

**IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

**E.C., by and through T.C.; and T.C.,** ( ( ( ( **Petitioners,** ( **Docket No.** \_\_\_\_\_ ( ( **v.** ( ( **WALTON COUNTY SCHOOL DISTRICT,** ( ( **Respondent.** ( ( (

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**ATTACHMENT TO PETITION FOR DUE PROCESS HEARING**

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Petitioners E.C. aaEducation Act (“IDEA”), 20 U.S.C. §§ 1400 et seq., Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 et seq.

**I. INTRODUCTION ipusivity. Despite the d  
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19. On June 12, 2024, E.C. filed an appeal of the District’s discipline decision with the Georgia State Board of Education.

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20. After E.C. was expelled in April, E.C.’s IEP team met on April 29 and May 2, 2024 (hereinafter “the May IEP meeting”).

21. the May IEP meeting, T.C. learned that the District unilaterally removed all of E.C.’s previous special education services until January 2025, when he returns to his regular high school in the second semester of 9th grade.

22. For the remainder of 8th grade, the District replaced E.C.’s 5 hours per day of in-person special education services with a 1 hour and 15 minute virtual “Study Skills” class.

23. For first semester of 9th grade, the District replaced E.C.’s 6 hours and 20 minutes per day of in-person special education services with a 1 hour and 30 minute virtual “Study Skills” class.

24. The District’s unilateral changes following the May IEP meeting reduced E.C.’s total special education services by 75% per day while he is at WAP, until he returns to his regular school in January 2025.

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28. The District's unilateral changes following the August IEP meeting further reduced E.C.'s

40. The District refuses to add any Reading goals to E.C.'s IEP.
41. T.C. has explicitly requested that E.C.'s most recent Math and ELA teachers attend E.C.'s IEP meetings to provide information about his current levels of performance in those areas, but the District refused.
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42. Every time Petitioners exercise a right, the District takes adverse action against them.
43. After Petitioners appealed the discipline decision to the SBOE, the District referred E.C. to the Walton County Juvenile Court for tobacco possession on or around June 17, 2024.
44. After Petitioners filed their Formal Complaint, the District unilaterally terminated E.C.'s special education services in Science and Math for the next semester.
45. After Petitioners filed their Formal Complaint, the District unilaterally removed Algebra and ELA from E.C.'s first semester 9th grade schedule, approximately one week before E.C. started high school.
46. Due to the District's unilateral change to E.C.'s schedule, E.C. must now wait until 10th grade to take Algebra; 11th grade to take Geometry, and 12th grade to take Advanced Algebra, leaving him short of a

50. A student cannot take the Math Rubric until the student completes Algebra and Geometry; E.C. will be in the 12th grade when he takes the Math Rubric.
51. If the Math Rubric shows that E.C. was capable of staying in the standard general math curriculum, it will be too late for him to catch up on his math requirements to timely graduate, as he would still have to complete both the Advanced Algebra course and a fourth core math course during his senior year.
52. The District’s unilateral decision to change E.C.’s schedule has also precludes him from attending any of the institutions within the University System of Georgia, as he will not have the required math credits to apply.
53. The District never discussed the schedule and curriculum changes with T.C. before making the changes.
54. On September 14, 2024, the GaDOE issued its decision on Petitioners’ Formal Complaint, ruling in Petitioners’ favor on every single issue—the District violated the IDEA’s disciplinary procedures, IEP requirements, parent participation obligations, and the District failed to provide E.C. with a Free Appropriate Public Education (“FAPE”).
55. The GaDOE ordered the District to review and revise its policies and procedures, train its special education teachers and administrators, and submit all such revised policies, procedures, training attendance sheets, and training materials to the GaDOE.
56. At the October 4, 2024, IEP meeting, the District refused to provide E.C. with any relief for its violations.

### **III. LEGAL CLAIMS**

57. Petitioners repeat and reallege each and every allegation in the forgoing paragraphs as if fully set forth herein.

A. INDIVIDUALS WITH DISABILITIES EDUCATION ACT

58. E.C. is a child with a disability as defined by the Individuals with Disabilities Education



66. The District failed to allow the IEP team, which includes parent T.C., to review and revise E.C.'s IEP

B. AMERICANS WITH DISABILITIES ACT and REHABILITATION ACT

73. E.C. is a qualified individual with a disability as defined by Section 504 of the Rehabilitation Act (“Section 504”), 29 U.S.C. § 705(20), and Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131(2).
74. The District is a public entity that receives federal financial assistance in the operation of its programs or activities as defined by Section 504, 29 U.S.C. § 794(b)(2)(B), and the ADA, 42 U.S.C. § 12131(1).
75. The District intentionally, and with deliberate indifference, excluded Petitioners from participation in, and denied them the benefits of, the District’s services, programs, or activities, and otherwise subjected Petitioners to discrimination, based on E.C.’s disability, in violation of Section 504, 29 U.S.C. § 794(a), and 42 U.S.C. § 12132.
76. The District has denied E.C. the aid, benefit, and services necessary to afford him an equal opportunity to obtain the same result, to gain the same benefit, and to reach the same level of achievement as provided to others, in violation of 29 U.S.C. § 794(a); 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1)(iii).
77. The District has provided E.C. with different and separate aids, benefits, and services than is provided to others, in violation of 29 U.S.C. § 794(a); 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1)(iv).
78. The District retaliated against Petitioners for exercising their rights, in violation of 42 U.S.C. § 12203.
79. The District has violated the rights of Petitioners, and others similarly situated in the District, and these violations are the direct result of the District’s policies, procedures, and practices.

80. This Office of State Administrative Hearings (“OSAH”) has uniform and well-established precedent that Section 504 and ADA claims are outside of OSAH’s administrative jurisdiction. Out of an abundance of caution, Petitioners plead Section 504 and ADA claims as they seek to exhaust administrative remedies. 20 U.S.C. § 1415(l).

81. Petitioners intend to pursue non-IDEA claims for further relief after exhaustion of administrative remedies, and seek all rights, remedies, and procedures available to them under Section 504, the ADA, Title VI of the Civil Rights Act, 42 U.S.C. § 1983 and any

- E. To the extent any private placement and/or services are awarded, order the District to pay for all associated costs, including, but not limited to, costs for administrative fees, assessments, and transportation, if necessary;
- F. Grant Petitioners attorney's fees and costs related to the necessity of this litigation; and
- G. Order such other and further relief as this Court deems appropriate.

Dated: October 18, 2024

Respectfully submitted,

/s/ Eugene Choi  
Eugene Choi (GA Bar No. 121626)  
Claire Sherburne (GA Bar No. 732244)  
Michael J. Tafelski (GA Bar No. 507007)

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### **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of Petitioners' Request for Due Process Hearing by way of electronic mail and U.S. mail as follows:

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Dated: October 18, 2024.

Respectfully submitted,

/s/ Eugene Choi  
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Attorney for Petitioners