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July 3, 2018

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

Re: Adams County School District 12
OCR 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 May 31 and June 4, 13, and 15, 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.

The allegation at issue in this case was whether the School retaliated against the Complainant by constructively discharging her from employment after she engaged in activity protected by Section 504, Title II, and Title IX.

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*

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determines that any remedial measures are appropriate, it shall take such measures no more than 90 days after the administration of the climate survey.

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 previously 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."

We requested that the board 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. The Board provided the comments and reiterated its previous response as to measures taken to date.

We are concerned that the Board's, and District's response, is thus far insufficient. Though the submissions included positive and encouraging feedback, and in particular with respect to the Secondary Principal, there was also a sufficient amount of less-than-positive feedback. Our request for additional follow-up information is based on the following information:

- The original summary document of survey results indicated that, among a 91.6% response rate, 15.1% total staff, 27.3% classified staff, 12.8% secondary staff, and 9.4%

elementary staff answered yes to the question, "Do you perceive there to be an environment of retaliation at Stargate."

- An average of 17.2% total staff indicated that they had experienced or witnessed retaliation, including 23.8% classified staff, 17.5% secondary staff, and 12.5% elementary staff.
- An average of 17% total staff disagreed or strongly disagreed that they were comfortable voicing ideas, suggestions, or concerns.
- The School's June 15, 2018 submission stated that the survey response rate represented 105 total staff, "but only 21 respondents entered comments to the retaliation question." Those comments included:
 - "Many, many staff members have been retaliate(d) against by Josh (and Missy recently)." This respondent listed 10 names of such staff.
 - "Not comfortable communicating these, but have knowledge it is happening."
 - "I have seen this administration retaliate against a multitude of former Stargate employees, driving them out of here through intense bullying. Many of them were so bullied, they developed health problems. I have learned to keep my head down and mouth shut so that I don't become a victim of our ED's wrath. This starts with the ED and permeates the entire Admin team.
 - "I feel that there have been individuals that were made to feel very uncomfortable by administrators when policies were questioned."
 - "I have been severely punished by Mr. C. Because there are teachers on the Accountability Committee, I would rather not explain in this survey, but I will reach out to Board with my concerns. I do not interact with Mr. C, Mrs. Hirschke or Ms. Blamires on a daily basis and therefore I am no longer a subject of their gossip, 'office talk' or retaliation. Mr. Cable has been fair and listened to my concerns (which is the reason I am still at Stargate)."
 - "The loss of leadership opportunities and club sponsorships as a form of punishment by ED Office staff yelled at to the point of tears by the ED. Parents that have left this school due to the mistreatment of themselves and their children by the ED after the parent questioned why their highly gifted child could not receive the education in all subjects that they deserved. Staff that have left the school after mistreatment (changes of grade level assignment with no explanation, class assignment in nonstrength areas with little to no support and then dinged on performance evaluations, being yelled at/demeaned in front of peers). Staff that have left for personal reasons and on good terms (so they thought) but not allowed to return once their circumstances changed. Targeted for speaking out during staff meetings – either blatantly ignored or called into the office every time they say anything. Administration accusation of teacher misconduct without doing their due diligence to get all of the information and once the misconduct was unfounded based on all of the information - no apology given by Elementary Principal to the teacher. Parent called a b*%\$ for standing up for their child by ED. There is an 'in crowd' and they do receive special treatment by ED and Elem Principal."
 - "Yes, the environment is better, but there are individuals here both admin and the office that have a history of retaliating and some creating a work environment that makes it difficult to voice your opinion. Unfortunately because of previous

histories, it makes some people here feel uncomfortable in expressing themselves or being able to work or do certain activities as they used to because they were told by others that they couldn't."

- The former Colorado school district human resources administrator's¹ report included statements of support and lack of support for the now former Executive Director and other leadership. Our concerns stem from the following:
 - "All but three individuals acknowledged the internal struggle between employees (i.e., Josh/some staff, 'inner circle,' veterans/new employees, and 'friends of Josh.'" With the acknowledgement of the conflict, most were hopeful solutions could be found."
 - "Many view the [leadership] pipeline as Josh Cochran handpicking his 'inner circle.'" Through the interviews as well as responses in the survey, it appears that employees believed the concept was a good idea, but it was not implemented appropriately. From the interviews as well as the comments in the survey, Missy Hischke appears to be the one in question most frequently. Stephanie Blamires also is mentioned as to the validity of the concept. One could make a correlation between the lower satisfaction rate of Missy and Stephanie (predominately lower professional development scores in elementary compared to high school) throughout the survey attributed to the question as to their hiring from the Leadership Pipeline."
 - "There is a belief among school leadership that 'only a few veteran teachers,' and a 'small group of parents' are causing the tension as it pertains to Josh's success. When I asked Josh about his observation of an internal division of support with his leadership, he believes there is "no rift" and that the main conflict is the teacher salary step increase. He also believes that adding assistant principals to the elementary and secondary schools next year will help support the teachers. The disconnect of understanding the dynamics of the internal strife within the school is a concern."
 - The report included comments that were specifically critical of the now former Executive Director, including such things as "[i]t is more credible than not, that Josh is making decisions that do not adhere to compliance and/or best practices of human resources," and noting that some staff considered him to be a "bully" and had "observed Josh yelling." We will not go into additional detail with respect to them here given the decision to restructure his role.
 - "All those interviewed maintained that the students of Stargate were the primary reason for their satisfaction working at the school."
- The School's June 15, 2018 submission indicated that a staff member contacted the Board expressing concerns about past and potential future retaliation (including about another staff member in particular, which does not appear to have come to pass based on what the School has submitted this far) and administration's attitude toward OCR

¹ We note that School constituents have expressed concern to the School and to OCR about the selection of this individual. These constituents note that she recently resigned from the Boulder Valley School District and cite local news articles as giving cause for concern about the propriety of her selection. We offer no opinion on this issue. We note that this individual's role was not the sole element of the School's reporting on this term, and we did not approve or disapprove the School's selection of this individual.

complaints. The School has not indicated whether or how this concern was followed up on.

Given the foregoing, we do not find that the School's Board has sufficiently "consider[ed] whether any . . . other remedial measures are appropriate."

We do not find that the School's stated remedial measures (restructuring to change the role of the now former Executive Director, continuing to ask about retaliation in the annual staff survey, and undergoing the training and policy revisions already required by the resolution agreements in OCR cases) to be sufficient in light of the foregoing. Therefore, in the **Recipients' (i.e., the School's and the District's)** next monitoring report, **due within 30 days of this letter**, please reconsider and submit a detailed monitoring report as to what other remedial measures are appropriate and are being implemented at the School.

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 over two rounds of edits. The School's most recent submission contained a revised policy making the last change that OCR requested. Therefore, based on the information provided, we have determined that the School has complied with Term/Reporting Requirement 2(A).

As to Term/Reporting Requirement 2(B) and dissemination to staff, the School indicated that the School community was notified of the revised policy on June 15, 2018 and would also be notified at the start of the school year 2018-2019. The School also provided a hyperlink to the section of the School's website containing the policy. Therefore, in the School's next monitoring

report, **due by August 31, 2018**; please provide documentation of the School's June 15 and start-of-school-year notification(s) of the revised policy.

3. *The Recipients will report to OCR on all reports, grievances, or complaints from staff of discrimination, including retaliation (including those received pursuant to its revised grievance procedure) and the Recipients' response(s).*

REPORTING REQUIREMENT: By May 31 and December 31, 2018, the Recipients will provide OCR, for OCR's approval, a description of, and any documents related to, all reports, grievances, or complaints from staff (including those received pursuant to its revised grievance procedure) and the Recipients' response(s). OCR will review such documentation. The Recipients will promptly respond to OCR's concerns, if any, until OCR considers them resolved.

The School reported as to one incident that it considered to fall within the scope of this term. This is the June 15, 2018 submission referenced above, indicating that a staff member contacted the Board expressing concerns. In the School's next monitoring report, **due within 30 days of this letter**, please report as to whether and how this concern was followed up on and provide any supporting documentation.

4. *The School will revise its Staff Handbook to include a notice of nondiscrimination, notice of the revised procedure through which staff may file complaints of discrimination, including retaliation, and effective notice of the School's Title IX, Section 504, and Title II Coordinator(s), including at a minimum the name(s), title(s) or position(s), phone number(s), email address(es), and mailing address(es) of each coordinator.*

REPORTING REQUIREMENT A: Within 15 days of OCR's approval of the revised procedure through which staff may file complaints of discrimination, including retaliation, the School will submit, for OCR review and approval, its revised Staff Handbook. The School will fully and promptly address any comments by OCR as to the handbook and will continue to modify the handbook until it receives final OCR approval.

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

The School indicated that handbooks would be provided after outside review and after all outstanding items were approved by OCR. Therefore, in the School's next monitoring report, **due within 30 days of this letter**, please provide the revised handbook(s).

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.

We previously determined that no further monitoring submissions were required with respect to Term/Reporting Requirement 5(A). We look forward to hearing from the School in August 2018 as to Term/Reporting Requirement 5(B).

- 6. *The School will provide the following individual remedies to the Complainant:*
 - a. *The School will timely respond to all inquiries from prospective employers in a manner consistent with the Complainant's reference letter from the Elementary Principal dated April 4, 2017 and from the Director of Professional Development dated May 2, 2017. All reference requests shall be directed, by the Complainant and School, to the Elementary School Principal or her successor.*
 - b. *The School will refund to the Complainant \$3,000 representing her annual health insurance deductible.*
 - c. *The School will provide a payment to the Complainant representing lost wages in the gross amount of \$25,667, less applicable withholdings, which the School will report to the Internal Revenue Service as wage income to the Complainant on a Form W-2.*

REPORTING REQUIREMENT A: By May 31 and December 31, 2018, the School will provide OCR, for OCR's approval, a list of all reference checks for the Complainant received during the relevant time period and a description of the School's response. The School will also provide OCR, for OCR's approval, all documents relating to such reference checks.

REPORTING REQUIREMENT B: By December 31, 2018, the School will provide OCR with documentation that it has made the payments to the Complainant provided in Terms 6(b) and 6(c).

We previously determined that no further monitoring submissions are due for Term/Reporting Requirement 6(B) (addressing the payments to the Complainant in Terms 6(b) and 6(c)). With respect to Term/Reporting Requirement 6(A), the School provided its May 31 reporting as to one reference check that occurred during the relevant time period. Based on the information provided, OCR has determined that no further monitoring submissions are due for the May 31 reporting on Term/Reporting Requirement 6(B).

Conclusion

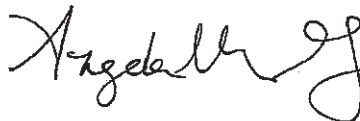
We look forward to hearing from you with additional monitoring reports as those reports come due.

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
Calley Herzog, Vice President, Stargate Governance Board
Bill Bethke & Tony Dyl, Kutz & Bethke LLC, counsel for Stargate School
Complainant