

RESOLUTION AGREEMENT
East Austin College Prep
OCR Complaint No. 06141464

East Austin College Prep (EACP) in Austin, Texas, agrees to take the following actions to implement this Resolution Agreement (Agreement) to resolve this complaint, which was opened for investigation by the U. S. Department of Education (Department), Office for Civil Rights, (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulations at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulations at 28 C.F.R. Part 35. EACP is committed to complying fully with Section 504 and Title II, and, accordingly, it has voluntarily agreed to take the steps outlined in this Agreement.

1. EACP will revise its Section 504¹ Operational Guidelines regarding discipline to reflect that if a Section 504 committee conducting an evaluation of a student eligible for services under Section 504 prior to the student’s significant change in placement (hereinafter referred to as a “manifestation determination”) determines that the student’s misconduct is a manifestation of the student’s disabling condition, the group must continue the evaluation, determine whether the student’s educational placement is appropriate and what, if any, modifications to that placement are necessary.

REPORTING REQUIREMENT 1: By **January 9, 2014**, EACP will submit to OCR for review and approval its revised Section 504 Operational Guidelines as specified in Action Item 1.

2. **Within 30 calendar days** of EACP’s receipt of the OCR’s approval of the revised Section 504 Operational Guidelines described in Action Item 1, EACP will formally adopt the OCR-approved procedures.

REPORTING REQUIREMENT 2: **Within 15 calendar days** of EACP’s formal adoption of its OCR-approved Section 504 Operational Guidelines, EACP will submit to OCR documentation evidencing completion of Action Item 2.

3. EACP will immediately suspend use of its MLK campus “last chance” contract unless and until it is revised, with OCR review and approval, to reflect that students eligible for services under Section 504 or the Individuals with Disabilities Education Act (IDEA) will not be subjected to forced or imposed withdrawal, or any other significant change in placement, without EACP first conducting a manifestation determination as required by EACP policy that is legally consistent with Section 504 requirements. .

REPORTING REQUIREMENT 3: By **December 19, 2014**, EACP will report to OCR whether it intends to continue use of a “last chance” contract, and if so, provide to OCR a copy of the modified contract for OCR’s review and approval.

¹ The Agreement uses Section 504 for brevity purposes, however, the regulatory requirements are also applicable under Title II.

4. **Within 30 calendar days** of EACP's receipt of the OCR's approval of the revised Section 504 Operational Guidelines described in Action Item 1, EACP will provide training regarding its Section 504 Policies and Procedures to its Section 504/Title II Coordinator(s) and any EACP personnel who administer disciplinary sanctions (e.g., principals and assistant principals) to students at both the MLK and Jain Lane campuses. The training will be conducted by an individual knowledgeable about the laws and issues pertaining to the evaluation of students who are or are believed to be disabled and the discipline of students with disabilities. The training shall address, at a minimum:

- EACP's policies and procedures for carrying out its responsibilities under Section 504 and Title II to provide a free appropriate public education to each qualified disabled person who is within EACP's jurisdiction, regardless of the nature or severity of the person's disability;
- EACP staff members' obligation to fully implement any individualized education program that has been developed for a qualified student with a disability;
- EACP policies and procedures for carrying out its responsibility to evaluate or re-evaluate a student pursuant to Section 504, at 34 C.F.R. § 104.35;
- EACP's obligation, when disciplining a student with a disability, to make a manifestation determination prior to imposing any discipline that could constitute a significant change in the student's educational placement; and
- EACP's obligation to provide the student's parent(s) or guardian(s) the procedural protections to which they are entitled under Section 504, at 34 C.F.R. § 104.36; that is, a system of procedural safeguards that includes notice, an opportunity for the parent(s) or guardian(s) to examine relevant records, an impartial hearing (with opportunity for participation by the student's parent(s) or guardian(s) and representation by counsel), and a review procedure.
- The importance of record-keeping in documenting and monitoring compliance with the FAPE requirements of Section 504, including, but not limited to, records regarding evaluation and placement of students, provision of disability-related services, and manifestation determinations conducted pursuant to Section 504.

REPORTING REQUIREMENT 4: Within 15 calendar days of completing the training in Action Item 4, EACP will provide documentation to OCR evidencing that the training was conducted, including the identity of the individual(s) who provided the training and the individual's qualifications, along with a copy of the materials used in such training and sign-in sheet(s) or other documentation showing the individuals who attended the training.

5. EACP will review its records to determine whether, during the 2013-2014 school year, any student identified as eligible for services under Section 504 or the IDEA was (1) withdrawn from the MLK campus as a result of a disciplinary hearing held regarding the student's failure to comply with a "last chance" contract, and (2) the withdrawal was completed prior to the EACP conducting a manifestation determination, or if a manifestation hearing was conducted, the committee concluded that the conduct was a manifestation of the student's disabling condition. If any such student is identified, EACP will send the student's legal guardian a letter via regular mail and certified mail, return receipt requested, inviting the

student to re-enroll and informing the guardian that upon re-enrollment, the EACP will conduct an evaluation of the Student pursuant to Section 504, at 34 C.F.R. § 104.35.

REPORTING REQUIREMENT 5: By **January 9, 2014**, EACP will submit to OCR documentation evidencing completion of Action Item 4, including a written statement listing the names of any students identified in response to the inquiry completed in connection with Action Item 5 and copies of the certified letters mailed in connection with Action Item 5, if any.

6. If any student accepts the EACP's invitation to re-enroll in connection with Action Item 5, the EACP will conduct the Section 504 evaluation **within thirty (30) calendar days** of the student's re-enrollment. Pursuant to Section 504, at 34 C.F.R. § 104.35, the evaluation should be conducted by a group of persons who are knowledgeable about the student, the meaning of the evaluation data, and placement options within the EACP, and based on the evaluation, the EACP will determine whether the student's misconduct that resulted in an imposed withdrawal from the MLK campus was a manifestation of the student's disabilities, and, if so, whether the student's educational placement is appropriate and what, if any, modifications to that placement are necessary. EACP will also consider whether any compensatory measures should be provided to the student and whether any portion of the student's disciplinary record should be expunged in light of the manifestation determination.

REPORTING REQUIREMENT 6: (a) **Within 15 calendar days** of any evaluation conducted pursuant to Action Item 6, EACP will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing compensatory and/or remedial services, if any, to the student. OCR will, prior to approving EACP's decision and plan for providing the proposed services, review the documentation to ensure that EACP met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

(b) **Within 15 calendar days** of the completion of any compensatory and/or remedial services provided under Action Item 6, EACP will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

(c) If by September 15, 2015, no student has accepted the EACP's invitation to re-enroll under Action Item 5, EACP will notify OCR of that fact by **September 30, 2015**, and EACP will have no further obligation to report to OCR regarding Action Item 6.

EACP agrees to comply with the terms of this Agreement until OCR has released it from monitoring. EACP understands that OCR will not close the monitoring of this Agreement until it determines that EACP has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II as noted above, which are applicable to this complaint.

EACP further 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, EACP understands that during the monitoring of this Agreement, OCR may visit EACP, interview staff and students, and request such additional reports or data as are necessary for OCR

to determine whether EACP has complied with the terms of this Agreement and regulations implementing Section 504 and Title II as noted above.

Finally, EACP 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. §§100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give EACP written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Dr. Salvador Cavazos, Superintendent
East Austin College Prep

Date