



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVE. S.W.,  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, D.C.

November 15, 2012

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Durham, NC 27702

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Southern Poverty Law Center  
400 Washington Avenue  
Montgomery, AL 36104

Re: OCR Complaint No. 11-12-1472  
Resolution Letter

Dear Mr. Langberg, et al.:

This letter is in reference to a complaint you filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on June 18, 2012, against the Wake County Public School System (the District) on behalf of limited English proficient (LEP) parents and guardians in the District. Specifically, the complaint alleges that the District discriminates against LEP parents and guardians on the basis of national origin by failing to ensure that they have meaningful access to information that is provided to parents and guardians in English.

OCR initiated an investigation of the complaint under its authority to enforce Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in activities or programs that receive federal financial assistance. The District receives federal financial assistance from the Department and therefore is subject to the provisions of Title VI.

The Title VI implementing regulations, at 34 C.F.R. §100.3(a) and (b), provide that a recipient of Federal financial assistance may not, directly or through contractual or other arrangements, on the ground of race, color or national origin, exclude persons from participation in its programs, deny them any service or benefits of its programs, or provide any service or benefit which is different or provided in a different manner from that provided to others. Section 100.3(b)(2) provides that, in determining the types of services or benefits that will be provided, recipients may not utilize criteria or methods of

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin.

On May 25, 1970, pursuant to its authority under Title VI, the Department of Education issued a memorandum entitled "Identification of Discrimination and Denial of Services on the Basis of National Origin" (35 Fed. Reg. 11,595). The memorandum clarified OCR policy under Title VI on issues concerning the responsibility of school agencies to provide equal educational opportunity to limited English proficient national origin minority students. The May 25th memorandum states that school districts must adequately notify national origin minority group parents of information that is called to the attention of other parents, and that such notice may have to be provided in a language other than English in order to be adequate.


During the course of OCR's investigation, the District expressed a willingness to resolve the issues in the complaint. Pursuant to Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the District. On November 14, 2012, the District signed the enclosed agreement which, when fully implemented, will resolve the concerns identified regarding this complaint. The provisions of the agreement are aligned with the issues raised in the complaint, information obtained during the course of OCR's investigation, and are consistent with the applicable regulations. OCR will monitor implementation of the agreement. OCR acknowledges and appreciates the affirmative steps the District has taken and will continue to take to meet the needs of students and parents with limited English proficiency.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be aware that the District may not harass, coerce, intimidate, or discriminate against you because you filed a complaint or participated in the complaint resolution process. If this happens, you may file another complaint alleging such treatment. Also, under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions, feel free to contact Sebastian Amar at (202) 453-6023 or [Sebastian.Amar@ed.gov](mailto:Sebastian.Amar@ed.gov) or Martha Russo at (214) 661-9622 or [Martha.Russo@ed.gov](mailto:Martha.Russo@ed.gov).

Sincerely,



Dale Rhines  
District of Columbia Office  
Office for Civil Rights

Enclosure

**VOLUNTARY RESOLUTION AGREEMENT**  
**Wake County Public School System**  
**OCR Case Number 11-12-1472**

The Wake County Public School System (the District) voluntarily agrees to enter this resolution agreement with the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of resolving OCR Complaint No. 11-12-1472 and ensuring compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq., and its implementing regulation at 34 C.F.R. Part 100 (Title VI). Agreeing to enter a resolution agreement is not an admission that the District has violated Title VI, and OCR has not made any findings that the District is in violation of the law. OCR's case processing manual provides that a complaint may be resolved before the conclusion of an investigation when a recipient of federal funding expresses an interest in resolving the complaint. In this case, OCR and the District have entered this resolution agreement based on the District's expressed desire to resolve the complaint and OCR's and the District's common interest in providing effective language services for national origin minority parents with limited English proficiency. OCR acknowledges and appreciates the affirmative steps the District has taken and will continue to take to meet the needs of students and parents with limited English proficiency.

Based on the foregoing, the District agrees to take the following actions:

1. By January 1, 2013, the District will develop a written plan to provide language assistance services to LEP parents/guardians (LEP parents) which ensures that they have meaningful access to information about the District's programs and activities. The written plan will include the following:
  - a. A process for notifying LEP parents of the availability of free language assistance services with respect to certain information about school programs and activities. The notification will include information about how to access the services and identify a District contact person who can answer any questions regarding parental communication and assist parents in accessing interpreter services or translated documents. To the extent feasible, written notifications will be provided in the language understood by the LEP parents. Such written notice will, at a minimum, be published on the District's website, in student and parent handbooks, and in any District-wide or school-wide newsletters.
  - b. A process for identifying LEP parents who may need language assistance, including, at a minimum asking parents in a language they understand (in writing and/or orally, as appropriate) if they need written translations or oral interpretation of communications and, if so, to specify the language.
  - c. A statement that, generally, the District will accept a parent's assertion that he or she needs language assistance without requiring additional corroboration.
  - d. A process that ensures that each school building has a centralized list of LEP parents identified as needing language assistance services, the type of language assistance services that they need, and a log of the language assistance services provided to them by date of service, type of service (e.g., translation or interpreter services for special

education, disciplinary proceedings), and service provider (including name, position, and qualifications). The process will ensure that the list is available to all staff in the building that may interact with LEP parents, as well as to the central administration, so long as the persons given access have legitimate educational interests in the information. Staff for purposes of this Agreement will include all relevant administrators, teachers, counselors, and support staff.

- e. A process that ensures that the central administration maintains a District-wide list of LEP parents identified by each building as needing language assistance services, the type of language assistance services that they need, and a log of the language assistance services provided to them by the central office by date, type of service, and service provider.
- f. A process to ensure that, when the children of LEP parents transfer from one building to another within the District, information regarding the language assistance needs of the parents is transferred to the building to which their children transfer.
- g. A process by which District staff that are likely to interact with an identified LEP parent and that have legitimate educational interests in the information are advised of the parent's potential need for language assistance services, the circumstances under which they may need assistance, the type of language assistance that they may need (translation services or interpreter services), the means by which they may timely obtain such assistance for the parent, and the available translated documents.
- h. A process by which District staff may obtain in a timely manner appropriate, qualified translators or interpreters as needed (this could include the use of various services such as onsite translators/interpreters, telephonic translators/interpreters services, and translation programs); the District's means to provide the services must be well-publicized and accessible to staff.
- i. A process by which the District ensures that the interpreters and translators it uses are proficient in the languages spoken by students and parents in the District and competent to provide interpretation and translation services. The District will also ensure that all interpreters and translators are trained on the role of an interpreter and translator, the ethics of interpreting and translating, and the need to maintain confidentiality.
- j. A process for notifying relevant District staff, on an annual basis, that the use of family members and friends as the sole means for the provision of language assistance is generally not encouraged. The notice shall state that the use of such individuals may raise issues of confidentiality, privacy, or conflict of interest, and that, such persons may not be competent, in some circumstances, to provide quality, accurate interpretations. The process will also include notification to relevant District staff that they should not rely on such individuals to provide LEP parents meaningful access to important programs and activities and a caution that, even when LEP parents have voluntarily chosen to provide their own interpreter or translator, the District may still need, depending upon the circumstances of the encounter, to provide its own interpreter or translator to ensure accurate interpretation or translation of critical information, especially in, but not limited to, situations where the competency of the LEP parents'

chosen interpreter is not established. Additionally, the notice shall state that the use of minor children raises particular concerns about competency, quality, and accuracy of interpretations and that it is generally inadvisable to rely solely on such children to convey information about their own education and/or complex information.

- k. A process for identifying and translating, to the extent feasible, written documents that are routinely sent to other parents into the language of each predominant language group, as identified by the District. For languages that are less predominant or where translations are not feasible, the District will ensure that student and parents have been advised, in a language they understand, of whom to contact in the District if they need assistance in understanding notices or communications with staff members. The District will notify staff members that these translations are available.

REPORTING REQUIREMENT: By January 1, 2013, the District will submit to OCR, for review and approval, a copy of the language assistance plan it has developed pursuant to the requirements of Action Step 1 above.

2. Within 30 days of receipt of the OCR-approved language assistance plan, the District will adopt and implement the plan.

REPORTING REQUIREMENT: By March 15, 2013, the District will submit to OCR documentation demonstrating adoption and implementation of the language assistance plan developed pursuant to Action Step 1, above, and approved by OCR, including, but not limited to:

- a. the notification issued pursuant to Action Step 1(a);
  - b. information that the District has maintained at the central office, pursuant to Action Step 1(e); and
  - c. the annual notice issued to staff; and copies of the documents the District has translated, including samples of individualized documents, including disciplinary referrals provided to LEP parents and Section 504/IEP documents, including meeting notes, provided to LEP parents.
3. By February 1, 2013, the District will develop a written plan for the annual evaluation of the effectiveness of its language assistance plan, developed pursuant to Action Step 1, above. The written evaluation plan will include the following:
    - a. Identification of staff responsible for evaluating the language assistance plan on an annual basis.
    - b. Identification of the date by which the evaluation will be completed on an annual basis.
    - c. A list of information and items to be examined when evaluating the effectiveness of the language assistance plan, which will include, at a minimum, the following: identification of the current LEP parent groups encountered by the District; the frequency of recorded encounters with LEP parents in which language services are requested or provided; the nature of the documents and activities for which language

services have been provided; the availability of language service resources, including any technological advances or other potential additional resources; the costs incurred in providing language services for LEP parents; whether existing assistance is meeting the needs of LEP parents; whether staff knows and understands the language assistance plan and how to implement it; and whether identified sources for language assistance are timely available and viable.

- d. A process for determining whether new documents, programs, services and activities need to be made accessible for LEP parents, and whether the District needs to provide notice of any changes in services to LEP parents and to district staff.
- e. A procedure for tracking and reviewing parent/guardian requests for interpreters/translators. At a minimum, the procedure will include a system for recording and tracking the number, type, and location (i.e., home school or District office) of each request and the response time and confirmation of the completed request. Staff will periodically review the requests to identify the need for additional interpreters/translators and/or additional training on how to request and obtain interpreters/translators.

4. Within 30 days of receipt of the OCR-approved evaluation plan, the District will adopt and implement the plan.

**REPORTING REQUIREMENTS:** By February 1, 2013, the District will submit to OCR, for review and approval, a copy of the plan it has developed pursuant to the requirements of Action Step 3, above. By September 1, 2013, the District will submit to OCR documentation demonstrating the results of its evaluation of the District's implementation of its language assistance plan during the 2012-2013 school year, consistent with the evaluation plan approved by OCR, including documentation of any changes resulting from the evaluation. OCR will issue a closure letter if it determines, following prompt review of all reports provided by the District pursuant to this resolution agreement, that the District has substantially complied with the terms of this agreement and with the applicable regulatory provisions.

#### **General Requirements**


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 regulation implementing Title VI at 34 C.F.R. §§ 100.3(a) and (b), which were at issue in this case.

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 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 this agreement and is in compliance with 34 C.F.R. §§100.3(a) and (b).

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.

By:

 (Acting Superintendent) 11/14/12  
Superintendent or Designee