

Resolution Agreement
Adams County School District 12 and XXXX
OCR Case Number 08-17-1155

In order to resolve the open allegations in Case Number 08-17-1155, filed against Adams County School District 12 (“the District”) and XXXX (“the School”), with the Office for Civil Rights (OCR) of the U.S. Department of Education, pursuant to Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. part 104, Title II of the Americans with Disabilities Act of 1990 (“Title II”), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, and Title VI of the Civil Rights Act of 1964 (“Title VI”), 42 U.S.C. § 2000d, and its implementing regulation at 34 C.F.R. part 100, the District and the School (collectively, “the Recipients”) agree to implement the following Resolution Agreement terms.

Term I: School Staff Training

- A. 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, at a minimum, all administrators, teachers, counselors, nurses, psychologists, and other special education staff at the School about: non-discrimination in the administration of student discipline under Title VI; and disability discrimination and a free appropriate public education, including, at a minimum on the following topics:
 - a. “Child Find;”
 - b. Evaluations;
 - c. Eligibility;
 - d. Placement;
 - e. Implementation of IEPs and Section 504 plans;
 - f. Manifestation determinations; and
 - g. The names and titles (or positions) of designated individuals to whom parents/guardians and staff should refer students for possible evaluation, and the process for making the referral in writing.
 - ii. The name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to staff.
- B. 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 staff at the School identified in Term I(A) of this Agreement.
- C. Within thirty (30) calendar days of the training being provided to staff at the School, 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 in full;
- iii. The agenda and materials from the training;
- iv. The names and titles of all staff who attended the training, and a copy of the sign-in sheet; and
- v. The name(s) and title(s) of all staff who did not attend the training, an explanation for each person's absence, and a plan to train each person.

Term II: Communication to School Staff

- A. Within sixty (60) calendar days of this Agreement being signed, the School will submit to OCR for review and approval a draft memo (or similar document) to be sent to all School staff reminding them of the School's obligations under Section 504, Title II, and Title VI, including, at a minimum:
 - i. "Child Find;"
 - ii. Evaluations;
 - iii. Eligibility;
 - iv. Placement;
 - v. Implementation of IEPs and Section 504 plans;
 - vi. Manifestation determinations; and
 - vii. Non-discrimination in the administration of student discipline, including the prohibition of different treatment on the basis of race, color, and national origin.

The memo will also include the names and titles (or positions) of designated individuals to whom parents/guardians and staff should refer students for possible evaluation, and the process for making the referral in writing. The memo will also explain that teachers are to refer current students whom a teacher believes or a parent has requested that a student should be referred for a special education evaluation.

- B. Within thirty (30) calendar days of receiving OCR's final approval of the memo, the School's Executive Director will send the memo to all School staff.
- C. Within thirty (30) calendar days of the School's Executive Director sending the memo to all School staff, the School will provide to OCR:
 - i. A copy of the final memo that was sent to all School staff; and
 - ii. Documentation showing that the memo was sent to all School staff (*e.g.*, an email showing the "To" line or read receipts).

Term III: On-Going Monitoring

- A. By January 31, 2018, the School will provide to OCR a report on all special education referrals (including both oral and written referrals, and referrals from both parents/guardians and staff) for evaluations made between July 15, 2017 and December 31, 2017. The report will include, at a minimum, for each referral:

- i. A copy of the referral (including the date of the referral) and any supporting documentation;
 - ii. A copy of records reflecting the decision about whether to evaluate the student for possible special education placement, the rationale for the decision, and who made the decision;
 - iii. A copy of the notice to the student's parent/guardian of the decision about whether to evaluate the student; and
 - iv. If the decision was made to evaluate the student, the date(s) that the evaluation was conducted.
- B. The School will promptly and fully address feedback from OCR.
- C. By June 30, 2018, the School will provide to OCR a report on all referrals for special education evaluations made between January 1, 2018 and May 31, 2018. The report will, at a minimum, include the content detailed in Term III(A) of this Agreement.
- D. The School will promptly and fully address feedback from OCR.

Term IV: Compensatory Services

- A. Within thirty (30) calendar days of this Agreement being signed, the School will convene the Student's IEP Team to determine whether the Student is entitled to compensatory services, including educational, social, or emotional, as a result of the Student not receiving special education or related services during the 2016-2017 school year. In discussing possible compensatory services, the Team will consider, but its considerations are not limited to, the following issues: the School's failure to evaluate the Student in a timely manner, the School's failure to follow placement procedures that are mandated by Section 504 (including the failure to conduct a manifestation determination), and the School's exclusion of the Student.
- i. If the Team decides that the Student is entitled to compensatory services, the Team will then determine the type of services and number of hours of services, and develop a written plan for providing, within six months, those compensatory services to the Student. The School will promptly notify the Student's parents, in writing, of the compensatory services being offered, at no cost to the Student's parents, and the proposed, prompt initiation date of such services.

The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. §§ 104.35 and 104.36. The School will ensure that: (a) any decisions reflect the judgment of the Team and not the judgment of a single individual; (b) the Student's parents are invited to the meeting; (c) the Student's parents are permitted to invite persons knowledgeable about the child to attend the meeting; (d) the Team carefully considers all information provided by the Student's parents and their invitees; and (e) the Team includes School employees who have knowledge of the matters being considered by the Team.

- B. Within thirty (30) calendar days of the meeting described in Part IV(A), the School will submit documentation to OCR that includes the following:
- i. A list of the individuals who attended the meeting, and each individual's name, title or position, and role in the meeting;
 - ii. Documentation of the School's invitation to the parents to attend the meeting and provide their input;
 - iii. A copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;
 - iv. Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
 - v. Documentation of the Team's decisions regarding the type and number of hours of compensatory services that are appropriate for the Student and the bases for those decisions;
 - vi. A plan for the prompt provision of compensatory services to the Student at no cost to the parents;
 - i. Documentation that the Student's parents were notified, in writing, of the compensatory services offered by the School; and
 - ii. Documentation that the School provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II.
- C. After OCR has reviewed and accepted the determinations of the IEP Team, the School will take steps to implement the compensatory services, if any, agreed upon by the IEP Team.¹
- D. Within six (6) months of the meeting, the School will submit documentation to OCR demonstrating that all of the compensatory services, if any as determined by the Team, have been provided to the Student.

The Recipients understand that OCR will not close the monitoring of this Agreement until OCR determines that the Recipients have fulfilled the terms of this Agreement and are in compliance with the regulations implementing Title VI, Section 504, and Title II, which were at issue in this case.

The Recipients understand that by signing this Agreement, they agree to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the Recipients understand that during the monitoring of the Agreement, if necessary, OCR may visit the District or the School, interview employees and students of the Recipients, and request such additional reports or data as are necessary for OCR to determine whether the Recipients have fulfilled the terms of this Agreement and are in compliance with the regulations implementing Title VI, Section 504, and Title II, which were at issue in this case.

¹ Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP Team that is properly constituted and that takes appropriate actions in light of the requirements of due process.

The Recipients understand and acknowledge 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. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the Recipients written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

For Adams County School District 12:

/s/ _____
Chris Gdowski, Superintendent

7/7/17 _____
Date

For XXXX:

/s/ _____
XXXX XXXX, XXXX

7/6/17 _____
Date