

**Resolution Agreement  
East China School District  
OCR Docket No. 15-14-1193**

The East China School District (the District) submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of resolving the above-referenced complaint and ensuring compliance with 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, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, as amended by the Americans with Disabilities Amendments Act of 2008 (ADAAA). The District agrees to implement the actions described below.

**A. ACTION STEPS – Student Remedies**

1. By xxxxx, the District will send the parents of the student at issue in this complaint (the Student) a certified letter notifying the Student's parents that, xxxxx school year, the District will convene the Section 504 or Individualized Education Program (IEP) team (Team), including the Student's parents, to determine whether the Student has a mental or physical impairment that substantially limits one or more major life activities, and whether, as a result of such mental or physical impairment, he is entitled to receive a free appropriate public education (FAPE) under Section 504. The letter will state that the evaluation will consider, but is not limited to, evaluation for xxxxx.

The letter will further state that, should the Team determine that the Student is eligible for services under Section 504, it will then convene with the Student's parents to determine what compensatory education or other remedial services the Student required for the xxxxx school year. The Team will develop a written plan for providing the Student with the compensatory education or other remedial services deemed necessary, and the plan will identify the nature and amount of the services to be provided at no cost to the Student's parents, by whom, and when, and will become part of the Student's Section 504 plan or IEP. The District will provide the Student's parents with a meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree.

Finally, the letter should note that while the Student may xxxxx the Student within 60 days of the date of the letter in order to access the possibility of compensatory education as described above.

2. If the Student's parents xxxxx school year, the District will within five school days xxxxx provide the Student's parents or guardians notice of a proposed date to reconvene a Section 504 or IEP meeting and an opportunity to participate, or otherwise provide meaningful input into the evaluation process for the Student. The notice will be

accompanied by the relevant forms necessary, if any, to be completed by the Student's parent(s) to begin the evaluation process and will explain to whom the forms should be returned.

3. The District will convene a Section 504 or IEP meeting within two weeks of the student's xxxxx to initiate the evaluation and placement process, which will include consideration of compensatory education as described above.

**REPORTING REQUIREMENTS:** If the Student's parents xxxxx within 60 days of the District's letter sent pursuant to Action Step A1 above, By xxxxx, the District will provide OCR with documentation showing implementation of Action Steps A1-A3 above, including: including a copy of the letter and forms sent to the Student's parents pursuant to Action Step A1, a copy of any meeting minutes, a copy of any plan developed for the Student, documentation of any input provided by the Student's parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached in accordance with Action Step A3 above. Should the District determine that no compensatory education or other remedial services were necessary, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District 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. By xxxxx, the District will provide documentation to OCR verifying that it provided the Student with the compensatory education the Team determined to be necessary, including the dates, times, and locations that the compensatory education or other remedial services were provided to the Student, including the name(s) and title(s) of the service provider(s).

Alternatively, if the Student's parents xxxxx school year within 60 days of the District's letter sent pursuant to Action Step A1 above, the District will provide OCR with a statement to that effect by xxxxx.

#### **B. ACTION STEPS – District-wide Remedies**

1. By xxxxx, the District will notify the District staff, students, parents, and guardians of the location of the District's current Section 504 Manual<sup>1</sup> adopted by the Board of Education and where a copy may be obtained by means that are designed to reach each student, parent, and guardian. Such means could include placing a notification in any regularly issued District newsletters or bulletins or sending a notice or a copy of the policies and procedures home with each student.
2. By xxxxx, the District will provide a copy of the Section 504 Manual to all administrators (including Section 504 Coordinators, the Special Education Director, principals, and assistant principals), teachers and any other District staff responsible for the identification, evaluation, and placement of students that have or are suspected of having

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<sup>1</sup> East China School District-Section 504 Manual for Identifying and Serving Eligible Students – Policies, Guidelines, and Forms

a disability under Section 504, or who play any role in implementing students' Section 504 plans or IEPs.

3. By xxxxx, the District will provide training by a competent authority on Section 504 on the District's obligations to students with disabilities under Section 504 and the District policies and procedures to all District administrators, teachers and staff. The training will include specific information on how to recognize, and identify for referral for evaluation, students with medical diagnoses such as Attention Deficit Disorders/Attention Deficit Hyperactivity Disorder (ADD/ADHD). In addition, the District will ensure that training covers, at minimum:
  - how evaluation requests and referrals can be made to the District;
  - how to identify requests for evaluations where the specific language is not used;
  - to whom requests and referrals should be made;
  - staff responsibilities upon receiving an evaluation request or referral;
  - timeframes for processing the request or referral;
  - how parents/guardians will be notified of evaluation decisions and of how they can challenge a decision through requesting an impartial due process hearing;
  - the definition of disability under Section 504 that the District will use to determine eligibility for a free appropriate public education (FAPE), i.e., a physical or mental impairment that substantially limits one or more major life activities;
  - a non-exhaustive list of the major life activities that can be considered and clarification that the District's consideration cannot be limited to the major life activity of learning;
  - clarification that classroom management interventions including behavior support plans may be considered and used to provide interventions to students, but that these measure cannot be used to circumvent or delay the evaluation process for a student suspected of having a disability;
  - explanation that, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, the District will not consider the ameliorating effects of any mitigating measures that student is using, and that mitigating measures can include medication or classroom interventions;
  - explanation of how, if the student is evaluated for eligibility under the Individuals with Disabilities Education Improvement Act (IDEA) and is found ineligible under IDEA, the District will promptly proceed to use the evaluation data to make an eligibility determination under Section 504, without requiring the parent or guardian to make a special or additional request;
  - explanation that evaluations under Section 504 will be conducted by the District at no cost to the parent or guardian;
  - explanation that if the District determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to

make an appropriate evaluation consistent with 34 C.F.R. § 104.35(a) and (b), the District will ensure that the child receives this assessment at no cost to the parent or guardian, although, if alternative assessment methods meet the evaluation criteria, these methods may be used in lieu of a medical assessment; and

- explanation that, if the student is determined to have a physical or mental impairment that substantially limits one or more major life activities, he/she is entitled to a FAPE, which means the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student as adequately as the needs of nondisabled persons are met and that adhere to the requirements of the Section 504 regulation at 34 C.F.R. §§ 104.34-104.36 concerning educational setting, evaluation, placement, and procedural safeguards.
4. By xxxxx, the District will review all of its existing policies and procedures, including Administrative Guidelines, Bylaws/Policies, Employee and Student Handbook(s) and all other documents, that cover disability discrimination to ensure that they are consistent with the Section 504 Manual. Where inconsistencies are identified, the District will withdraw or revise those policies and procedures, so that all documents are consistent with the Section 504 Manual to the extent necessary to eliminate confusion for students and staff. This review will particularly address consistency in all references to the Section 504 evaluation and placement process, grievance procedures, and identification of Section 504 coordinator, among any other relevant issues.

**REPORTING REQUIREMENTS:** By xxxxx, the District will submit information to OCR documenting implementation of Action Steps B1-B3, including: a description of the means used to provide notice to students, parents, and guardians of the District's existing Section 504 Manual and copies of any notices issued; the link to the policies and procedures on the District's website; documentation that copies of the policies and procedures were distributed to appropriate staff; the date(s) of the training(s); a copy of the training agenda; copies of training materials used; the name, title, and qualifications of the person(s) who provided the training(s); and sign-in sheets showing the names and job titles of all persons who attended the training.

By xxxxx, the District will further certify that it has reviewed all of its existing policies and procedures that cover disability discrimination, pursuant to Action Step B4, and will provide OCR with a link to or a copy of any revised documents and a list of any documents that have been withdrawn as a result of its review.

### **General Requirements**

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 and Title II with respect to the issues addressed in this Agreement.

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 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 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 District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

/s/

10/21/14

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Superintendent or Designee

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Date