



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION I

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921

November 30, 2016

Mr. Nathan Quesnel
Superintendent
East Hartford Public Schools
1110 Main Street
East Hartford, Connecticut 06108

Re: Case No. 01-15-5001
East Hartford Public Schools

Dear Superintendent Quesnel:

This letter is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR) has completed the above-referenced compliance review of the East Hartford Public Schools (the District). OCR's compliance review examined the following two issues: (1) whether the District discriminates against limited English proficient (LEP) parents/guardians by failing to ensure that they have comparable access to information that is provided to non-LEP parents/guardians in English during the enrollment and registration process; and (2) whether the District's enrollment and registration policies and practices discriminate against national origin minority students.

OCR initiated this compliance review pursuant to our authority under Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of national origin in programs and activities operated by recipients of Federal financial assistance from the U.S. Department of Education. The regulation at 34 C.F.R. § 100.7(a) requires and authorizes OCR to conduct periodic proactive compliance reviews to determine compliance with the laws OCR enforces. The District receives Federal financial assistance from the U.S. Department of Education and, therefore, is subject to the requirements of Title VI and its implementing regulation.

Summary of Review and Findings

In this compliance review, OCR examined the District's application of its enrollment and registration policies, procedures, and practices during the 2014-2015 and 2015-2016 academic years, including, but not limited to, the District's nondiscrimination notices and administrative regulations. OCR also reviewed the District's training documents provided to staff members responsible for registering students. OCR also reviewed all 2014-2015 and 2015-2016 student enrollment and registration forms and documents that the District requested or required from parents/guardians. During the 2015-2016 academic year, including Summer 2016, OCR interviewed former and current key administrators and staff responsible for and involved in the District's centralized enrollment and registration process.

OCR found that, during the 2014-2015 and 2015-2016 academic years, the District failed to ensure that LEP parents/guardians had comparable access to information that was provided to non-LEP parents/guardians in English during the enrollment and registration process, in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.3(b)(1). OCR also found that the District treated students differently during the enrollment and registration process based on their or their parents'/guardians' national origin, in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.3(b)(1).

On November 10, 2016, the District voluntarily entered into a resolution agreement (Agreement), which requires it to address the violations and concerns identified by OCR. Specifically, the District agreed to develop a written policy for providing language assistance to LEP parents/guardians to ensure that they have meaningful access to the District's enrollment and registration process, including translating the District's enrollment and registration forms and parent handbooks into the predominant languages in the District, providing a Notice of Language Assistance, and providing qualified and competent translators and interpreters. The District also agreed to revise its enrollment and registration forms and practices so as to eliminate any different treatment of students or their families based on their national origin. The District agreed to a comprehensive approach regarding the Agreement, which includes addressing Title VI violations and additional related matters.

Legal Standard

Title VI applies to all school districts that are recipients of Federal financial assistance from the U.S. Department of Education, and broadly prohibits districts from subjecting students to discrimination on the basis of race, color, or national origin. The Title VI implementing regulation at 34 C.F.R. § 100.3(a) generally provides that no recipient of Federal financial assistance shall exclude a person from participating in or deny the person the benefits of, or otherwise subject a person to discrimination under any program, on the basis of race, color, or national origin. More specifically, the Title VI implementing regulation at 34 C.F.R. § 100.3(b)(1) prohibits a recipient from discriminating against any person on the basis of race, color, or national origin by providing different services or benefits or by providing services or benefits in a different manner from those provided to others in similar circumstances.

In *Lau v. Nichols*, 414 U.S. 563 (1974), the Supreme Court determined that where the inability to speak and understand the English language excludes national origin minority students from effective participation in educational programs, districts must take affirmative steps to ensure that such English learner students (EL students) can meaningfully participate in the district's educational programs and services in order to comply with Title VI.

Factual Background

The District is comprised of 15 schools: one preschool, eight elementary schools, two middle schools, three high schools, and one K-12 therapeutic education program.

A. Demographics

According to the District, in the 2014-2015 academic year, the District enrolled a total of 7,037 students, with nearly 10% of the population identified as EL students (698 EL students). The District's data reflects that the students spoke a total of 45 languages other than English. The largest non-English language group represented was Spanish speakers, comprised of 1,131 students, or 16% of the total student population.¹ Vietnamese speakers were the second-largest group, comprised of 103 students, or nearly 1.5% of the total student population.

As reported by the District, in the 2015-2016 academic year, the District enrolled a total of 6,684 students, with more than 10% of the population identified as EL students (688 EL students). The District's data reflects that the students spoke a total of 36 languages other than English. The largest non-English language group represented was Spanish speakers, comprised of 834 students, or 12.5% of the total student population. Vietnamese speakers were the second-largest group, comprised of 84 students, or 1.2% of the total student population.

In addition to Spanish and Vietnamese, some of the other approximately 40 student languages represented in the District included, but were not limited to, Twi/Fante (Ghana), Gujarati (India), French (Togo, Belgium, Ivory Coast), and Russian (Russia).

B. Enrollment and Registration Policies, Administrative Regulations, and Practices

OCR reviewed the District's policies and administrative regulations regarding student enrollment and registration. According to this review, the only policy or administrative regulation relevant to enrollment and registration in effect for 2014-2015 and 2015-2016 was Administrative Regulation Number 5111, which establishes an "Entrance requirement" that "each child must have a birth certificate (long form)" upon entering a District school.

OCR also reviewed the District's two nondiscrimination notices. Although the notices do not cite Title VI, they explicitly prohibit discrimination on the bases of race, color, and national origin, among other protected classes, in compliance with Title VI and its implementing regulation at 34 C.F.R. 100.6(d). In addition, one of the notices also states that complainants have a right to file formal complaints regarding race, color, or national origin with OCR, and it provides OCR's contact information.

OCR conducted interviews with the District's Supervisor for Support Services, who oversees the Central Registration Office and maintains the District's student registration forms; and three Central Registration staff members, who enroll and register students on a daily basis (collectively "Central Registration staff"). According to the District, all students are enrolled through the Central Registration Office, rather than individual school sites. Central Registration staff

¹ In a data response, the District identified several reasons why the number of students who speak languages other than English does not match the number of EL students, including the possibility that students may be bilingual and have successfully completed their EL program; parents may decline EL services; and EL services are counted cumulatively in any district within the State, such that services delivered by another district will count towards the total number.

reported that they ask parents/guardians upon their arrival to the Central Registration Office for the required information, which staff identified as: residency documents, long form birth certificates, social security numbers, and medical/immunization forms.

The District provided OCR with 23 written documents that the District may provide to parents/guardians during the enrollment and registration process at the Central Registration Office. Nine of these documents were also translated into Spanish, but none of these documents was provided in a language other than English or Spanish. During the course of OCR's investigation and, as of September 2016, many of these documents were also available on the District's Central Registration website at <http://www.easthartford.org/page.cfm?p=8516>.

Throughout the course of OCR's investigation, the District's website provided a document titled "Registration Checklist," which lists all the materials required to register a student. The District's main enrollment document, which is available online and at the Central Registration Office, is the "East Hartford Public Schools Enrollment Form" (Enrollment Form).² For parents/guardians who visit the Central Registration office without all of the necessary forms and documentation, the Central Registration staff will highlight the missing information on the Registration Checklist, review the Enrollment Form, and answer any questions from the parent/guardian. The Central Registration staff will begin processing a student's registration for families who have the residency documents, even if they do not have all of the other necessary forms or documents. In those cases, parents/guardians will receive a receipt listing the missing information so they can return to the Central Registration Office with the rest of the required documentation at a later date.

Despite the language on the District's enrollment and registration forms requiring long form birth certificates, passports, and social security numbers/cards, and other additional information or materials, such as immigration status, Central Registration staff members represented that these items were not actually required to complete the registration process.

Registration Checklist

The Registration Checklist linked on the main page of the Central Registration's website is only in English; however, in the "Enrollment Package" drop-down menu, the website links to both English and Spanish versions of the Registration Checklist. The English version of the Registration Checklist requires proof of parent/guardian residency in the District, the student's long-form birth certificate, the student's social security number, and the student's passport if the student is returning from a foreign country, along with other required documentation and forms. The bottom of the Registration Checklist further reads (emphasis in original): "***If you speak a language other than English, it would be helpful if you bring an interpreter with you to register your child.***" The Spanish version of the Registration Checklist is identical to the English version with one exception: it requires a social security *card* (emphasis added) rather than the "Social Security Number."

² The enrollment form is titled the "Bilingual Enrollment Form" on the District's Central Registration website. After clicking on "Bilingual Enrollment Form," the user is linked to the "East Hartford Public Schools Enrollment Form," which lists questions in both English and Spanish.

Enrollment Form

The Enrollment Form includes sections that the Central Registration staff should complete versus those that the parent/guardian should complete. The text within sections for the parent/guardian to complete is provided in both English and Spanish.

Among the Enrollment Form fields for the parent/guardian to complete are boxes for the student's "Social Security Number" and a yes/no box inquiring whether the student is a "US citizen." Next to the citizenship box, there is a box for the Central Registration staff to complete which reads, "If foreign country list month/day/year of arrival in USA." Central Registration staff explained to OCR that, despite the wording of the Enrollment Form about being limited to students "returning from a foreign country," they request passports of all students born outside of the U.S.; and they are trained to check a student's passport to determine and validate the date of entry information.

The Enrollment Form also contains fields for parents/guardians to identify the student's primary language, the student's first learned language, and the parents'/guardians' primary language.

Health Assessment and Other Required Forms

According to Central Registration staff, parents/guardians must also complete the Health Assessment Record, which is provided only in English, along with the Parent Questionnaire and the Residency Letter, which are provided in both English and Spanish.

Parents/guardians may have to complete other forms if they are applicable, including the Central Registration Residency Affidavit (for those who rent without a lease), Certificate of Residency, Certificate of Residency Annual Renewal, Guardian Certificate of Residency, Guardian Certificate of Residency Annual Renewal, and Out of Attendance Area request form (for parents/guardians who want their elementary school children to attend an East Hartford Public School other than their neighborhood elementary school). Only the Central Registration Residency Affidavit and Out of Attendance Area forms are provided in both English and Spanish; the Certificates of Residency and Annual Renewals are only provided in English.

C. Availability of Translation and Interpreter Services for LEP Parents and Guardians During the Enrollment and Registration Process

Central Registration staff explained to OCR that they determine whether a parent/guardian is LEP based on that person's response to the "parent/guardian primary language box" on the Enrollment Form, which, as noted above, is translated into Spanish. Alternatively, parents/guardians self-identify during the enrollment and registration process (most commonly when a parent/guardian requests a Spanish speaking staff member, or arrives with an interpreter or translator). Once they are aware that a parent/guardian is LEP, Central Registration staff represented that they take a number of steps to communicate with that parent/guardian, depending on whether the parent/guardian speaks Spanish or another language.

Most commonly, an LEP parent/guardian speaks Spanish, in which case Central Registration staff explained that they direct the parent/guardian to one of the two Spanish-speaking staff members who are available at the Central Registration Office to orally translate registration information and English forms, and to provide the parent/guardian with the Spanish versions of any available registration forms. Central Registration administrators and staff explained that their two Spanish-speaking staff members have not received any translation and interpreter training and, according to two District administrators, the District relied on the personnel's Hispanic heritage in lieu of training.

One Central Registration staff member stated that if the Spanish-speaking staff members were not available to serve a Spanish-speaking parent/guardian, she would assist the parent/guardian in English because “sometimes people say they need Spanish, but they really can understand English.” If a LEP parent/guardian spoke a language other than Spanish, two of the Central Registration staff explained that they would speak slowly in English, “point” to the language on the English forms, use “different terms,” keep “eye contact,” “enunciate words,” and “see if [they] can understand each other.” Otherwise, the Central Registration staff stated that they would rely on the family, friends, or children accompanying the parent/guardian to help translate and interpret information. Central Registration staff also explained that they may ask parents/guardians to call a friend or family member to serve as an interpreter by telephone if necessary. Central Registration staff informed OCR that they believed that they were allowed to contact the District's K-12 Supervisor of World Languages, EL and Bilingual Programs (Supervisor of World Languages) for translation or interpreter services, but that no one in Central Registration had ever done so.

As discussed above, the District provides nine of its registration documents in Spanish. However, none of the District's registration documents is translated into a language other than Spanish, and the District does not provide a cover page explaining, in other languages spoken among LEP parents/guardians in the District, how an LEP parent/guardian may receive oral interpretation of the documents. Furthermore, according to Central Registration staff, not all forms may be translated: specifically, the “Certificate of Residency” and “Certificate of Residency Annual Renewal” forms for parents/guardians cannot be translated because those forms must be notarized.

The District's Director of Human Resources further stated that the District's EL and Bilingual Coordinator (Coordinator) reports to the Supervisor of World Languages, and that the Coordinator's job duties included facilitating and coordinating student transition in and out of the District through Central Registration, and providing translation and interpreter services on behalf of the District. However, none of the Central Registration staff interviewed had ever contacted the World Languages Department for language assistance and were unaware of any protocol to do so.³ Several interviewees emphasized that the Central Registration staff did not need translation or interpreter assistance because two of their staff members were bilingual and/or native Spanish speakers.

³ The District's World Languages Department provides academic courses in Spanish, Chinese, and French.

As of June 2016, the Director of Human Resources reported that the District moved the offices of the Coordinator and the Supervisor of World Languages to the same building as the Central Registration Office to make their support services more readily available to families during the enrollment and registration process.

D. Training Materials Related to Enrollment and Registration

During the investigation, OCR requested that the District provide a description of any training provided to staff responsible for registering students, including any training on the availability of interpreter services. The District did not provide a written description, but produced portions of a 2013 training manual concerning the registration process (Section I) and how to input data into the eSchool Plus system (eSchool) for a new enrollee (Section II).⁴ Central Registration staff explained to OCR that they generally receive training by shadowing another employee.

Section I of the training manual on the registration process states that, once a student's residency has been established with appropriate documentation, parents/guardians "must" present a "Birth Certificate (long form)" and "Social Security Card or number," along with other required documents. However, Section II of the training manual states that a social security number is "optional." Section II also shows fields in eSchool where Central Registration staff must designate whether the student is a "migrant" and if so his/her "Migrant ID"; whether the student is an immigrant and his/her country of origin; whether the student is a refugee; and a student's citizenship status and social security number. In the "Language Survey Screen" in eSchool, the system prompts Central Registration staff to enter the student's date of entry into the U.S. The training manual explains that if a student is coming from another country outside of the U.S., the Central Registration staff should check the student's passport to determine the student's date of entry.

As noted above, Central Registration staff explained to OCR that they did not receive any training regarding the manner in which they should make available and provide translation or interpreter services to parents/guardians seeking to enroll or register students.

Discussion and Analysis

As discussed in more detail below, OCR found that for the 2014-2015 and 2015-2016 academic years, the District's policies and practices violated Title VI and its implementing regulation at 34 C.F.R. § 100.3(b)(1) in two ways: (A) the District failed to ensure that LEP parents/guardians have comparable access to information that is provided to parents/guardians in English during the enrollment and registration process; and (B) the District treated national origin minority students differently in determining whether they satisfied the requirements for enrollment and registration by requesting passport information only from students returning from a foreign country and by disseminating information that a social security card was required only to Spanish-speaking families. Moreover, the District proffered no legitimate educational basis or justification for its different treatment of students based on national origin.

⁴ eSchool Plus is the electronic student information management system used by the District.

A. Failure to Provide Comparable Access for LEP Parents and Guardians During the Enrollment and Registration Process

OCR found that the District failed to ensure that LEP parents/guardians have comparable access to information that is provided to parents/guardians in English during the enrollment and registration process. Specifically, the District: (1) fails to provide free qualified language assistance to LEP parents/guardians; (2) lacks a process for identifying LEP parents/guardians and evaluating their language needs; and (3) does not provide adequate notice of and meaningful access to information about enrollment and registration to LEP parents/guardians.

1. Language Assistance for LEP Parents and Guardians

OCR found that the District failed to provide qualified language assistance for LEP parents/guardians. Districts are required to provide free qualified language assistance to LEP parents/guardians with appropriate and competent staff or outside resources, as part of districts' affirmative duty to ensure equal access to LEP parents/guardians. Here, however, the District's Registration Checklist expressly advises LEP parents/guardians to "**bring an interpreter with [them] to register [their] child.**" Moreover, the Central Registration staff provided information to OCR demonstrating that the Registration Checklist is widely used; that LEP parents/guardians often follow this guidance; and that the District's language assistance is largely provided in an *ad hoc* manner.

OCR also concluded that even when the District could have provided LEP parents/guardians access to interpreter and translation services, it did not. The Central Registration staff did not call upon the services of its World Language Department staff or an outside service to assist LEP parents/guardians with enrollment and registration. Rather, when the District's two Spanish language interpreters were unavailable or the language spoken by the parents/guardians was a language other than Spanish, the District staff spoke English slowly or used hand gestures to communicate with LEP parents/guardians. To the extent that the District utilized its two Spanish language interpreters, neither was provided any training to provide translation or interpreter services, *e.g.*, consecutive or simultaneous interpreting; the use of specialized terms or concepts; the role of an interpreter and translator; or the ethics of interpreting and translating, including the need to maintain confidentiality.

For these reasons, OCR determined that the District does not adequately notify LEP parents/guardians of the availability of translation and interpreter services during enrollment and registration, and does not make such services sufficiently available to LEP parents/guardians who need assistance, either for Spanish, the highest incidence language in the District, or other languages.

2. Identification of LEP Parents and Guardians and Evaluation of Their Language Needs

OCR found that the District does not sufficiently identify LEP parents/guardians and evaluate their language needs.

The District must develop and implement a process to identify whether parents and guardians are LEP and to assess their language needs. The process should be designed to identify LEP parents, including parents/guardians of students who are proficient in English and parents/guardians whose primary language is not English. Here, however, the District does not have an adequate process for identifying LEP parents/guardians and evaluating their language needs during the enrollment and registration process. Rather, Central Registration staff explained that the District determines whether a parent/guardian is LEP based on the Enrollment Form and a parent's/guardian's self-identification during the registration process.

The Enrollment Form alone is insufficient to identify LEP parents/guardians because it does not include questions to determine whether a parent/guardian has limited English proficiency in one of the four domains of language proficiency, i.e., speaking, listening, reading, and writing, and/or needs language assistance services. OCR is also concerned that the Enrollment Form is only translated into Spanish, despite several other languages represented in the District, and there is no cover page listing other languages common in the District and how a LEP parent/guardian could receive oral translation of the document. Thus, while not an adequate tool, non-Spanish-speaking LEP parents/guardians do not have access to a translated Enrollment Form, which serves as the District's primary method of identifying LEP parents/guardians.

Additionally, while responding to parents/guardians who self-identify as LEP is appropriate, the District's heavy reliance on this method impermissibly shifts its responsibility to take affirmative steps to ensure meaningful access to LEP parents/guardians.

3. Adequate Notice of and Meaningful Access to Information about Enrollment and Registration

OCR also found that the District failed to provide adequate notice of and access to information about enrollment and registration to LEP parents/guardians. Districts must ensure that LEP parents/guardians have adequate notice of and meaningful access to information about enrollment and registration that is made available to non-LEP parents, as part of districts' affirmative duty to provide equal access to key information that is made available to English speakers.

Here, OCR reviewed 23 documents that the District may provide to parents/guardians during the enrollment and registration process. Of these 23 documents, nine were also translated into Spanish – but, as discussed in Section B, immediately below, in at least one instance the Spanish translation of a prominent registration document (the Registration Checklist) contained different requirements than the English version (i.e., requiring a social security card versus a social security number). Additionally, the Central Registration staff's assertion that certain forms could not be translated because the documents required a notary is misplaced and is readily resolved as a standard part of translation and interpreter practices. Furthermore, none of the 23 documents was translated into a language other than Spanish, which is problematic in this case because the District does not have an adequate process to provide oral translation and interpreter services, and instead relies on *ad hoc* and insufficient methods, as discussed in Section A(1), immediately above. Finally, the District does not provide a cover page explaining, in other languages spoken

by LEP parents/guardians in the District, how an LEP parent/guardian may receive oral translation of the documents.

Taking all of the above findings into consideration, OCR has concluded that the District did not ensure that LEP parents/guardians had comparable access to information that was provided and/or available to parents/guardians in English during the enrollment and registration process, in violation of Title VI.

B. Different Treatment Based on National Origin

OCR found that the District treated students differently during the enrollment and registration process based on their or their parents'/guardians' national origin. Specifically, the District required or requested additional, unnecessary, or different documents during the enrollment and registration process based on the national origin of students or their parents/guardians, particularly Spanish-speaking individuals.

Through its Registration Checklist and as provided for in its training materials for staff, the District impermissibly requested and collected different documentation, in the form of passports and dates of entry from students born outside of the country or "returning from a foreign country." Passports were not requested of students the District believed were from the U.S. In addition, the English version of the Registration Checklist notified parents/guardians that they "must" submit a social security number; yet the Spanish version required the production of a social security card itself.

To the extent that Central Registration staff represented that they permitted students to enroll and register irrespective of whether requested passports, dates of entry, and social security cards were provided, this representation does not address or ameliorate the District's discriminatory practices.

Conclusion

OCR found that, during the 2014-2015 and 2015-2016 academic years, the District failed to ensure that LEP parents/guardians had comparable access to information that was provided to parents/guardians in English during the enrollment and registration process, in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.3(b)(1).

OCR also found that, during the 2014-2015 and 2015-2016 academic years, the District treated national origin minority students differently in determining whether they satisfied the requirements for enrollment and registration, in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.3(b)(1).

Taking a comprehensive approach to address the aforementioned violations and concerns, along with related issues, the District entered into a Resolution Agreement. Among other provisions, the Resolution Agreement requires the District to:

- Develop a written policy for providing language assistance to LEP parents/guardians to ensure that they have meaningful access to the District’s enrollment and registration process. Among other requirements, this written policy will identify a process for notifying LEP parents/guardians, in a language that the parents/guardians will understand, of the availability of free translation and interpreter services with respect to the enrollment and registration process. This “Notice of Language Assistance” will also provide parents/guardians with a contact person who can answer any questions regarding parental communication and assist parents/guardians to access interpreter services or translated documents.
- Remove from all of the District’s written information, both in hard copy and online, and discontinue all statements, oral and written, suggesting that LEP parents/guardians should bring an interpreter with them to register their child.
- Develop a process to provide, in a timely manner, appropriate, qualified, and competent translators and interpreters for LEP parents/guardians, including for parents/guardians from less predominant language groups.
- Refrain from publishing requirements for or otherwise requiring additional, unnecessary, or different enrollment or registration documentation or information for students based on their or their parents’/guardians’ national origin.
- Train all Central Registration staff and other appropriate District staff on these changes.

This letter of finding sets forth OCR’s determination in an OCR compliance review and should not be construed to cover any other issue regarding the District’s compliance with the laws enforced by OCR. 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.

It is unlawful to harass, coerce, intimidate or discriminate against any individual who has assisted in an OCR investigation, or participated in actions to secure protected rights.

When fully implemented, the resolution agreement will address all of OCR’s compliance concerns. OCR will monitor the implementation of the agreement until the recipient is in compliance with the statutes and regulations at issue in the compliance review.

Thank you for your cooperation in this compliance review. If you have any questions, you may contact me at (617) 289-0111.

Sincerely,

/s/

Diane M. Henson
Regional Director

Enclosure