

Resolution Agreement
Fremont Unified School District
OCR Complaint No. 09-22-1639

The Fremont Unified School District (District), without admitting to any violation of law, agrees to implement this Resolution Agreement (Agreement) to resolve the compliance concerns identified by the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), and their implementing regulations in the above-referenced OCR case number.

I. Individual Remedies

- A. By May 1, 2023, after providing proper written notice to the Student's parent/guardian, a group of knowledgeable persons, including the parent/guardian, will determine whether the Student needs compensatory and/or remedial services and/or reimbursement for services privately obtained as a result of (a) any failure to provide appropriate regular and/or special education or related services from March XX, 2022, through the 2022-2023 school year and (b) any impacts on the Student of the August XX, 2022, incident. If so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services and/or reimbursement, with a completion date not to extend beyond May 31, 2024. The District will provide the Student's parent/guardian notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements:

1. Within ten (10) days of the decision as to whether compensatory and/or remedial services and/or reimbursement are needed, the District will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, the information considered, an explanation for decisions made, and a description of and schedule for providing any compensatory and/or remedial services and/or reimbursement (if any) to the Student. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation to ensure that the District met the requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, and, as applicable, Title II, at 28 C.F.R. § 35.160, in making these determinations.
2. By July 1, 2024, the District will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services and/or reimbursement were provided, a description of what was provided, and the name(s) of the service provider(s).

II. Written Guidance and Training

- A. The District will review and revise its Special Education Referral process, including in its Parent/Guardian & Student Handbook and on its website, to clarify the process for a parent/guardian referring their child for special education programs or services, including for parents/guardians who notify the District of a child's potential need for special education programs or services during the enrollment process. The revised process will address the District's obligations and procedures to begin the assessment process prior to the first day of instruction.
- B. The District will issue a written guidance memorandum for all District staff regarding its Child Find responsibilities, including the District's obligation to: identify and locate every qualified individual with a disability, regardless of whether a parent/guardian asks for an evaluation; conduct an evaluation of any student who needs or is believed to need special education or related aids and services because of disability; and take appropriate steps to notify the parents/guardians of such individuals of the District's duties related to the provision of a free appropriate public education.
- C. The District will facilitate training for all staff in the District's Student Support Services Department; all staff in the District's Special Education Department; and all administrators, faculty, and staff at XXXXX XXXXXXXXXXXX School (School) regarding the District's Special Education Referral process described in Section II.A. and the guidance memorandum described in Section II. B. of this Agreement.
- D. The District will issue a written guidance memorandum to the administrators, faculty, and staff at the School reaffirming its commitment to provide an educational environment free from discrimination on the basis of disability.
- E. The District will issue written guidance regarding the procedure to contest a call-back from an overload school to a home school, including the procedure for contesting a call-back prior to and after September 30 and the effect (if any) of having a sibling at one of the schools.

Reporting Requirements:

1. Within thirty (30) days of signing this Agreement, the District will submit a draft of the Special Education Referral process described in Section II.A. to OCR for review and approval.
2. Within ten (10) days of receiving OCR's approval of the materials described in Section II.A., the District will implement and distribute the revised process, including by posting it on the District's website and in its Parent/Guardian & Student Handbook, and provide written documentation to OCR demonstrating that it has done so.

3. Within thirty (30) days of signing this Agreement, the District will submit a draft of the guidance memorandum described in Section II.B. to OCR for review and approval.
4. Within ten (10) days of receiving OCR's approval of the guidance memorandum described in Section II.B., the District will finalize and issue the memorandum and provide OCR with documentation of its distribution.
5. Within thirty (30) days of signing this Agreement, the District will submit a draft of the training materials and title/name of the proposed trainers as described in Section II.C. to OCR for review and approval.
6. Within thirty (30) days of receiving OCR's approval of the training described in Section II.C., the District will provide the training. Within ten (10) days of providing the training, the District will provide OCR with the following documentation: the date(s) of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, sign-in sheets evidencing the District employees who attended the training, a list of the required District employees who did not attend, and a plan for providing follow-up for those employees who did not attend, as needed.
7. Within thirty (30) days of signing this Agreement, the District will submit a draft of the nondiscrimination memorandum described in Section II.D. to OCR for review and approval.
8. Within ten (10) days of receiving OCR's approval of the memorandum described in Section II.D., the District will distribute the memorandum to the School and provide OCR with documentation of its distribution.
9. Within thirty (30) days of signing this Agreement, the District will submit a draft of the written guidance described in Section II.E. to OCR for review and approval.
10. Within ten (10) days of receiving OCR's approval of the written guidance described in Section II.E., the District will distribute and/or post on its website the written guidance and provide OCR with documentation of its distribution.

By signing the Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. During the monitoring of the resolution 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 the Agreement.

The District understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that the District is in compliance with the terms of the Agreement and the statute(s) and regulations(s) at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings to enforce the specific terms of the Agreement and the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Leticia Salinas
Assistant Superintendent of Instructional Services
Fremont Unified School District

03/08/2023
Date