document, including as specified in Term IV(A) of this Agreement; and*
 - iii. *Documentation showing that the new guidance was disseminated to all staff at the School pursuant to Term IV(C) of this Agreement.*

The School's attorney provided draft guidance to OCR, via email, on October 23, 2017. The guidance provides all of the information required by Term IV(A). **We hereby approve the guidance** and the School may now disseminate the guidance to all staff, as required by Term

IV(C). Please remember that, **within 30 calendar days of receiving this letter**, the School will fulfill Term IV(D).

Term V: Additional Reporting to OCR

- A. *By October 1, 2018, the Recipients will submit to OCR all reports, grievances, or complaints, whether oral or written, from parents regarding disability discrimination in recruitment or admissions from August 1, 2017 to August 31, 2018.*
- B. *OCR will review the denial records and communicate any concerns to the Recipients. The Recipients will respond to OCR's concerns until OCR considers them resolved.*

As a reminder, **by October 1, 2018**, the Recipients will provide to OCR all reports, grievances, or complaints, whether oral or written, from parents regarding disability discrimination in recruitment or admissions from August 1, 2017 to August 31, 2018. Please maintain records and plan accordingly.

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 Recipients' continued cooperation in this matter. If you have any questions regarding this letter or the monitoring in 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)