

## RESOLUTION AGREEMENT

### Denver Public School District Case Number 08-17-1174

In order to resolve the open allegations in Case No. 08-17-1174, filed against Denver Public School District (District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 Code of Federal Regulations Part 100 (Title VI); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and its implementing regulation at 34 C.F.R. part 104 (Section 504); and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-65, and its implementing regulation at 28 C.F.R. part 35 (Title II), the District agrees to take the actions outlined in this Resolution Agreement. The District's decision to enter into this agreement is not an admission of liability or wrongdoing, nor shall it be construed as such.

1. By June 2, 2017, the District will contact the Complainant regarding an offer for possible summer services regarding literacy. By June 2, 2017, the District will also reach out to the School to identify any other students in the Student's class who may need additional literacy support for the summer and make a similar offer to those students. By September 1, 2017, the District will convene an Individualized Education Program (IEP) team meeting and invite the Complainant, the Student, and the Student's mother to the meeting. The purpose of the meeting is to determine the amount and nature of compensatory services that the District will provide, or other remedial measures the District will take, to address the (1) alleged failure to timely and appropriately evaluate the Student for disability-related services, (2) alleged failure to properly implement the Student's transfer individualized education program (IEP) document dated August 22, 2016<sup>1</sup>, and (3) any reading-related or other academic or non-academic deficiencies incurred as a result of the Student's classroom assignment for the some or all of the 2016-2017 school year.

**REPORTING REQUIREMENT A:** By June 30, 2017, the District will provide OCR, for OCR's approval, documentation that these offers were made. The District will provide documentation of communications with Complainant and other students' parents regarding offers. The District will also provide documentation regarding any students not offered services, with explanation.

**REPORTING REQUIREMENT B:** Within 15 days after the meeting, the District will provide OCR, for OCR's approval, documentation that this meeting occurred, including but not limited to the invitation to the meeting and a copy of the meeting notes, and an explanation of the reasoning as to the IEP team's determination as to compensatory services and remedial measures. If the Complainant and/or the Student's mother decline the invitation to the meeting, the District shall provide OCR with the invitation to the meeting and any notes and records of communications with the Complainant and the Student's mother related to the meeting. The District will fully and promptly address any

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<sup>1</sup> Note that OCR is not sanctioning this document as one that complies with the non-discrimination laws that OCR enforces.

comments by OCR as to the proposal and will continue to modify the proposal or provide additional information until it receives final OCR approval.

**REPORTING REQUIREMENT C:** Within 30 days of OCR's approval of the proposed compensatory services and remedial measures, the District will provide documentation that it has provided or is in the process of providing the compensatory services and remedial measures. The District need not wait for OCR's approval to begin providing these services or measures, but OCR's approval shall be required for the services/measures to be deemed completed. For compensatory services and remedial measures that will occur over time, the District will submit documentation regarding the specific timelines for implementation, the person(s) responsible for providing services, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services and remedial measures are being provided as specified.

**REPORTING REQUIREMENT D:** By October 31, January 31, and May 31 of the 2017-2018 school year, the District will provide to OCR documentation of its efforts to implement the Student's IEP and any compensatory services or remedial measures, including but not limited to the specific timelines for implementation, the person(s) responsible for providing services, the person(s) responsible for overseeing full and timely implementation, and supporting documentation. Additionally, once all compensatory services and remedial measures have been provided in full, the District will provide documentation to OCR establishing this.

2. The District will issue a letter (Letter) to the parent(s)<sup>2</sup> of each student assigned to the Student's class for some or all of the 2016-2017 school year who still attends any school in the District. The Letter shall state that the District:
  - a. is prohibited from discriminating on the basis of race or disability;
  - b. has an affirmative obligation to timely identify and evaluate any child who might have a disability and need special education or related services;
  - c. is reviewing their child's class assignment for the 2016-2017 school year to ensure that the District did not discriminate on the basis of race or disability in that assignment;
  - d. will be contacting them to schedule a meeting to discuss that assignment, and any compensatory or remedial services needed to address any reading-related or other academic or non-academic deficiencies incurred as a result of that assignment, including whether the student will be evaluated for disability-related services; and
  - e. has identified a contact person, whose contact information shall be included in the Letter, that the parent may contact in the meantime to express their concerns, if any, with the assignment.

**REPORTING REQUIREMENT A:** Within 5 calendar days of the date of this Agreement, the District will provide OCR, for OCR's approval, a draft of the Letter. The District will fully and promptly address any comments by OCR and will continue to modify the Letter until it receives final OCR approval.

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<sup>2</sup> "Parent," as used in this Agreement, is defined as it is in 34 C.F.R. § 300.30.

**REPORTING REQUIREMENT B:** Within 7 calendar days of OCR's final approval of the Letter, the District will send the letter. Within 20 calendar days of OCR's final approval of the Letter, the District will provide OCR copy of the Letter, the names of all recipients, and documentation that the Letter was sent.

3. By September 30, 2017, the District will convene a meeting with the parent(s) of each student placed in the Student's classroom for some or all of the 2016-2017 school year who still attends any school in the District. The purpose of each meeting is to determine the amount and nature of compensatory services that the District will provide, or other remedial measures the District will take, to address any reading-related or other academic or non-academic deficiencies if incurred as a result of the student's classroom assignment for the some or all of the 2016-2017 school year. In addition:
  - a. For students who have not been identified as students with a disability, the meeting will include a discussion of whether the student will be evaluated for disability-related services, either by parent request or if the District has sufficient information to indicate that the student may have a disabling condition that requires special education or related services.
  - b. For students with an IEP or Section 504 Plan (Plan), the meeting shall also include a discussion of the student's IEP/Plan and any compensatory services to be provided, or other remedial measures to be taken, to address how the student's IEP/Plan was implemented during the 2016-2017 school year.

**REPORTING REQUIREMENT A:** By September 30, 2017, the District will provide OCR, for OCR's approval, (1) an explanation of any communications from the parent before the meeting to express concerns (pursuant to the Letter in Term 2); (2) documentation that each meeting occurred, including but not limited to the invitation to the meeting and a copy of the meeting notes; and (3) an explanation of the reasoning as to the determination as to compensatory services and remedial measures. Further:

- a. For students who have not been identified as students with a disability, the District will provide an explanation as to the discussion of an evaluation for disability-related services and whether such an evaluation will be conducted.
- b. For students with an IEP/Plan, the District will provide an explanation as to the discussion as to implementation of the IEP/Plan during the 2016-2017 school year and any compensatory services or remedial measures that will be taken pursuant to the IEP/Plan.

If any parent declines the invitation to the meeting, the District shall provide OCR with the invitation to the meeting and any notes and records of communications with the parent related to the meeting. The District will fully and promptly address any comments by OCR as to the proposal for each student and will continue to modify the proposal or provide additional information until it receives final OCR approval.

**REPORTING REQUIREMENT B:** Within 30 days of OCR's approval of the proposed compensatory services and remedial measures, the District will provide documentation that it has provided or is in the process of providing the compensatory services and remedial measures. The District need not wait for OCR's approval to begin providing

these services or measures, but OCR's approval shall be required for the services/measures to be deemed completed. For compensatory services and remedial measures that will occur over time, the District will submit documentation regarding the specific timelines for implementation, the person(s) responsible for providing services, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services and remedial measures are being provided as specified. Once all compensatory services and remedial measures have been provided in full, the District will provide documentation to OCR establishing this.

4. The District will monitor students' classroom assignments at Whittier ECE-8 to ensure non-discrimination on the basis of race or disability.

**REPORTING REQUIREMENT:** By August 31, October 31, January 31, and May 31 of the 2017-2018 school year, the District will provide to OCR the following information relating to classroom assignments for all students in grades XXX to XXX at Whittier ECE-8: (1) name; (2) grade; (3) race; (4) whether on an IEP/Plan and if so, the area(s) of eligibility; (5) classroom assignment; (6) for any changes in classroom assignment, an explanation of the reasons for the change, including whether parent(s) were notified; (7) whether any exclusionary discipline has been imposed on the student, including but not limited to whole or part days in the office, in- or out-of-school suspensions, or expulsions; and (8) all documents relating to the foregoing.

5. The District will assign a District-level mentor to Whittier ECE-8's Principal for the 2017-2018 school year, who will meet with the Principal at least monthly and be otherwise available for communication regarding, at a minimum, students with disabilities, student discipline, and non-discrimination on the basis of race and disability.

**REPORTING REQUIREMENT A:** By June 30, 2017, the District will provide OCR with the name, title, and qualifications of the mentor. The District will fully and promptly address any comments by OCR and will continue to modify the mentor until it receives final OCR approval.

**REPORTING REQUIREMENT B:** By August 31, October 31, January 31, and May 31 of the 2017-2018 school year, the District will provide to OCR documentation that monthly meetings have occurred during the relevant period, including a copy of the meeting notes or other explanation of what was discussed at the meeting and in any other communications during the relevant period.

6. The District will provide the following training to all Whittier ECE-8 administrators, general and special education teachers, and related service providers. The training shall address:
  - a. the District's obligation to provide a free appropriate public education (FAPE) to each student with a disability who is in the District's jurisdiction, including implementing a student's IEP/Plan;

- b. that “appropriate education” is defined as the provision of regular or special education and related aid and services designated to meet the individual’s educational needs as adequately as the needs of non-disabled students;
- c. the District’s affirmative obligation to timely identify and evaluate students suspected of being an individual with a disability, including behavioral-related disabilities, and including (1) where there is sufficient information to indicate that the student may have a disabling condition that requires special education or related services, and (2) school staff’s affirmative obligation to refer for evaluation students they suspect might have a disability;
- d. the District’s affirmative obligation to educate students with disabilities with non-disabled students to the maximum extent appropriate to the needs of the student with a disability, including the presumption that placement should be in regular education unless an appropriate education cannot be achieved satisfactorily with supplementary aids and services;
- e. procedural requirements for the placement of students with disabilities, including (1) that placement decisions must be made by the IEP/Plan team, and (2) for changes to students’ IEP/Plans;
- f. procedural safeguards regarding identification, evaluation, and educational placement of students with disabilities;
- g. disciplining students with disabilities, including the circumstances under which a manifestation determination is required; and
- h. using disciplinary policies, procedures, and practices to ensure fair, equitable, consistent, and nondiscriminatory administration of discipline, including: (1) in making disciplinary referrals and imposing disciplinary sanctions; (2) the range of the District’s non-exclusionary interventions, supports, and approaches to discipline and classroom-management; and (3) examples of minor misbehaviors that warrant interventions other than discipline.

**REPORTING REQUIREMENT A:** Within 90 days of this Agreement, the District will provide OCR, for OCR’s approval, its draft training materials; identify who will be providing the training, by name, title, and qualifications; and provide a list of personnel required to participate in the training, by name and title. The District will fully and promptly address any comments by OCR and will continue to modify the materials, trainers, or personnel list until it receives final OCR approval.

**REPORTING REQUIREMENT B:** Within 60 days of OCR’s approval, the District will provide documentation demonstrating that the training was provided and a copy of the training sign-in sheets.

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, 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 Title VI, 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 until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with Title VI, Section 504, and Title II, which were at issue in this case.

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 the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

5/26/17

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For Denver Public School District

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Date

Name: XXX

Title: XXX