

**Voluntary Resolution Agreement  
Adams 12 Five Star Schools  
OCR Case No. 08-23-1251**

The United States Department of Education (Department), Office for Civil Rights (OCR), initiated investigation of the above-referenced complaint against Adams 12 Five Star Schools (District), pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504), and Title II of the Americans with Disabilities Act of 1990, and its implementing regulation at 28 C.F.R. Part 35 (Title II).

Before OCR had completed its investigation, the District indicated its willingness to resolve the complaint voluntarily and take steps to ensure compliance with Section 504 and Title II. Pursuant to Sections 302 of OCR's *Case Processing Manual*, a complaint may be resolved when a recipient expresses an interest in resolving the allegations before the conclusion of OCR's investigation, and OCR determines that it is appropriate to resolve them because OCR's investigation has identified compliance concerns that can be addressed through a resolution agreement. Those concerns pertained to the District's practices for implementing IEPs at [redacted content] (School) during the 2022-23 school year. The District disagrees with OCR's concerns.

Accordingly, to resolve the compliance concerns that OCR has identified to date in this investigation, the District voluntarily agrees to take the following actions. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District.

**Audit**

1. The District will convene a team, which must include, at a minimum, a District representative, the School's Coordinator, two of the School's affective needs teachers, and all related service providers (i.e., speech language pathologists, social workers, and occupational therapists) and itinerant staff (i.e., English Language Development (ELD) teachers) who provided direct services to students at the School during the 2022-23 school year and are still employed by the District, to review the IEPs of all students who attended the School during the 2022-23 school year against the schedules of the students, service providers, and teachers to determine which, if any, students did not receive all the special education and related services required by their IEPs while a student at the School during the 2022-23 school year.<sup>1</sup>

**REPORTING REQUIREMENT 1: Within 60 calendar days of signing this Agreement**, the District will provide to OCR documentation demonstrating the completion of Term 1. The documentation should include, at a minimum: a) the participants of the team convened pursuant to Term 1; b) the date(s) and time(s) the team met; c) a list of students the team determined did not receive all the special education and related services required by their IEPs during the 2022-23 school year with identification of the special education and related services that were not

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<sup>1</sup> The ELD teachers may be excused from the team meetings after all students who attended the School during the 2022-23 school year and received ELD services have been discussed.

consistently or fully provided; and (d) a copy of all documentation reviewed (i.e., relevant IEPs and schedules) for the students the team determined have received all the special education and related services in their IEPs. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the list of students not receiving all special education and related services required by their IEPs while a student at the School during the 2022-23 school year has been approved.

### Compensatory Education

2. The District will convene IEP team meetings for all students who attended the School during the 2022-23 school year who were identified pursuant to Term 1 as not having received all the special education and related services required by their IEPs while a student at the School during the 2022-23 school year. The students' IEP teams must consider and discuss whether compensatory services are needed by the student as a remedy for the special education and related services not provided during the 2022-23 school year and, if so, develop a compensatory education plan for the student that specifies the type of services to be provided to the student, the manner in which the services will be provided, when the services will be provided, the individuals responsible for providing the services, and the length of time the services will be provided.<sup>2</sup>

**REPORTING REQUIREMENT 2A: Within 90 calendar days of OCR's approval of the list of students required by Term 1**, the District will provide OCR with a copy of all compensatory education plans developed pursuant to Term 2 and the IEPs in effect during the 2022-23 school year for those students for whom compensatory education plans are developed. For all students for whom the IEP teams determine compensatory services are not needed, the District will provide documentation explaining the basis for the team's decision. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the compensatory education plans have been approved.

**REPORTING REQUIREMENT 2B: The District will provide OCR with documentation demonstrating the provision of the services in the students' compensatory education plans developed pursuant to Term 2 within 90 calendar days of OCR's approval of the compensatory education plans and every 90 calendar days thereafter, until the District has completed providing all the services set forth in the compensatory education plans.**

### Training

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<sup>2</sup> Except in extraordinary circumstances, OCR does not review the results of individual placement and other educational decisions made by a group that is appropriately constituted so long as the procedural requirements of the Section 504 regulations are met. In the event that OCR has concerns the group has proposed compensatory services or remedial actions that are clearly insufficient to provide equitable relief to a student(s), OCR will notify the District of its concerns, and the District will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

3. The District will draft for OCR’s review and approval training materials for School administrators, teachers (including ELD teachers), and special education staff; related service providers who currently provide services to students at the School; and any other staff the District deems appropriate. The training materials shall address, at a minimum, the following topics and include a training document addressing these topics that will be provided to participants:<sup>3</sup>
  - a. the District’s obligations under Section 504 and Title II to fully and consistently implement students’ Individualized Education Programs (IEPs) and Section 504 plans;
  - b. a statement that the failure to implement a student’s IEP or Section 504 plan may be a violation of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act of 1990 (Title II);
  - c. identification of the administrator(s) and/or staff responsible for ensuring that students’ IEPs are implemented consistently and with fidelity and a general description of how that will be done;
  - d. the District’s obligations to re-evaluate a student before taking any action that constitutes a significant change in placement;
  - e. a statement that each special education and related service listed in a student’s IEP must be separately implemented (i.e., specialized instruction in behavior minutes are distinct from mental health services minutes) unless the IEP team specifically provides otherwise in the IEP;
  - f. how to schedule pull-out services for students at the School (i.e., what factors to consider, documents to review, and who to consult when scheduling);
  - g. the scope of work that constitutes “specialized instruction in behavior”;
  - h. whether crisis intervention and de-escalation of a student is considered “mental health services”;
  - i. whether group mental health services can be provided to students whose IEPs do not specify that mental health services can be provided in a group format in addition to 1:1;
  - j. whether related services should be rescheduled in the event of a provider absence and the timeframe for doing so; and
  - k. whether related services should be rescheduled if they are missed due to a behavior incident at the School.

**REPORTING REQUIREMENT 3A: Within 30 calendar days of signing this Agreement**, the District will provide for OCR’s review and approval plans for the training described in Term 3. This staff training plan will include a copy of draft training materials, including the training document that will be provided to participants, and the names and qualifications of the trainer(s) the District proposes to use to fulfill Agreement Term 3. The District agrees to fully and promptly respond to

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<sup>3</sup> The training document can be in any format, such as a memorandum or a copy of the training presentation slides, so long as it addresses the listed topics.

OCR's concerns, if any, until OCR notifies the District that its training materials and proposed trainer(s) are approved.

**REPORTING REQUIREMENT 3B: Within 60 calendar days of OCR's approval of the training plan and trainer(s) required by Term 3,** the District will provide OCR with documentation that demonstrates that the training has been completed.

This documentation will include, but is not limited to, the date(s) of the training, the training materials used, the training document(s) disseminated to participants, and a list of all training participants. If any required staff are absent from the training, please identify the employee(s) and provide a plan to ensure that the individual(s) are trained.

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 this Agreement, if necessary, OCR may visit the District, interview staff and students, 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 and Title II, which were at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement and dismiss the case until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II.

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

This Agreement will become effective immediately upon the signature of the District's representative below.

For District:

/s/

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8/23/23

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Date