

## **Resolution Agreement**

### **Adams 12 Five Star Schools Case Number 08-14-1205**

In order to resolve the allegations in Case Number 08-14-1205, filed against Adams 12 Five Star Schools (the District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the District agrees to implement the following Resolution Agreement. The complaint was opened for investigation pursuant to allegations of the District's noncompliance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504), which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12131-65, and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability by public entities.

During the course of OCR's investigation, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

### **RESOLUTION ACTION**

1. The District shall draft revised Choice Program policies and procedures to make clear that all students with disabilities<sup>1</sup>, including significant support needs (SSN) students with disabilities, are eligible to participate in the District's Choice Program and that the Program will not treat these students or their parents or guardians differently unless necessary to provide the students a comparable opportunity to benefit from the Program. The revised policies and procedures must include the following:
  - a. Notice that all students with disabilities, including significant support needs (SSN) students with disabilities, are eligible to participate in the District's Choice Program, which is operated through a lottery system.
  - b. Notice that, to the extent that determining the needs of a student with a disability can take longer, the District will hold the student's space obtained through the District's Choice Program lottery while making an individualized determination regarding whether the student's Choice school is able to meet the student's needs.

---

<sup>1</sup> As used in this Resolution Agreement, "students with disabilities" includes students with Individualized Education Programs and students with Section 504 Plans. Students who do not have disabilities are referred to as "other students."

- c. Notice that, for students with disabilities who have been granted a Choice school under the District’s Choice Program lottery, the District will not revoke the Choice school award based on disability category, but may revoke the Choice award if a group of persons consistent with 34 C.F.R. Section 104.35(c), such as the student’s Individualized Education Program (IEP) Team or Section 504 Plan Team appropriately determines that the child’s individualized needs cannot be met at the Choice school.
- d. The list of Choice schools identifying schools with Choice Program spaces shall also include a list of which, if any, of the District’s center-based programs have available Choice Program spaces.

REPORTING REQUIREMENT 1: Within 60 days<sup>2</sup> from the date this Agreement is signed by the District, the District will provide OCR a copy of its revised Choice Program policies and procedures for OCR’s review and approval.

- 2. The District will consider and respond to any feedback from OCR with respect to the draft revised Choice Program policies and procedures. After obtaining OCR’s approval, the District will immediately implement the revised Choice Program policies and procedures.

REPORTING REQUIREMENT 2: By October 1, 2015, the District will provide documentation establishing the District’s compliance with its revised and approved policies and procedures. The documentation must include the following:

- a. A list of schools open to the Choice Program for each Choice Program application period. The list will specify which, if any, of the District’s center-based programs had available Choice Program spaces.
- b. Data specifying the following for each Choice Program application period:
  - i. The total number of Choice Program applications received from students with disabilities and from other students.
  - ii. The total number of Choice Program applications that were granted for students with disabilities and for other students for the students’ first choice schools.
  - iii. The total number of Choice Program applications that were granted for students with disabilities and for other students for the students’ second choice schools.
  - iv. The total number of Choice Program applications that were granted for students with disabilities and for other students for the students’ third choice schools.

---

<sup>2</sup> All timeframes are expressed as calendar days.

- v. The total number of Choice Program applications that were granted for students with disabilities and for other students for the students' fourth choice schools.
  - vi. The total number of Choice Program applications that were denied for students with disabilities and for other students.
  - vii. If the District's center-based programs have spaces available through the Choice Program, the following data must also be submitted:
    - a. A copy of each student's application to a center-based program through the Choice Program.
    - b. Identify the student's disability if that information is not included on the application.
    - c. Whether the student was offered a space at a center-based program through the Choice Program.
    - d. Whether the student actually enrolled.
    - e. If the student was not offered a center-based program space through the Choice Program, a description of the reasons for not offering enrollment and documentation supporting the District's reasons.
3. The District will develop training materials for all appropriate administrators and staff members regarding the District's revised Choice Program policies and procedures.

**REPORTING REQUIREMENT 3:** Within 60 days from the date of OCR's approval of the revised Choice Program policies and procedures, the District will submit to OCR for review and approval (1) the qualifications of the person who will provide the training; and (2) the proposed training agenda and training materials.

4. The District will consider and respond to any feedback from OCR with respect to the qualifications of the person who will provide the training and the proposed training agenda and training materials. After obtaining OCR's approval of the trainer and training materials, the District will provide training to all appropriate administrators and staff members, including Choice Program administrators and Student Support Services administrators.

**REPORTING REQUIREMENT 4:** Within 60 days from the date of OCR's approval of the trainer and training materials, the District will provide documentation that it has provided training to all appropriate administrators and staff members. The documentation will include sign-in sheets documenting that the District's administrators and staff members attended the training.

5. Establish an annual training schedule regarding the revised Choice Program policies and procedures.

REPORTING REQUIREMENT 5: The District will submit the proposed annual training schedule to OCR within 30 days after completing the first training on the Choice Program policies and procedures.

6. If the District anticipates that there will be a space through the Choice Program at XXX for the 2015 – 2016 School Year (SY), then the District will notify the Complainant in advance of the official Choice Program application period, and give priority to the Complainant's application if XXX requests a space through the Choice Program at XXX.

REPORTING REQUIREMENT 6: As soon as the District determines that there will be an anticipated space through the Choice Program at XXX for the 2015 – 2016 SY, and no later than June 30, 2015, the District will submit documentation regarding the anticipated space. The documentation will include the District's communications to the Complainant regarding the anticipated space.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. Sections 104.4(a) and (b)(iv), and Section 104.35(c), and Title II, at 28 C.F.R. Sections 35.130(a) and (b)(1)(iii), which were at issue in this case.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of the Agreement, if necessary, OCR may visit the District, interview District employees, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. Sections 104.4(a) and (b)(iv), and Section 104.35(c), and Title II, at 28 C.F.R. Sections 35.130(a) and (b)(1)(iii), which were at issue in this case.

When OCR determines that the District has fulfilled all of the terms of this Agreement, OCR will close Case Number 08-14-1205 and will send a letter to the District stating that Case Number 08-14-1205 is closed.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. Sections 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of 60 calendar days to cure the alleged breach.

The person signing for the District represents that he is authorized to bind the District to this Agreement. This Agreement becomes effective the date of the signature below.

For Adams 12 Five Star Schools:

\_\_\_\_\_/s/\_\_\_\_\_  
Christopher E. Gdowski  
Superintendent

\_\_\_\_10/24/2014\_\_\_\_\_  
Date