

RESOLUTION AGREEMENT
Adams County School District 12 and Stargate School
OCR Case Number 08-18-1235

Adams County School District 12 (“District”) and Stargate School (“School”), collectively “Recipients,” enter into this Agreement to resolve the allegations in the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the Recipients. The Recipients assure the Office for Civil Rights (OCR) that they will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (“Section 504”), as amended, 29 United States Code (U.S.C.) Section 794, and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 104, and Title II of the Americans with Disabilities Act of 1990 (“Title II”), 42 U.S.C. Section 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

I. Tracking Systems

- a. Within forty-five (45) calendar days of this Agreement being signed, the School will submit to OCR for review a plan to track the provision of special education, related services, and accommodations for students with disabilities. The plan will:
 - i. specify that tracking will be mandatory;
 - ii. specify the individuals responsible for tracking;
 - iii. include standardized forms;¹ and
 - iv. address records retention for a period of no less than three years.
- b. Within forty-five (45) calendar days of this Agreement being signed, the School will submit to OCR for review a plan to track restraints of students with disabilities. The tracking system will include standardized forms, address records retention for a period of no less than three years, and include the following information for each restraint of a student with a disability:
 - i. the student’s first and last name;
 - ii. the student’s grade;
 - iii. the location of the restraint;
 - iv. a description of how the restraint was conducted;
 - v. the start and end times of the restraint;
 - vi. staff involved in the restraint;
 - vii. de-escalation strategies used, if any, before the restraint;
 - viii. whether the student was injured during the restraint, and if so, the nature of the injury;
 - ix. the date and time that the student’s parent or guardian was notified of the restraint; and
 - x. follow-up actions taken.²
- c. The School will promptly and fully address OCR’s feedback, if any, until the School receives OCR’s final approval of the plans.

¹ The forms may be in hard copy format and/or electronic format.

² *e.g.*, Convening an IEP team meeting to review and revise, as necessary, the student’s BIP.

II. Memo to Staff

- a. Within thirty (30) calendar days receiving OCR's final approval of the plans pursuant to Term I, the School will submit to OCR for review a draft memo to all School staff.³ The memo will include, at a minimum:
 - i. copies and summaries of the plans approved pursuant to Term I;
 - ii. a copy and summary of the School's restraint policy and/or regulation;
 - iii. Section 504's/Title II's requirements related to restraints of students with disabilities;⁴
 - iv. the School's legal obligation to provide qualified students with disabilities a free appropriate public education (FAPE);⁵
 - v. the School's legal obligation to fully implement students' Section 504 plans and individualized education programs (IEPs);
 - vi. the name(s), title(s) or position(s), phone number(s), and email address(es) for staff designated to respond to questions and concerns.⁶
- b. The School will promptly and fully address OCR's feedback, if any, until the School receives OCR's final approval of the memo.
- c. Prior to August 15, 2018,⁷ the School will disseminate the approved memo to all School staff.
- d. Within fifteen (15) calendar days of disseminating the memo pursuant to Term II(c), the School will submit to OCR documentation showing that it fulfilled Term II(c).⁸

III. Compensatory Services

- a. Within seventy-five (75) 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 as a result of the School's failure to implement the Student's Section 504 plan and IEP during the 2017-2018 school year. If the Team decides that the Student is entitled to compensatory services, the Team will then determine the type(s) and amount(s) of services, and develop a written plan for providing 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 consistent with the procedural requirements of 34 C.F.R. Sections 104.35-36. The School will ensure that:
 - i. any decisions reflect the judgment of the Team and not the judgment of a single individual;

³ The School will solicit and consider feedback from the District prior to submitting the draft memo to OCR.

⁴ See U.S. Dept. of Educ., Office for Civ. Rights, *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities*, Dec. 28, 2016, available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>; U.S. Dept. of Educ., Office for Civ. Rights, *Fact Sheet: Restraint and Seclusion of Students with Disabilities*, Dec. 2016, available at <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>.

⁵ See 34 C.F.R. Section 104.33.

⁶ See 34 C.F.R. Section 104.7(a).

⁷ August 15-16, 2018 are the first days of the 2018-2019 school year for students.

⁸ *e.g.*, Emails showing the recipients and a document with signatures from staff attesting to their receipt of the memo

- ii. the Complainant is invited to the meeting;
 - iii. the Complainant is permitted to invite persons knowledgeable about the child to attend the meeting;
 - iv. the Team carefully considers all information provided by the Complainant and her invitees; and
 - v. 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 III(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 Complainant to attend the meeting and provide her input;
 - iii. a copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services were appropriate for the Student;
 - iv. notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
 - v. documentation that the School provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II; and
 - vi. if the team decided that compensatory services are owed:
 - 1. 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;
 - 2. a plan for the prompt provision of compensatory services to the Student at no cost to the Student's parents; and
 - 3. documentation that the Complainant was notified, in writing, of the compensatory services offered by the School.
- c. After OCR has reviewed and accepted the determinations of the IEP Team,⁹ the School will take steps to implement the compensatory services, if any, agreed upon by the IEP team.
- d. By January 31, 2019, the School will submit documentation to OCR demonstrating that all of the compensatory services, if any, as determined by the IEP team, have been provided to the Student.¹⁰

IV. Ongoing Monitoring

- a. By January 31, 2019, the School will submit to OCR a report about the Student – covering the time period of August 15, 2018 to December 21, 2018 – that includes:
 - i. the special education, related services, and accommodations specified in the Student's IEP and/or Section 504 plan;

⁹ 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.

¹⁰ This case will remain in monitoring until all compensatory services (if any) have been provided, or until the School provides an acceptable explanation for why the services cannot be provided.

- ii. copies of the tracking forms for the special education, related services, and accommodations provided to the Student; and
 - iii. copies of the tracking forms, if any, for restraints of the Student.
- b. The School will promptly and fully respond to OCR’s concerns, if any, until OCR considers them resolved.

The Recipients 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 will give the Recipients written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The Recipients understand that by signing this Agreement, they agree to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement.¹¹ Further, the Recipients understands that, during the monitoring of this Agreement, if necessary, OCR may visit the District or School, interview staff and students, 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 Section 504, and its implementing regulation, at 34 C.F.R. Section 104.4, and Title II, and its implementing regulation, at 28 C.F.R. Section 35.149. Upon completion of the obligations under this Agreement, OCR will close this case.

For Adams County School District 12:

/s/ _____
Chris Gdowski, Superintendent

June 14, 2018 _____
Date

For Stargate School:

/s/ _____
Josh Cochran, Executive Director

June 13, 2018 _____
Date

¹¹ The School will provide to the District a copy of each of its monitoring reports to OCR and notice of its proposed actions in accordance with this Agreement.