

**Resolution Agreement  
Freeport School District 145  
OCR Docket #05-16-1331**

Freeport School District 145 (District) hereby agrees to resolve the above-referenced complaint with the U.S. Department of Education, Office for Civil Rights (OCR). The District submits this Agreement to ensure its 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, 42 U.S.C. § 12132-12134, and its implementing regulation at 28 C.F.R. Part 35, with-which were at issue in this case. The District agrees to take the following actions:

1. By April 1, 2017, the District will review and revise, if necessary, its notice of nondiscrimination and grievance procedures to ensure that the District's policies and procedures meet the requirements of the regulations implementing Section 504, at 34 C.F.R. § 104.7, and Title II, at 28 C.F.R. § 35.107, include the name, title and contact information (including phone number, office address and e-mail) for its Section 504/Title II Coordinator, and state that inquiries concerning the application of Section 504 or Title II may be referred to the Section 504/Title II Coordinator or to OCR. The District will broadly publish its revised notice of nondiscrimination, and grievance procedures, including on the District's website, and in its promotional materials, student/parent and employee handbooks, application forms and its other published materials in accordance with 34 C.F.R. § 104.8 and 28 C.F.R. § 35.106.

**REPORTING REQUIREMENT:** By April 1, 2017, the District will submit a copy of its amended notice of nondiscrimination and grievance procedures to OCR for review and approval. Within 30 days of OCR's approval of the notice of nondiscrimination and grievance procedures, the District will provide to OCR a list of the titles of the publications in which the notice of nondiscrimination and grievance procedures appear (*e.g.* Student/Parent Handbook), and a copy of at least one publication disseminated to the District community, or a link to the District's website containing the notice and grievance procedures. Should the District require more than 30 days due to periodic printing of District materials, inserts may be used pending reprinting of those publications.

2. By April 1, 2017, the District will review and revise, if necessary, its policies and procedures to ensure they include the following:
  - a. a statement setting forth the District's commitment to providing a free appropriate public education (FAPE) to all qualified individuals enrolled in the School consistent with the requirements of 34 C.F.R. § 104.33;
  - b. the definition of a disability under 34 C.F.R. § 104.3 and 28 C.F.R. § 35.104, and including a statement that ameliorative effects of mitigating measures will not be considered when determining how a student's impairment impacts a major life activity;
  - c. an explanation of the procedures under which staff, parent(s), and guardian(s) may make an initial request for an evaluation consistent with the requirements of 34 C.F.R. § 104.35, including a narrative description of all steps necessary to

- make the request, identification of the person(s) at the each School to whom a request may be made, the information that must be provided in making a request, and a description of any assistance the School provides to parent(s) and guardian(s) in making such requests;
- d. an explanation of the procedures governing the School's response to staff, parent(s) and guardian(s) requests for evaluation consistent with the requirements of 34 C.F.R. § 104.35, including a narrative description of the steps the School takes to record and process such requests, the timeframe in which the School will respond to the request, and the notice provided to parent(s) and guardian(s) about the School's response to a request for an evaluation; and
  - e. publication of the District's procedural safeguards, which shall provide an opportunity for the parents/guardians of students: (i) to examine relevant records; (ii) to obtain an impartial hearing with opportunity for participation by the parents/guardians or their counsel; and (iii) to seek a review procedure consistent with the requirements of 34 C.F.R § 104.36;
  - f. an assurance that, prior to taking any action that may constitute a significant change in placement (*i.e.*, an expulsion or a suspension from school for more than 10 consecutive school days), the District will adhere to the identification, evaluation, placement and due process procedures in the regulation implementing Section 504 at 34 C.F.R §§ 104.35 and 104.36; and
  - g. a prohibition against retaliation consistent with the requirements of 34 C.F.R § 104.61 and 28 C.F.R § 35.134.

**REPORTING REQUIREMENT:** By April 1, 2017, the District will submit a copy of its revised policies and procedures to OCR for review and approval. Within 30 days of OCR's approval of the revised policies and procedures, the District will adopt and implement the policies and procedures and will provide all administrators, teachers, and staff who are responsible for the identification, evaluation, and placement of students with disabilities with written notice regarding the new policies and procedures. The revised policies and procedures will also be published on the District's website and included in the Student-Parent Handbook. The District will provide to OCR a copy of the written notice informing relevant administrators, teachers, and staff of the revised policies and procedures, as well as a copy of the Student/Parent Handbook and the link to the District's website containing the revised policies and procedures. Should the District require more than 30 days due to periodic printing of District materials, inserts may be used pending reprinting of those publications.

3. By April 1, 2017, the District will retain an impartial third party, subject to OCR approval, to provide training to administrators, teachers, and staff who are responsible for the identification, evaluation, and placement of students with disabilities, on the Section 504 regulation at 34 C.F.R. §§ 104.3, 104.4, 104.33, 104.34, 104.35, 104.36 and 104.61, which prohibit disability discrimination and retaliation, require the District to provide a FAPE, and govern the educational setting and the evaluation and placement procedures. The training will specifically inform administrators, teachers and staff that, prior to taking any action that may constitute a significant change in placement, the District must adhere to the identification, evaluation, placement and due process procedures in the regulation

implementing Section 504 at 35 C.F.R §§ 104.35 and 104.36. The training will also cover the District's revised policies referenced in item 2.

**REPORTING REQUIREMENT:** Within 15 calendar days of the completion of Item 3 above, the District will provide OCR with documentation that it has provided all relevant administrators, teachers, and staff with the training, including the dates of the training, the names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the staff who attended the training.

4. By December 21, 2016, the District will take the following actions with respect to Student A:
  - a. After providing written notice to Student A's parent, the School will convene a team of knowledgeable persons (hereinafter Section 504 team) to determine whether Student A is an individual with a disability under Section 504 who is in need of regular or special education and related aids and services in accordance with its revised policies and procedures under Item 2 above. In addition, the School will provide Student A's parent with notice of the procedural safeguards, including the right to challenge the team's determination through an impartial due process hearing.
  - b. The Section 504 Team will determine whether Student A was denied a FAPE as the result of any failure to evaluate Student A or as the result of any discipline imposed on Student A during the 2015-2016 school year that resulted in a change of his placement (*i.e.*, pattern of suspensions greater than 10 days), or as a result of his placement in the alternative school during the 2015-2016 and 2016-2017 school years.
  - c. If the team determines that Student A was denied a FAPE during the 2015-2016 or 2016-2017 school years, it shall determine whether Student A is in need of compensatory and/or remedial services as a result of the School's denial of FAPE, including counseling, tutoring, or any changes to or modification of Student A's grades, disciplinary records (up to and including expungement of discipline), and/or attendance records.

**REPORTING REQUIREMENT:** By January 15, 2017, the District will provide OCR with a copy of the notice of the evaluation sent to Student A's parent and documentation of the 504 team's determination of whether Student A was an individual with a disability and, if applicable, whether Student A was denied FAPE and is in need of compensatory and/or remedial services, including counseling, tutoring, or any changes or modifications to Student A's grades, disciplinary, and/or attendance records. If compensatory and/or remedial services were determined to be needed for Student A, the District will provide OCR with documentation of the services offered or change or modifications made and, if applicable, the services provided, including the type, amount, and the name and title of the individual(s) who provided the services.

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 employees 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 the regulations implementing Section 504 at 34 C.F.R. §§ 104.3, 104.4, 104.33, 104.34, 104.35, 104.36 and 104.61, and Title II at 28 C.F.R. §§ 35.104, 35.106, 35.107, 35.130 and 35.134, 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 the regulations implementing Section 504 at 34 C.F.R. §§ 104.3, 104.4, 104.33, 104.34, 104.35, 104.36 and 104.61, and Title II at 28 C.F.R. §§ 35.104, 35.106, 35.107, 35.130 and 35.134, 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 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.

Approved and agreed to on behalf of the Freeport School District 145:

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Superintendent or Designee

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Date