

**Fremont Public Schools
Resolution Agreement
OCR Docket XXXXXXX**

Fremont Public Schools (the District) 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 complaint 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, which prohibit discrimination on the basis of disability by recipients of federal financial assistance, 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, which prohibit discrimination on the basis of disability by public entities. The District agrees to take the following actions:

INDIVIDUAL REMEDIES

1. Within 7 calendar days of signing this agreement, the District will draft and send a letter to the Student's guardian explaining that if the Student reenrolls in the District during the 2020-2021 school year, within 30 calendar days of the Student's first day of attendance, after providing proper written notice to the Student's guardian, the District will convene a group of persons knowledgeable about the Student, the evaluation data, and the placement options, including the Student's guardian, (the team) to:
 - a) evaluate the Student to determine whether the Student has a disability, as defined by Section 504. If the team determines that the Student has a disability as defined by Section 504, the team will then determine the Student's need for disability-related aids and services; and
 - b) develop a plan in accordance with the provisions of Section 504 that addresses the Student's need for disability-related placement, aids and services. The plan will, at a minimum: identify the individual needs of the Student and the placement and related aids and services designed to meet those needs that will be provided by the District to the Student, and identify by position the staff who will be responsible for providing the related aids and services.
2. In the letter to the Student's guardian, the District will also explain that, if the Student reenrolls in the District, within 30 days of the Student's reenrollment the team will also determine whether compensatory or other remedial services are necessary because the Student did not have a Section 504 plan during the XXXX XXXX school year. The team will consider the need for compensatory education and/or remedial services from XXXXX XXXX through XXXX XXXX, the time period relevant to the complaint allegations during which the Student was enrolled in the District.

If the team determines compensatory education and/or remedial services are necessary, within seven calendar days of making its determination, the team will develop a written plan for timely providing the Student with compensatory education and/or remedial services. The

plan will identify the nature and amount of the services to be provided at no cost to the Student's guardian, the individuals responsible for carrying out the applicable services, and the dates such services are to be provided.

3. The District will provide the Student's guardian with a meaningful opportunity to provide input into the determinations described in this Agreement, notice of the determinations made, and notice of the procedural safeguards available to the guardian under 34 C.F.R. § 104.36, including the right to challenge such determinations through an impartial due process hearing should the guardian disagree.

REPORTING REQUIREMENTS:

- Within 21 days of signing this Agreement, the District will submit to OCR a copy of the letter that is sent to the Student's guardian containing the information described in item #s 1 and 2, and evidence showing the method of delivery to the Student's guardian.
- If the Student reenrolls in the District, within six weeks of the Student's reenrollment, the District will submit to OCR copies of documents showing the completed implementation of item #s 1, 2, and 3 above, including copies of: (i) documentation showing when the team met, who was present, what was discussed, the team's decisions, and the bases for those decisions; (ii) copies of any meeting minutes; (iii) a copy of any plan developed for the Student, including a Section 504 plan and a plan for compensatory education and/or remedial services to the Student; (iv) documentation of any input provided by the Student's guardian; and (v) a copy of any notifications sent to the Student's guardian, including notice of procedural safeguards; and (vi) and any other documentation relevant to the determinations reached in accordance with item #s 1, 2, and 3 above.
- If the District determines that the Student does not have a disability, as defined by Section 504, or that no compensatory education or other remedial services were necessary, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.
- If the District determines that compensatory education and/or remedial services are necessary, **by August 1, 2021**, the District will provide documentation to OCR of the dates, times, and locations that any compensatory education or other remedial services were provided to the Student, including the name(s) and title(s) of the service provider(s).

DISTRICT-WIDE REMEDIES

4. The District will provide training by a competent authority on Section 504 and Title II on the District's obligations to students with disabilities under Section 504. The District will provide this training to, at a minimum, the superintendent, the District's Section 504 coordinator(s); and building administrators and staff members at the District's middle school involved in referring students for evaluation, and or evaluating and making determinations regarding student eligibility under Section 504. The training will address, at a minimum, the procedural requirements of Section 504 and its implementing regulation, including Section 504's requirements with respect to the timely identification, evaluation, and placement of students suspected of having a disability, Section 504's requirement at 34 C.F.R. §§ 104.33-104.35 to provide a free appropriate education (FAPE) to students with disabilities, and the District's responsibility to provide the procedural safeguards available under 34 C.F.R. § 104.36, including notice and the right to challenge determinations through an impartial due process hearing.

REPORTING REQUIREMENTS: By January 29, 2021, the District will submit for OCR's approval pursuant to item# 4, a copy of the proposed training(s) material. Within six weeks of the date the District receives OCR approval of the training materials, the District will submit information to OCR documenting implementation of item #4, including: the date(s) of the training(s); a copy of the training agenda(s); copies of training materials used; the name of the person(s) who facilitated the training(s); and a record showing the names and job titles of all persons who received the training(s).

5. By **January 29, 2021**, the District will review its Section 504 policy and procedures for inclusion of provisions that ensure, at a minimum, the following, and that the information is consistent throughout all its written materials related to Section 504:
 - a. the District will not use tiered interventions in lieu of or in a manner that delays the District from timely evaluating any student suspected of having a disability or providing the student with a FAPE;
 - b. the District cannot consider mitigating measures when determining whether a student is substantially limited in a major life activity; and
 - c. students identified as having a disability under Section 504 entitled to a FAPE must be provided the regular or special education and related aids and services that are designed to meet their individual educational needs.
6. Within 60 calendar days of receiving OCR's approval of the District's revised Section 504 policy and procedures, the District will adopt and implement the revised policy and procedures.
7. Within 90 calendar days of receiving OCR's approval of the District's revised Section 504 policy and procedures, the District will distribute copies of the policy and procedures to all District staff who are involved in the identification, evaluation, or placement of students with

disabilities; and all staff responsible for implementing students' IEPs or Section 504 plans. The District will also post the revised policy and procedures on its website and notify students, parents, guardians, and District staff of the procedures and where copies may be obtained.

REPORTING REQUIREMENTS: By January 29, 2021, the District will submit its revised Section 504 policy and procedures in accordance with item #5 for OCR review and approval. Within 90 calendar days of receiving OCR's approval of the District's revised Section 504 policy and procedures, the District will submit documentation verifying it has adopted and implemented the revised policy and procedures pursuant to item #6 and that it has implemented item #7, including copies of the communications to District staff and a link to the posted policy and procedures on the District's website.

GENERAL REQUIREMENTS


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 the Agreement. Further, the District understands that during the monitoring of this 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 and obligations of the Agreement. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or 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.

The Agreement will become effective immediately upon the signature of the District's representative below.



Superintendent or Designee



Date