



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VIII  
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WYOMING

May 18, 2018

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

*Via email only to [chris.gdowski@adams12.org](mailto:chris.gdowski@adams12.org)*

Re: **Adams County School District 12**  
Case Number: 08-17-1353

Dear Superintendent Gdowski:

On December 1, 2017, Adams County School District 12 and Stargate School (collectively "the Recipients") 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 IX of the Education Amendments of 1972, and its implementing regulation, which prohibit discrimination on the basis of sex by recipients of Federal financial assistance from the Department. The Recipients agreed to report to us on its progress regarding implementing the Agreement.

We received the School's most recent monitoring reports on March 29, 2018 and April 9, 2018. This letter provides the provisions of the Agreement, a summary of the School's submissions, and our comments regarding next steps.

Term I: Title IX Coordinator(s)

- A. *Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval the name(s), title(s) or position(s), and qualifications of one or more individuals to serve as the Title IX Coordinator(s) for the School.*
- B. *The School will promptly respond to OCR's concerns, if any, about the proposed Title IX Coordinator(s) until OCR considers the concerns resolved and issues final approval of the Title IX Coordinator(s).*
- C. *Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval a written description of the Title IX Coordinator's (or Coordinators') roles and responsibilities.*
- D. *The School will promptly respond to OCR's concerns, if any, about the proposed roles and responsibilities until OCR considers the concerns resolved and issues final approval of the roles and responsibilities.*

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

- E. Within thirty (30) calendar days of the OCR's final approval of the Title IX Coordinator(s), the School will submit to OCR for review and approval a revised Community Handbook that includes the name(s), title(s) or position(s), phone number(s), email address(es), and mailing address(es) of the approved Title IX Coordinator(s).*
- F. The School will promptly respond to OCR's concerns, if any, about the proposed Community Handbook revisions until OCR considers the concerns resolved and issues final approval of the revisions.*

In its January 24, 2018 monitoring report, the School proposed that the School's Chief Financial Officer, Lynne Allen, become the School's Title IX Coordinator. Regarding Ms. Allen's qualifications, the School wrote:

Lynne Allen has served as Business/Human Resource Manager and most recently Chief Financial Officer (CFO). Lynne's responsibilities during her 15 years at Stargate have included a variety of responsibilities, most notably, human resources and finance.

Currently, Lynne Allen has participated in a training titled: The Role and Responsibilities of the K-12 Title IX Coordinator: Protect Your Students and School by Understanding the Many Requirements. The training is being facilitated by Richard F. Verstegen, attorney, Boardman & Clark, LLP, Madison Wisconsin. Rick is an experienced member of the School Law Practice Group and the Labor and Employment Group at the firm. He represents educational institutions (including public school districts and technical colleges) in a variety of education law matters. He counsels school clients in labor and employment, student rights, student discipline, meetings and records, special education, Title IX, privacy and technology issues, student safety, policy, governance, and many other issues. The training includes the different facets of Title IX, including regulatory provisions, applicable OCR guidance, and is helping Stargate as we define our Title IX policies and grievance procedures.

The School also noted, "In November of 2017 the Stargate Governance Board elevated the CFO position at Stargate to report directly to the board. The CFO is no longer under the supervision of the Executive Director and the school's organizational chart has been edited to reflect this change."

Additionally, the School provided the following proposed roles and responsibilities for its Title IX coordinator:

The role and responsibility of Stargate's Title IX officer will align with the Official [sic] of Civil Rights Letter to Colleagues dated April 24th, 2015. [sic] As well as Adams 12 District policy 8400. The "Nondiscrimination Compliance Officer" shall be responsible for coordinating, monitoring and documenting District compliance with this policy and with Title VI of the Civil Rights Act of

1964, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act, Age Discrimination in Employment Act, Genetic Information Nondiscrimination Act of 2008 (GINA) and federal and state civil rights/nondiscrimination laws.

Stargate's Title IX coordinator's primary responsibility is to coordinate the our [sic] compliance with Title IX, including our board and OCR approved grievance procedures for resolving Title IX complaints. The Title IX coordinator is responsible for coordinating Stargate's responses to all complaints involving possible sex discrimination. This responsibility includes monitoring outcomes, identifying and addressing any patterns, and assessing effects on the campus climate.

The Title IX coordinator will also partner with the School Accountability Committee during the collection and analysis of information from the annual climate survey. This information will be used to make recommendations to the governance board.

The Title IX coordinator will also have access to enrollment information in a variety of areas including: admissions, participation in athletics, administration of school discipline, and incidents of sex-based harassment.

In our February 5, 2018 monitoring letter, we wrote:

A recipient must ensure that its Title IX coordinator: (a) is independent; (b) is appropriately trained and knowledgeable about Title IX, applicable OCR guidance, and the recipient's sex discrimination policies and procedures; and (c) possesses the authority and time to address sex discrimination complaints. The Title IX coordinator's primary responsibility is to coordinate the recipient's compliance with Title IX, including the recipient's grievance procedures for resolving Title IX complaints. The Title IX coordinator should be responsible for coordinating the recipient's responses to all complaints involving possible sex discrimination. This responsibility includes monitoring outcomes, identifying and addressing any patterns, and assessing effects on the campus climate. The Title IX coordinator should also be involved in the drafting and revision of Title IX policies and procedures to help ensure that they comply with the requirements of Title IX. Additionally, the Title IX coordinator should coordinate the collection and analysis of information from an annual climate survey if, as OCR recommends, the school conducts such a survey.<sup>1</sup>

It is unclear from the School's report whether: (a) Ms. Allen has already been trained or will be trained in the near future; and (b) the training included or will include, in adequate depth, all of the necessary topics for Title IX coordinators.

<sup>1</sup> *Dear Colleague Letter: Title IX Coordinators*, U.S. Department of Education, Office for Civil Rights, Apr. 24, 2015, available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.

Within fifteen (15) calendar days of the date of this letter, please provide: (a) the date(s), time(s), and location(s) of the Title IX training(s) that Ms. Allen has and/or will receive by no later than the end of the 2017-2018 school year; (b) detailed agenda or the detailed agendas for the Title IX training(s) that Ms. Allen has and/or will receive; (c) written assurances that the School has carefully considered whether Ms. Allen will be able to fulfill all of the Title IX coordinator responsibilities in light of her other job-related responsibilities, and determined that she will be able to do so;<sup>2</sup> and (d) a revised draft of the Title IX coordinator's roles and responsibilities that includes involvement in the drafting and revision of Title IX policies and procedures to help ensure that they comply with the requirements of Title IX.

In its February 20, 2018 monitoring report to OCR, the School wrote, "At this time the Stargate Governing Board is evaluating options for a potential 3rd party to serve as the Title IX coordinator. With your permission, I would ask for an extension to this term and will update you by March 22, 2018 after our March board meeting. Lynne Allen will serve in a temporary capacity until this item is fully resolved." On February 23, 2018, OCR granted the requested extension.

On March 12, 2018, the School notified OCR, via phone, that its human resources (HR) director resigned, and consequently, the School would like to hire, before the start of the 2018-2019 school year, an experienced HR manager who also has the necessary expertise to serve as the School's Title IX coordinator. The School proposed that, in the meantime, Ms. Allen would continue receiving and processing complaints, with advice and consultation from Employers Council.<sup>3</sup> We asked the School to put its proposed plan in writing to OCR.

The School emailed OCR on March 15, 2017:

At this time we have an open position for a full time HR Manager. Our board and CFO are looking to hire this position in the next few months but do not have a strict timeline. We are hoping to find the right person who can serve as an HR expert as well as fulfill the responsibility of Title IX Coordinator. Once the qualified candidate has been identified we will send to the OCR their qualifications, updated job description, roles/responsibilities and other pertinent information.

In the interim we plan to have Lynne Allen serve as our Title IX Coordinator and have retained the services of Mountain States Employers Council. ... If/when a complaint is submitted Lynne will work directly with Employers Council to ensure compliance and accuracy with our OCR approved systems and documentation.

<sup>2</sup> If the School cannot assure that Ms. Allen can fulfill all the duties of the Title IX Coordinator given her other job duties, please provide the name and qualifications of a different person the School proposes to serve as the Title IX Coordinator, and provide the same written assurances.

<sup>3</sup> <https://www.employerscouncil.org/about-us>

The School attached to the email a receipt showing that the School has paid its membership dues to the Employers Council for January 24, 2018 to January 31, 2019.

On March 20, 2018, the School emailed OCR information about four recent trainings attended by Ms. Allen. The trainings were part of a series titled, "Title IX Coordinator Bootcamp for K-12 Schools." The webinar sessions were:

Session	Date	Title
1	1.11.18	The Role and Responsibilities of the K-12 Title IX Coordinator: Protect Your Students and School by Understanding the Many Requirements
2	1.18.18	Title IX and K-12 Athletics: Avoiding Liability
3	1.25.18	Title IX Requirements Regarding Pregnant and Parenting Students: What Every K-12 School Needs to Know
4	1.30.18	Title IX and Sexual Violence: Best Practices for Ensuring Safe K-12 Schools

The trainings were presented by Richard Verstegen, an attorney who, according to the School and his firm's website,<sup>4</sup> has extensive experience in school law, labor and employment law, and Title IX.

In our March 23, 2018 monitoring letter, we wrote, "By June 1, 2018, please provide OCR with a written update on the School's search for a permanent Title IX Coordinator." We have no further comment at this time.

### Term II: Staff Training

- A. *Within ninety (90) calendar days of this Agreement being signed, the School will submit to OCR for review and approval draft materials to train all School staff about sex discrimination, including, at a minimum:*
- i. *The definition, types, and examples of sexual harassment;*
  - ii. *The definition of a hostile environment, factors used to evaluate a hostile environment, and examples of a hostile environment;*
  - iii. *The School's responsibility to address sexual harassment, including its responsibility to determine whether a hostile environment exists regardless of whether a formal complaint is filed, provided the School knows or should have known of the underlying behavior;*
  - iv. *Investigating sexual harassment and hostile environments on campus caused by off-campus sexual harassment, including documenting investigations;*
  - v. *Interim safety measures, including written safety plans;*
  - vi. *Reasonable, timely, age-appropriate, and effective corrective actions, including ending harassment, eliminating hostile environments, preventing harassment from reoccurring, and preventing retaliation;*
  - vii. *Confidentiality, as it relates to sexual harassment; and*

<sup>4</sup> <https://www.boardmanclark.com/our-people/richard-f-verstegen>

- viii. *The School's Title IX Coordinator(s) and his/her/their roles and responsibilities (see Term I).*
- B. *Within ninety (90) calendar days of this Agreement being signed, the School will submit to OCR for review and approval the name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to staff.*
- C. *The School will promptly respond to OCR's concerns, if any, about the training materials and trainer(s) described in Terms I(A)-(B) of this Agreement until OCR considers the concerns resolved and issues final approval of the materials and trainer(s).*
- D. *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 School staff.*
- E. *Within thirty (30) calendar days of the training(s) being provided, the School will provide to OCR:*
- i. *The date(s), time(s), and location(s) of the training(s);*
  - ii. *Confirmation that the approved trainer(s) delivered the training(s);*
  - iii. *The agenda and materials from the training(s);*
  - iv. *The names and titles of all individuals who attended the training(s); 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).*

On March 12, 2018, the School submitted to OCR a proposed PowerPoint to train School staff about sexual harassment. We reviewed the materials for compliance with this Resolution Agreement and request the following supplementation:

- With respect to (i), in general the materials sufficiently convey these points. OCR has the following suggestions for consideration to most accurately convey the definition of sexual harassment:
  - Slide 11's definition of sexual harassment indicates that underlying conduct is "typically of a sexual nature." Similarly, Slide 28 states "if one student engages in sexually-loaded behavior toward another student..." OCR suggests more clearly indicating that, for example, "[a]cts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently serious to create a sexually hostile environment." Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, U.S. Dept. of Educ., Office for Civ. Rights, Jan. 2001, available at <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html> [hereinafter 2001 Guidance].
  - Slide 11's definition also indicates that conduct must "Adversely change[] the terms and conditions of a benefit (in work or schooling)." While Slide 18 clarifies that this is Title-VII-esque language, OCR suggests revising or adding

language from Title IX to slides 11 and 18: denying or limiting, on the basis of sex, participation in or receipt of the school's benefits, services, or opportunities.

- Similarly, Slide 23 states, "When we turn to students, Title IX becomes the key source of law." We suggest clarifying that Title IX (in addition to Title VII) can also cover employees (in addition to students, parents, and others). This is more clearly conveyed in Slide 6, for example.
  - Slide 22 states, "All staff are expected to report known sexual harassment to the proper school officials." OCR suggests clarifying that "All staff are expected to report known or suspected sexual harassment to the proper school officials, including the Title IX Coordinator."
  - Slide 28 indicates that "[t]he school's duty is to take prompt and effective action to eliminate the hostile environment and prevent its recurrence." OCR suggests adding that the school also has a duty to remedy the effects of the hostile environment.
- With respect to (ii), please expressly state the factors used to evaluate a hostile environment. [fn = for example: the degree to which the conduct affected one or more students education; the type, frequency, and duration of the conduct; the identity of and relationship between the alleged harasser and the subject or subjects of the harassment; the number of individuals involved; the age and sex of the alleged harasser and the subject or subjects of the harassment; the size of the school, location of the incidents, and context in which they occurred; other incidents at the school; and incidents of gender-based, but nonsexual harassment. 2001 Guidance.]
  - With respect to (iii), please clarify that the School's responsibility "exists regardless of whether a formal complaint is filed," perhaps on Slide 22 in bubble 2, or elsewhere.
  - With respect to (iv), please clarify that the School has an obligation to respond to "hostile environments on campus caused by off-campus sexual harassment," perhaps on Slide 33 ("Other Harassment," such as by volunteers or visitors), or elsewhere.
  - With respect to (v), interim measures are described on Slide 41 and include paid leave for employees/suspension for students, and safety plans if accused students are on campus. OCR suggests adding additional supplemental measures available regardless of an accused's presence on campus, for example, academic support, counseling, disability services, health and mental health services, and the right to report a crime to law enforcement.
  - With respect to (vi), please add materials explaining reasonable, timely, age-appropriate, and effective corrective actions, including ending harassment, eliminating hostile environments, preventing harassment from reoccurring, and preventing retaliation.

In our March 23, 2018 monitoring letter, we wrote, "Within 30 days of the date of this letter, please provide revised training materials to OCR."

On March 29, 2018, the School sent OCR a second draft of the training materials. We reviewed the presentation and, on April 9, 2018, emailed the School's attorney to request a revision. The School's attorney replied the same day with a revised presentation, which we reviewed. **We hereby approve the presentation. Please remember to fulfill Terms II(D)-(E) within the specified timeframe.**

*Term III: Title IX Complaint Form*

- A. *Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval a Title IX Discrimination Report Form ("Report Form").*
- B. *The School will promptly respond to OCR's concerns, if any, about the Report Form until OCR considers the concerns resolved and issues final approval of the Report Form.*
- C. *Within thirty (30) calendar days of receiving OCR's final approval of the Report Form, the School will provide to OCR:*
  - i. *A link to or screen shot of the School's "Forms and Files" webpage showing that the Report Form is available on the webpage;*
  - ii. *A revised Community Handbook that includes the Report Form; and*
  - iii. *Written assurances that the Report Form will be provided to anyone who raises concerns about discrimination based on sex at the School.*

In its January 26, 2018 monitoring report, the School provided to OCR a proposed Report Form. Other than the heading, the Report Form mirrors the "Discrimination Report Form" used by the District.<sup>5</sup>

In our February 5, 2018 monitoring letter, we recommend the following revisions to the Report Form:

- For those students and parents who do not use or who are not proficient at email, provide instructions on how to turn in the form by mail or in-person.
- Change "Complainant" to "Person Discriminated Against (Complainant)" since some students and parents will not know what "Complainant" means.
- Change "District Facility Employed By or Attended" to "Stargate School" with two options – "Elementary" or "Secondary."
- Change "Work Phone" to "Work or Cell Phone."
- Change "Date of Alleged Incident(s)" to "Date(s) of Alleged Incident(s)."
- Change "Name of person" to "Name of person(s)."
- Delete "what did you do to avoid the situation."
- Either specify that the form is to be used for Title IX Sex Discrimination, or if the intent is for the form to be used for any type of discrimination, then add a multiple choice item

<sup>5</sup> See District Policy 8400, Exhibit 1, available at [https://www.adams12.org/sites/default/files/uploads/documents/8400\\_1.pdf](https://www.adams12.org/sites/default/files/uploads/documents/8400_1.pdf).

for complainants to select the type(s) of discrimination being alleged (e.g., race, color, national origin, sex, disability, or age).

We also wrote, "Within fifteen (15) calendar days of the date of this letter, please provide us with an updated draft of the form."

On February 20, 2018, the School submitted an updated draft of the form. In our March 23, 2018 monitoring letter, we wrote, "The updated draft incorporates the revisions recommended by OCR. Therefore, we hereby approve the form. Please remember to fulfill Term III(C) within 30 days of this letter."

The School's report regarding Term III(C) was due on April 23, 2018. To date, we have not received the report. We found on the School's website that Term III(C)(i) has been fulfilled.<sup>6</sup> **Within ten (10) calendar days of receiving this letter, please fulfill Terms III(C)(ii)-(iii) or explain how the Terms will coincide with the School's reporting in OCR case number 08-17-1374.**

Term IV: Services at [REDACTED]

- A. *Within fifteen (15) calendar days of this Agreement being signed, the School will invite the Complainant, in writing, to a meeting to discuss* [REDACTED]

*The School will give the Complainant at least ten (10) calendar days to respond. The School will send a copy of the invitation to OCR at the time it sends the invitation to the Complainant.*

- B. *If the Complainant accepts the invitation to meet, the meeting will be scheduled within thirty (30) calendar days of the acceptance. The School will ensure that the following staff members attend the meeting, unless the Complainant objects to his/her/their attendance:* [REDACTED]

*and the School's failure to adequately respond to that hostile environment, if any; and a plan, which shall be reduced to writing, to alleviate any challenges and to meet any needs.*

- C. *If the meeting takes place, the School will provide to OCR for review and approval, within fifteen (15) calendar days of the meeting:*
- i. *The date, time, and location of the meeting;*

<sup>6</sup> <http://community.stargateschool.org/forms-and-files>.

- ii. *A list of individuals who attended the meeting, including each person's name and title or position;*
- iii. *Minutes or notes from the meeting, including a list of issues that were discussed, the input from the attendees, and descriptions of any disagreements among attendees; and*
- iv. *A copy of any plan(s) that is/are created.*

*D. The School will promptly respond to OCR's concerns, if any, about the meeting and plan(s) until OCR considers the concerns resolved.*

In our December 12, 2017 monitoring letter, we notified the Recipients that Term IV(A) of the Agreement had been fulfilled and no further reporting was required.

On January 26, 2018, we requested from the School an update on Term III. In response, the School provided emails showing the following correspondence:

- December 11: The School invited the Complainant to meet.
- December 21: The Complainant accepted the invitation and asked to meet in January.
- January 8: The School provided the Complainant with five options for a meeting date and time.
- January 16: The Complainant notified the School that he could not meet in January and requested a meeting for February. The Complainant's email read, in part, "I think it might be too early to fix the date now and I would contact you later to discuss the meeting date."
- January 30: At the urging of OCR, the School followed up with the Complainant and proposed dates and times in February for a meeting.
- February 4: The Complainant emailed the School, "I have got a new job and have to attend 4 weeks full time training during February and maybe 1 or 2 week full time training in March. I guess I might be able to make time to have a meeting with you some day in March. I will let you know if I am able to make time during the February and early March."

In our February 5, 2018 monitoring letter, we wrote, "Within thirty (30) calendar days of the date of this letter, please provide us with an update on Term IV."

On February 5, 2018, the School emailed the Complainant:

Congratulation on the new Job! Since we will not be able to meet until March,

[REDACTED]

Let me know your thoughts and we can always discuss by phone if that works for you.

On February 11, 2018, the Complainant replied:

[REDACTED]

On the contrary, let me ask you a question on this. Who is telling a lie on Mr. Cochran or Mrs. Gibson? It is very regretful to hear again the story that is not true. And I strongly prefer to talk by the e-mail rather than by phone.

On February 12, 2018, the School replied:

I apologize for any confusion, I was referring to the 'access to a school counselor' that was inserted in the care and concern plan that was developed on September 26, 2017 and reviewed on December 21, 2017. In discussing with Mrs. Gibson, she has tried to make

[REDACTED]

Stargate.

On March 20, 2018, the School sent the following email to the Complainant:

I hope this email finds you both well.

[REDACTED]

[REDACTED]

You are welcome to join us for both days if your schedule permits.

Please let me know if you would like to schedule a time to come [REDACTED]  
[REDACTED] look forward to hearing from you soon.

On March 21, 2018, the School sent the following update to OCR:

The last correspondence with [the Complainant] was on February 12, 2018 when I indicated [REDACTED]

[REDACTED]

In our March 23, 2018 monitoring letter, we wrote, "By June 1, 2018, please provide a written update a [REDACTED] have no further comment at this time.

Term V: Additional Reporting to OCR

- A. *By June 22, 2018, the Recipients will submit to OCR all reports, grievances, or complaints (including those utilizing the Report Form) regarding peer-on-peer sexual harassment among School students, if any, whether oral or written, from December 1, 2017 to May 31, 2018, as well as the Recipients' response(s).*
- B. *OCR will review the reports, grievances, and complaints, if any, and the Recipients' response(s). The Recipients will promptly respond to OCR's concerns, if any until OCR considers them resolved.*
- C. *By January 25, 2019, the Recipients will submit to OCR all reports, grievances, or complaints (including those utilizing the Report Form) regarding peer-on-peer sexual harassment from students, parents, and guardians, if any, whether oral or written, from August 1, 2018 to December 31, 2018, as well as the Recipients' response(s).*

*D. The Recipients will promptly respond to OCR's concerns, if any, about the reports, grievance, or complaints, and the Recipients' responses, until OCR considers the concerns resolved.*

Please maintain the information and records necessary to fulfill Term V(A) by **June 22, 2018**.

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 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, Stargate School ([josh.cochran@stargateschool.org](mailto:josh.cochran@stargateschool.org))  
William Bethke, Attorney for the School ([wpbethke@lawkb.com](mailto:wpbethke@lawkb.com))  
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Complainant