

**Virtual Community School of Ohio  
Resolution Agreement  
Compliance Review #15-11-5002**

Virtual Community School of Ohio (the School) voluntarily 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 compliance review 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 School agrees to implement the actions described below.

1. Effective immediately, and reflected in the policies and procedures developed pursuant to Item 2 of this Agreement, the School commits to providing a free appropriate public education (FAPE) to each qualified student with a disability at its School.

**Section 504 Policies and Procedures**

2. By December 15, 2013, the School will develop, and submit for OCR's approval, policies and procedures that provide for the evaluation and placement of students with disabilities at no cost to parents/guardians in accordance with Section 504 and Title II, and specifically with the Section 504 regulation at 34 C.F.R. §§ 104.3 (definitions), 104.33 (free appropriate public education), 104.34 (educational setting), 104.35 (evaluation, re-evaluation, and placement), and 104.36 (procedural safeguards). The policies and procedures will specify that, for each student who, because of disability needs or is believed to need special education or related services, the School will develop and implement a plan designed to meet the student's individual educational needs as adequately as the needs of students without disabilities are met. The policies and procedures will require the following:
  - a) that a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options (the Section 504 Team) determine whether the student has a disability within the meaning of Section 504 and Title II, i.e., whether the student has a physical or mental impairment that substantially limits one or more major life activities;
  - b) that, in evaluating each student to determine if the student has a physical or mental impairment that substantially limits one or more major life activities, the Section 504 Team will construe the definition of disability broadly and: (i) consider whether a particular mental or physical impairment substantially limits one or more major life activities, not solely learning or the ability to function in the school setting; (ii) not take into account mitigating measures, such as medication being taken by the student or related aids and services or modifications already being provided to the student or used by the student; and (iii) recognize that, if the student has an impairment that is episodic in nature or in remission, the student is eligible to be a student with a

- disability under Section 504 if the impairment, when active, substantially limits one or more major life activities;
- c) that, in making these determinations, the Section 504 Team will ensure that tests and other evaluation materials have been validated for the specific purpose used and are administered by trained personnel; tests and other evaluation materials include those tailored to address specific areas of educational need; tests are selected and administered so that they accurately reflect student aptitude or achievement level and not a student's impaired sensory, manual, or speaking skills (except when those skills are factors that the test purports to measure); and testing and medical assessment (if needed) are provided at no cost to a student's parents/guardians;
  - d) that, should the School need test results or medical information in order to complete appropriate evaluations, the School will be responsible for obtaining such information at no cost to the students' parents/guardians; and
  - e) that, in interpreting evaluation data, the Section 504 Team will draw upon a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; will ensure that information is carefully considered and documented.
  - f) that the School will provide parents/guardians with notice of the procedural safeguards afforded them under Section 504 at 34 C.F.R. § 104.36, including notice, an opportunity to examine relevant records, and their right to challenge determinations concerning students' identification, evaluation, re-evaluation, and placement through requesting that the School convene an impartial hearing, and a review procedure;
3. By December 15, 2013, the School will also develop and submit for OCR's approval a procedure to ensure that all School staff members responsible for implementing provisions of Section 504 plans for students with disabilities are notified of the students' plans and of staff responsibilities to implement the plans each school year.
  4. Within 30 calendar days of receiving written approval from OCR of the revised Section 504 policies and procedures developed pursuant to Items 2 and 3 of the Agreement, the School will adopt and implement the policies and procedures. The School will notify all parents, students, and employees of the newly revised policies and procedures developed pursuant to Item 2 of this Agreement and will post those policies and procedures on its website. The notification shall occur by written correspondence, email, or both and shall further provide information of where the policies and procedures are located on its website and, alternatively, where persons may request or obtain a written copy of such documents.

**Reporting Requirement:** By December 15, 2013, the School will submit to OCR for review the revised Section 504 policies and procedures. Within 60 calendar days of receiving OCR's

approval of the revised Section 504 policies and procedures, the School will submit documentation of its implementation of the revised policies and procedures, as well as its notification to parents, students, and employees of the revised policies and procedures developed pursuant to Item 2 of this Agreement, including copies of the notification issued to the School's parents, students, and employees and the link to the procedures on the School's website.

### **Training**

5. Within 60 calendar days of adopting the revised Section 504 policies and procedures, the School will provide training to its teachers, its Section 504/Title II coordinator, and other staff involved in the identification, evaluation, and placement of students with disabilities about the revised Section 504 policies and procedures, revised grievance procedures developed pursuant to Item 12 of this Agreement, and the general requirements of Section 504 and Title II concerning the evaluation and placement of students with disabilities, as well as the general antidiscrimination requirements as articulated under 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130.

**Reporting Requirement:** Within 60 calendar days of receipt of the OCR-approved Section 504 policies and procedures, the School will submit information to OCR documenting the date(s) of the training(s); the identify and qualifications of each person delivering the training(s); and the name and job title of all persons who attend the training(s).

### **Individual Remedies**

6. Within 30 calendar days of receiving OCR approval of the revised Section 504 policies and procedures developed pursuant to Item 2 of the Agreement, the School will, contact, in writing, the parents/guardians of each student enrolled for the 2012-2013 and 2013-2014 school years and identified as a student with a disability under Section 504 or Title II, as well as any student suspected of having such a disability who, because of disability, need or is believed to need special education and/or related aids and services but who has not yet been evaluated, to offer to evaluate/re-evaluate the student to determine: (1) whether the student has a disability as defined by Section 504 and Title II, as amended; and (2) if so, what special education and/or related aids and services the student needs to receive a FAPE under the School's program.

For any child whose parent consents to an evaluation or reevaluation, the School will, in accordance with the revised policies and procedures, properly and promptly evaluate or reevaluate the student. The evaluations and reevaluations will include consideration of the communications requirement under Item 9 of the Agreement.

7. If the Section 504 Team determines that a student has a disability and needs special education and/or related aids and services:
  - a. the School will develop a plan to ensure that the student receives a FAPE, i.e., 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 persons without disabilities are met and to meet the communications requirement under Item 9 of the Agreement;

- b. for such students enrolled during the 2012-2013 school year, the Section 504 Team will also assess whether the student has deficits that require compensatory education services as a result of the School's failure to timely and appropriately evaluate the student and to provide the student with a FAPE; the District will then promptly provide any compensatory education services determined to be necessary; and
  - c. the School will also provide the student's parents/guardians with notice of the Section 504 team's determinations and of the procedural safeguards afforded them under the Section 504 implementing regulation at 34 C.F.R. § 104.36.
8. If the Section 504 Team determines that a student does not have a disability under Section 504, it will: (i) provide the student's parents/guardians with notice of its determinations and of the procedural safeguards afforded them under the Section 504 implementing regulation at 34 C.F.R. § 104.36; and (ii) provide documentation to OCR showing how it applied appropriate evaluation standards and criteria in reaching that determination.

**Reporting Requirement:** By no later than 120 calendar days after receiving OCR approval of the revised Section 504 policies and procedures developed pursuant to Item 2 of the Agreement, the School will provide information to OCR documenting that it has implemented Items 6 through 8 of the Agreement, including copies of any evaluations/re-evaluation reports and all related documentation, any notes from the evaluation/reevaluation and placement meeting(s), and documentation of the provision of procedural safeguards to parents/guardians. By no later than 180 days after receiving OCR approval of the revised Section 504 policies and procedures developed pursuant to Item 2 of the Agreement, the School will provide information to OCR documenting its provision of compensatory education services to any students identified under Item 7.b. to need such services;

9. The School will ensure that communication with persons with disabilities are as effective as communications with others and that the School will furnish appropriate auxiliary aids where necessary to afford them an equal opportunity to participate in and benefit from School programs. Communication includes the transfer of information and encompasses information conveyed through computer-related applications and on-line learning environments.

**Reporting Requirement:** By no later than calendar 120 days after receiving the OCR approval of the revised Section 504 policies and procedures developed pursuant to Item 2 of the Agreement, the School will identify for OCR students or parents whose disabilities pose affect communication with the School and School students, given the School's computer-based instruction and on-line learning environment, and will submit information to OCR documenting actions taken to address such challenges for individual students, including the auxiliary aids and services provided.

**Section 504/Title II Coordinator and Notice Provisions**

10. By January 15, 2014, the School will notify parents/guardians of the name and/or position title, office address, telephone number, and email address for the individual(s) designated to ensure the School's compliance with Section 504 and Title II in conformity with the Section 504 and Title II implementing regulations at 34 C.F.R. §§ 104.7(a) and 104.8(a) and 28 C.F.R. § 35.107(a), respectively. The notification shall occur by written correspondence, email, or both. The notification will also be included on the District's websites and any School student/parent handbooks.
11. By January 15, 2014, the School shall include in any published recruitment materials or other publications, as well as information provided through its website, e-mailed communications, or notices in newspapers or magazines that contain general information that it makes available to participants, beneficiaries, applicants, or employees, including those with impaired vision or hearing and unions and professional organizations holding collective bargaining or professional agreements with the School:
  - a. notice that it does not discriminate on the basis of disability in violation of Section 504 and Title II with respect to admission or access to, or treatment or employment in, its programs and activities; and
  - b. notice of the name and/or position title, address, telephone number, and e-mail address of the person(s) designated to coordinate its efforts to comply with Section 504 and Title II.

Until the next date of regularly scheduled reprinting of published materials, inserts may be used to provide the required notice.

**Reporting Requirement:** By January 15, 2014, the School will submit to OCR information to document its implementation of Items 10 and 11 of the Agreement. Documentation may include copies of relevant publications, screen shots or links to document website notice, e-mailed notification, and other relevant information.

**Section 504/Title II Grievance Procedures**

12. By January 15, 2014, the School will develop and submit to OCR for review a Section 504/Title II grievance procedure to comply with the requirements of the Section 504 regulation at 34 C.F.R. § 104.7(b) and the Title II regulation at 28 C.F.R. § 35.107(b). The grievance procedure will incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 or Title II, including disability-based harassment. At a minimum, the grievance procedure will:
  - a) include notice of the name and/or position title, office address, telephone number, and email address for each individual(s) designated to ensure the School's compliance with Section 504 and Title II;

- b) include notice to students, parents, and employees of the procedure for filing a complaint, including how, where, and with whom complaints maybe filed;
  - c) apply to complaints alleging disability discrimination carried out by School employees, students, or third parties;
  - d) provide for the adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
  - e) contain designated and reasonably prompt timeframes for the major stages of the complaint process;
  - f) provide for written notice to the parties of the outcome of the complaint;
  - g) contain assurance that steps will be taken to prevent recurrence of discrimination if it occurs and to correct its effects on the complainant and others, if appropriate;
  - h) contain a prohibition against retaliation which prohibits the School or others from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Section 504 or Title II or because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under those laws; and
  - i) if an informal resolution process is included as part of the procedure, clearly state that any informal resolution process is voluntary and not a required step to be taken prior to making a formal complaint.
13. Within 30 calendar days of receipt of the OCR-approved Section 504 and Title II grievance procedure, the School will adopt and implement the procedure. The School will also notify all parents, students, and employees of the newly revised procedure and will post the procedure on its website. The notification shall occur by written correspondence, email, or both and shall further provide information of where the grievance procedure is located on its website and, alternatively, where they may request or obtain a written copy of the procedure.

**Reporting Requirement:** By January 15, 2014, the School will submit to OCR for review its Section 504/Title II grievance procedure.

**Reporting Requirement:** Within 60 calendar days of receiving OCR-approved Section 504/Title II grievance procedure, the School will submit information to OCR documenting the implementation of Item 13 of this Agreement, including copies of the written notification issued to parents, students, and employees and the link to the procedures on the School’s website.

**Website Accessibility**

14. By March 30, 2015, the School will make its website, currently located at <http://www.vcslearn.org>, its online learning environment, and its course management systems (collectively, “electronic and information technologies” or “EIT”) accessible to individuals with disabilities, particularly students with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access the EIT. In this context, “accessible” means that a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use. A person with a disability must be able to obtain the information as fully, equally, and independently as a person without a disability. Although this might not result in identical ease of use compared to that of persons without disabilities, it still must ensure equal opportunity to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology. Should the School choose to provide the information and services in some manner different from that used to provide information and services to others, the method chosen must permit students with disabilities to receive all the educational benefits provided by the technology in an equally effective and equally integrated manner.
15. By January 15, 2014, the School will establish a policy to ensure information provided with electronic and information technologies is accessible to students, prospective students, employees, guests, and visitors with disabilities, particularly those with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access information provided with EIT (EIT Accessibility Policy). The EIT Accessibility Policy will, at minimum, accomplish the following:
- a. identify and adopt the specific technical standard(s) it will use to determine whether electronic and information technologies are accessible (e.g., Section 508 of the Rehabilitation Act (Section 508), 29 U.S.C. § 794d, W3C’s Web Content Accessibility Guidelines (WCAG), or other standard or combination of standards which will render EIT accessible)<sup>1</sup>;
  - b. designate at least one individual (EIT Accessibility Coordinator), with sufficient resources and authority, to coordinate and implement the EIT Accessibility Policy, the implementation and remediation plan described below, and all other commitments relating to accessibility within this Agreement; and
  - c. inform students, prospective students, employees, guests, and visitors that they may report violations of the technical standard(s) used by the School, file a formal complaint through its Section 504 and Title II grievance procedure, and/or contact the EIT Accessibility Coordinator with any accessibility concerns. The EIT Accessibility Policy will include the name and/or title, office address, telephone number, and email address of the EIT Accessibility Coordinator.

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<sup>1</sup> This Agreement does not imply that conformance with Section 508, WCAG, and/or other electronic and information technology standard is either required or sufficient to comply with either Section 504 or Title II. The technical standard(s) serve only as guidance with respect to whether the EIT is accessible.

16. By January 15, 2014 the School will establish an implementation and remediation plan (EIT Plan) to ensure adherence with its EIT Accessibility Policy. The EIT Plan will, at minimum, provide:
  - a. an accessibility audit (EIT Audit) to be completed at regular intervals under the direction of the EIT Accessibility Coordinator, during which information provided by the School through its electronic and information technologies is measured against the technical standard(s) adopted in the EIT Accessibility Policy. All problems identified through the EIT Audit shall be documented, evaluated, and, if necessary, remediated within a reasonable period of time;
  - b. a procedure to ensure that EIT and information obtained through EIT provided or developed by third parties is accessible. This procedure should direct administration and staff to consider whether the acquisition or use of EIT and third-party websites, services, or products will ensure equal opportunity to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology; and
  - c. annual training for staff responsible for creating or distributing information with EIT to students, including, but not limited to, training on the EIT Accessibility Policy, the EIT Plan, and their roles and responsibilities to ensure web design, documents, and multimedia content are accessible. The training shall be facilitated, in whole or in part, by an individual with sufficient knowledge, skill, or experience to understand and employ the technical standard(s) adopted by the School.
17. Within 30 calendar days of receiving OCR approval of the School's EIT Accessibility Policy and the EIT plan, the School will post the EIT Accessibility Policy and EIT Plan on its website and provide notification of both to administration, staff, and parents/guardians of currently enrolled students. The notification shall occur by written correspondence, email, or both and shall further provide information of where the EIT Accessibility Policy and EIT Plan are located on its website and, alternatively, where they may request or obtain a copy of such documents.
18. Within 60 calendar days of OCR approving the School's EIT Accessibility Policy and the EIT Plan, the School will conduct its initial EIT Audit to examine whether information provided through EIT is currently accessible, considering any compliance concerns identified through the above-referenced review process and its own evaluation measured against the technical standard(s) adopted by the EIT Accessibility Policy. The EIT Audit shall include a directive to the School staff to review their assigned web courses for accessibility, including guidelines for the review, resources available to staff for assistance and questions regarding accessibility, a reporting mechanism to identify concerns and revisions, and a timeline by which necessary revisions must be completed. The School shall document the results of the EIT Audit and develop a corrective action strategy based on the audit findings that includes relevant timeframes for completion.

Absent extraordinary circumstances, the information provided through EIT shall be accessible by no later than September 15, 2014

19. Within 60 calendar days of OCR approving the School's EIT Accessibility Policy and the EIT Plan, the School will develop and conduct training on how to ensure accessibility in web design and implementation. The training will be provided to all staff involved in web design and implementation, including teachers who develop content for on-line instruction. The training will discuss, at a minimum, the EIT Accessibility Policy, EIT Plan, and the roles and responsibilities of the School staff to ensure that web design, documents, lessons, and multimedia videos or content are accessible.

**Reporting Requirement:** By January 15, 2014, the School will provide to OCR a copy of its EIT Accessibility Policy, which meets the requirements specified in Item 15 of this Agreement.

**Reporting Requirement:** By January 15, 2014, the School will provide to OCR a copy of its EIT Plan, which meets the requirements specified in Item 16 of this Agreement.

**Reporting Requirement:** Within 30 calendar days of providing notification to administration, staff, and parent/guardians of currently enrolled students, as required by Item 17 of this Agreement, the School will provide to OCR a copy of the notification. It will further submit the URL (web address) for the location of its EIT Accessibility Policy and EIT Plan posted on its website and the date such posting.

**Reporting Requirement:** By September 15, 2014, the School will provide to OCR a copy of its EIT Audit report and corrective action strategy, which meets the requirements specified in Item 18 of this Agreement.

**Reporting Requirement:** Within 60 calendar days of OCR approving the School's EIT Accessibility Policy and the EIT Plan, the School will provide to OCR documentation of the training in Item 19 of this Agreement, including the name(s) and credentials of the individual(s) who conducted the training, and a list of individuals, by name and title, who attended the training.

**Reporting Requirement:** By June 30, 2015, the School shall certify to OCR that its EIT meets the technical requirements adopted in the EIT Accessibility Policy. The certification may be obtained from a third party web accessibility consultant or an employee of the School with sufficient knowledge, skill, and experience to understand and employ the technical standard(s) adopted by the School. The School will also provide OCR with the bases for this certification.

**Reporting Requirement:** By the final day of the 2015-2016, 2016-2017, and 2017-2018 school years, the School will provide OCR with a report describing its efforts for that school year to comply with its EIT Accessibility Policy and EIT Plan, including information documenting any compliance issues discovered through the monitoring, audits, or complaints and the actions taken to correct those issues.

**General Requirements**

The School understands that OCR will not close the monitoring of this Agreement until OCR determines that the School has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R Part 104; and Title II and its implementing regulation at 28 C.F.R. Part 35, which were at issue in this case.

The School 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 School understands that during the monitoring of this Agreement, if necessary, OCR may visit the School, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the School has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. Part 104, and Title II and its implementing regulation at 28 C.F.R. Part 35.

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

\_\_\_\_\_/s/\_\_\_\_\_  
Superintendent of Virtual Community School  
Of Ohio

September 30, 2013  
Date