

March 24, 2017

Dr. Brendan Lyons  
Superintendent of Schools  
Arlington Central School District  
144 Todd Hill Road  
LaGrangeville, New York 12540

Re: Case No. 02-16-1510  
Arlington Central School District

Dear Dr. Lyons:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), with respect to the above-referenced complaint filed against the Arlington Central School District. The complainant alleged that District staff discriminated against her son (the Student), on the basis of his disability, by improperly restraining him on three occasions during the XXXXXX XXXXXX semester (Allegation 1). The complainant also alleged that the District discriminated against the Student, on the bases of national origin (Allegation 2) and disability (Allegation 3), by failing to make certain documents available to the complainant in her native language between XXXXXXXXX and XXXXX XXXXXXX, including suspension notices and the Student's Individualized Education Program (IEP).

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). OCR also is responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35. Under the ADA, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. In addition, OCR is responsible for enforcing 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 race, color or national origin in programs and activities receiving financial assistance from the Department. The District is a recipient of financial assistance from the Department and is a public elementary and secondary education system. Therefore, OCR has jurisdictional authority to investigate this complaint under Section 504, the ADA and Title VI.

The regulation implementing Section 504, at 34 C.F.R. § 104.4, provides that qualified individuals with disabilities shall not, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity that receives federal financial assistance from the Department. The regulation implementing the ADA, at 28 C.F.R. § 35.130, contains similar provisions.

Additionally, the regulation implementing Section 504, at 34 C.F.R. § 104.33(a), requires that a recipient that operates a public elementary or secondary education program or activity provide a free appropriate public education (FAPE) to each qualified disabled person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability. The regulation, at 34 C.F.R. § 104.33(b)(1), defines an appropriate education as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of nondisabled persons are met. The implementation of an IEP is one means of meeting this standard.

Physical restraint refers to a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location.<sup>1</sup>

A school district discriminates on the basis of disability in its use of restraint by (1) unnecessarily treating students with disabilities differently from students without disabilities; (2) implementing policies, practices, procedures, or criteria that have an effect of discriminating against students on the basis of disability or defeating or substantially impairing accomplishment of the objectives of the school district's program or activity with respect to students with disabilities; or (3) denying the right to a FAPE.

The regulation implementing Title VI, at 34 C.F.R. § 100.3(a), states that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.” The regulation implementing Title VI, at 34 C.F.R. § 100.3(b), prohibits a recipient from, on the basis of national origin, providing any service or other benefit to an individual that is different, or is provided in a different manner, from that provided to others under the program; subjecting an individual to segregation or separate treatment in any manner related to his or her receipt of any service or other benefit under the program; and, denying an individual an opportunity to participate in the program through the provision of services or otherwise affording a person an opportunity to do so that is different from that afforded others under the program. Recipients are responsible for adequately notifying national-origin minority limited English proficient (LEP) parents of school activities that are called to the attention of other parents; and such notice, in order to be adequate, may have to be

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<sup>1</sup> For further information, see OCR's Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities, from OCR Assistant Secretary Catherine Lhamon, dated December 28, 2016 (December 2016 DCL), at p. 6.

provided in a language other than English.<sup>2</sup> OCR does not exclude *per se* any activity that is brought to the attention of English-speaking persons from those activities about which LEP parents should get adequate notice through oral interpretation or the translation of written documents. OCR interprets Title VI to provide that the failure to translate “vital written materials,” or documents that are of consequence to the LEP person if the information is not provided accurately or in a timely manner, denies an LEP parent meaningful access to the recipient’s educational program or activities.

OCR interprets Title VI to require that school districts develop and implement a process for determining whether parents are LEP and their language needs. The process should be designed to identify all LEP parents, including parents or guardians of children who are proficient in English and parents and guardians whose primary language is not common in the district. For example, a school district may use a student registration form, such as a home language survey, to inquire whether a parent or guardian requires oral and/or written communication in a language other than English.

The failure to provide written translations of certain types of documents is not a *per se* violation of Title VI. Rather, the determination of whether the failure to translate certain documents denies a LEP parent meaningful access, in violation of Title VI, must be made on a case-by-case basis. In determining whether “meaningful access” would be assisted by a written translation, districts or schools should first consider the kind of information that is included in the document and whether it is important for LEP parents to have this information in writing. A review of OCR’s historical enforcement practices shows that a school’s or district’s most important activities include procedures related to parents’ rights to receive procedural safeguards in the context of providing children with disabilities with a FAPE under Section 504 and the Individuals with Disabilities Education Act (IDEA); and meetings in which parents participate in eligibility and placement decisions affecting their children with disabilities.<sup>3</sup>

Recipients should let LEP individuals know that language assistance services are available, free of charge. OCR interprets Title VI to require districts to provide language assistance effectively, with appropriate, competent staff or outside resources. Interpreters should have knowledge in both languages of any specialized terms or concepts peculiar to the entity’s program or activity and of any particularized vocabulary and phraseology used by the LEP person, and should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group’s vocabulary and phraseology.<sup>4</sup> Additionally, districts should ensure that interpreters are trained on the role of an interpreter and translator, the ethics of interpreting and translating and the need to maintain confidentiality.<sup>5</sup> Generally,

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<sup>2</sup> For more information, please see the memorandum to school districts, dated May 25, 1970, entitled “Identification of Discrimination and Denial of Services on the Basis of National Origin,” 35 Fed. Reg. 11595, <http://www2.ed.gov/about/offices/list/ocr/docs/lau1970.html> (May 1970 Memorandum).

<sup>3</sup> There are no express requirements regarding interpretation, translation or other forms of language assistance for LEP parents in the regulation implementing Section 504. While the IDEA includes requirements regarding the provision of certain information to parents whose native language is not English, OCR does not enforce the IDEA.

<sup>4</sup> For further information, see 67 Fed. Reg. 41455, at 41464).

<sup>5</sup> Id.

districts should not allow family members, children or friends to provide language assistance to LEP parents.<sup>6</sup>

In addition to the foregoing regarding the requirements of Title VI and its implementing regulation, the regulation implementing Section 504, at 34 C.F.R. § 104.33(a), states that a recipient that operates a public elementary or secondary education program or activity shall provide a FAPE to each qualified disabled person who is in the recipient’s jurisdiction, regardless of the nature or severity of the person’s disability. Section 504 requires, at 34 C.F.R. § 104.36, that a recipient establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person’s parents or guardian and representation by counsel, and a review procedure.

In its investigation, OCR reviewed information that the complainant and the District submitted. OCR also interviewed the complainant and District staff. OCR made the following determinations.

With respect to Allegation 1, the complainant alleged that District staff discriminated against the Student, on the basis of his disability, by improperly restraining him on three occasions during the XXXXXXXXXX semester. Specifically, the complainant alleged that District staff was aware of the Student’s XXXXXX XXXXX XXXXXX XXXXXXX (XXXX), and instead of helping him manage his behaviors, staff “excessively” restrained the Student in an “unprofessional manner” on XXXXXXX, XXXX, XXXXXXX, XXXX and XXXX, XXXX, which resulted in injuries such as bruises on the Student’s arm and leg and a split lip.

The Student was XXXX years old and was enrolled in XXXXX grade at the District’s XXXXXXX XXXXXXXXXX School (the school) from XXXXXXX, XX, XXXX until on or about XXXXX XX, XXXX.<sup>7</sup> During this time, the Student received special education and related aids and services pursuant to IEPs dated XXXXXXX X,XXXX, XXXXXXX XX, XXXX, XXXXXXXXXXXX, XXXX, XXXXX XX, XXXX, and XXXXX XX, XXXX.<sup>8</sup> The Student also had a Behavior Intervention Plan (BIP), dated XXXXXXX XX, XXXX, in place during the XXXXXXXXXX XXXX semester.<sup>9</sup> Neither the Student’s IEPs nor his BIP contained any

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<sup>6</sup> LEP individuals may elect to have a family member, friend or child serve as interpreter; however, use of such interpreters should be carefully scrutinized, especially where children are asked to convey information about their own education, and districts should ensure that the LEP parent is aware of potential problems and knows that a competent interpreter could be provided by the district at no cost.

<sup>7</sup> On XXXXXXX, XXXX, the District’s Committee on Special Education (CSE) amended the Student’s IEP and placed him in an XXXXX XXXXXXXXXXXX, XXXX XXXXXXXXXXXX program at the main campus of the XXXXXXX XX XXXXXXXXXXXX XXXXXXX XXXXXX (XXXX) for the remainder of the XXXXX XXXX semester, beginning on or about XXXXXXX, XXXX. The CSE concluded that this change in placement was necessary due to the Student’s escalating behaviors and the District’s inability to manage his behaviors, despite having XXX individual XXXXXXXXXXXX XXXXXXXXXXXX working with the Student XXXXX.

<sup>8</sup> The Student was classified with an XXXXX XXXXXXX XXXXXXXXXXX (XXX) and diagnosed with XXXXX.

<sup>9</sup> The Student’s BIP and Functional Behavioral Assessment (FBA) stated that the Student exhibited “XXXXXXXXXXXXXXXX [including] XXXXXXX, XXXXXXX, XXXXXXXXXXX, XXXX-XXXXXXXX, XXXX XXXXXXX, XXXXXXX, XXXXXXXXXXX XXX XXXXXXXXXXX XXXX X XXXXX XXXX.” The FBA also

provisions allowing or prohibiting the use of physical restraint; however, the IEP dated XXXXX XX, XXXX, included a statement that “XXXXXXXX XXXX XX XXXXXXXXXXXX XX XXXX [the Student] XXXX XXX XXXXXX XXXX XXXX XX XXXXXXXXXXXX XX XXXXXXXXXXXXX” when the Student’s behavior compromised his safety or the safety of others.

The District has a policy allowing for the use of physical restraint, Erie 7350, entitled “Corporal Punishment/Emergency Interventions” (policy 1). Pursuant to policy 1, when “alternative procedures and methods which would not involve physical force are not effective, the use of reasonable physical force is allowable for the following reasons: (1) Self-Protection; (2) Protection of others; (3) Protection of property; or (4) Restraining/removing a disruptive student.” Policy 1 states that “such emergency interventions shall only be used in situations where alternative procedures and methods not involving the use of reasonable physical force cannot reasonably be employed,” and that “[e]mergency interventions shall not be used as a punishment or as a substitute for systematic behavioral interventions that are designed to change, replace, modify or eliminate a targeted behavior.” Policy 1 requires that staff who “may be called upon to implement emergency interventions will be provided appropriate training in safe and effective restraint procedures,” and that “[t]he parent(s) of the student shall be notified whenever an emergency intervention is utilized.” Policy 1 also requires that any school employee who uses physical force against a student immediately report the incident to his or her principal/supervisor; and that the principal/supervisor shall make a report to the Superintendent describing in detail the circumstances and the nature of the action taken, within the same school day. Policy 1 further requires that the District maintain documentation of the use of emergency interventions for each student,<sup>10</sup> including the name of the student; the location of the incident; the name of staff involved; a description of the incident and emergency intervention used, including duration; and details of any injuries sustained by the student or others, including staff, as a result of the incident, and any medical treatment.<sup>11</sup>

The District uses a behavior management system, called the “Handle with Care Behavior Management System” (HCBMS), to address situations in which physical restraint may be needed to deescalate a student whose behavior poses a risk of injury to himself or others. Under HCBMS, prior to using any physical intervention, staff members will attempt various interventions, such as verbal prompts. Staff members will utilize physical restraint only when other attempted interventions prove unsuccessful, and “where the only appropriate response is the prompt skillful use of physical restraint.” Various school staff members are authorized to perform physical restraints, all of whom are trained in HCBMS, including the XXXXX, principal, XXXXXX XXXXXXXXXXXXXXX and the Student’s XXXXX teacher (teacher 1).<sup>12</sup> The District informed OCR that its XXXXXXXXXXX XXXXXXXXXXX, including the Student’s

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indicated that “XXX XXXXXXXXXXX XX [the Student’s] XXXXXXXXXXX XX XXXXXXXXXXX XXXXXXXX XX XXXXXXXXXXX X XXXXXXXXXXX XX XX XXXXXX XX XXXXX XXXXX XX XX [Student] XXX XXX XXXXXX.”

<sup>10</sup> The District uses an Emergency Intervention Incident Report form for this purpose.

<sup>11</sup> Similarly, New York State regulations contain specific requirements for implementing behavior interventions, and state that physical restraint may only be used in emergency situations in which alternative procedures and methods not involving use of physical force cannot reasonably be employed. See 8 NYCRR §§19.5 and 200.22(d).

<sup>12</sup> The District did not have any documentation regarding the amount and frequency of training provided to staff. Teacher 1, who physically restrained the Student on one occasion as discussed more fully below, informed OCR that he received such training on two occasions during the past five years.

XXXXXXXX XXXXX (XXXXXX and XXXXXXXX), received no training from the District regarding the use of physical restraint.<sup>13</sup>

The complainant alleged that the District physically restrained the Student on XXXXXX XX, XXXX (incident 1). The then-principal of the school (the principal) and teacher 1 informed OCR that on XXXXXXXX XX, XXXX, they observed the Student running around the gym, throwing sneakers at staff, taking and ripping posters from the wall, and destroying school property. The principal stated that the Student also hit her with a pool noodle. The staff members attempted to deescalate the Student using verbal prompts, but his behavior continued. The Student then ran out of the school building. Teacher 1 chased him and asked him to return to the school, but the Student refused; teacher 1 therefore picked him up and carried him back into the building. Once back in the gym, the Student began hitting himself and running into staff members who were blocking the exit doors, in an attempt to again leave the building. Staff members again tried to calm the Student using verbal prompts, but the Student's behavior continued. Teacher 1 informed OCR that he therefore used a seated Primary Restraint Technique (PRT) hold on the Student on the gym floor, to help him calm down and ensure the safety of the Student and staff. Teacher 1 stated that the hold lasted approximately 10 minutes, because the Student kept pinching, hitting and head-butting him.<sup>14</sup> Despite these actions, District staff was unable to deescalate the situation, and the principal called the complainant and asked her to pick up the Student. The principal informed the complainant of the incident generally, but District staff did not inform the complainant of the restraint. The complainant was unable to immediately go to the school to get the Student, so District staff called the XXXXXX, who then called XX XXXXXXXXXXXX to XXXX the Student to X XXXXX XXXXXXXX. The complainant informed OCR that she learned of the restraint when she arrived at XXX XXXXXXXX and noticed that the Student had nail marks on his right shoulder. District staff documented the incident in an Emergency Intervention Incident Report.

The complainant also alleged that the District physically restrained the Student on XXXXXX XX, XXXX (incident 2). District staff informed OCR that on XXXXXX XX, XXXX, the Student head-butted, bit and punched XXXXXXXX while in his classroom, and was verbally abusive towards her. XXXXXXXX tried to verbally redirect the Student several times, and also tried to redirect him with written prompts and by moving his seat to the back of the classroom; however, the Student continued to be physically aggressive toward XXXXXXXX, including throwing objects at her, lunging at her, and biting her, and was also verbally aggressive toward her. Therefore, XXXXXXXX placed the Student in a therapeutic restraint for twenty-six minutes.<sup>15</sup> Following the restraint, the school nurse assessed the Student and noted that he had a small cut on his lip. The District called the complainant and asked her to pick the Student up early, since the incident occurred towards the end of the school day and staff members were concerned that the Student might have trouble remaining calm on the bus home. District staff

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<sup>13</sup> The District informed OCR that its XXXXXXXXXXXX XXXXXXXXXXXX are not District employees, and are retained by the District to observe specific students and to provide suggestions and training to District staff regarding how to appropriately address such students' interfering behaviors; and, when appropriate, to suggest modifications to BIPs.

<sup>14</sup> Teacher 1 stated that he twice tried to let the Student go, but the Student then tried to hit him and run away, so teacher 1 continued the hold.

<sup>15</sup> It is unclear if XXXXXXXXXXXX had been trained to use this technique. OCR attempted to interview XXXXXXXXXXXX, but XXXXXXXXXXXX XXXXXXXXXXX XXXXXX XXXXXXX. As previously stated, XXXXXXXXXXX XXXXXXX XXXXXXX.

members filled out witness statements regarding the incident, but neither XXXXXXXXXX nor any District staff member otherwise documented the restraint on the District’s Emergency Intervention Incident Report form, as required by District policy. The principal informed OCR that the XXXXXXXXXX documented physical interventions separate from the District, and that the District did not have its own internal way to track when the Student was restrained by the XXXXXXXXXX. The complainant informed OCR that the District did not notify her of the restraint; rather, the Student informed her of the restraint when she picked him up and noticed the cut on his lip.<sup>16</sup>

The complainant also alleged that the District physically restrained the Student on XXXXX, XX, XXXX (incident 3). The complainant advised OCR that she was at the school on this date for a meeting and that XXXXXXXXXX was called from the meeting to assist the Student in his classroom. The complainant stated that when she saw the Student later in the day, he had a bruise on his right shin, which he alleged came from his interaction with XXXXXXXXXX. The District denied that the Student was physically restrained on this occasion and did not have any documentation, including incident reports or witness statements, indicating that the Student had been physically restrained on XXXXX XX, XXXX. Other than the Student’s assertion, the complainant did not have any information to corroborate her allegation that the Student was restrained on XXXXX XX, XXXX. OCR was unable to interview XXXXXXXXXX regarding what occurred on XXXXX XX, XXXX. OCR must often weigh conflicting evidence in light of the facts and circumstances of each case and determine whether the preponderance of the evidence substantiates the allegation. Here, the preponderance of the evidence did not substantiate the complainant’s assertion that the Student was physically restrained on XXXXX XX, XXXX.

In addition to incidents 1 and 2, the District provided to OCR notes from the XXXXXX XXXXX indicating that the XXXXX assessed the Student after he was placed in therapeutic holds on other occasions during school year XXXX-XXXX. Specifically, OCR determined that there were approximately 12 entries by XXX XXXXX indicating that she assessed the Student after a “Handle with Care.” In approximately three of those instances, XXX XXXXX specifically states that the Student was restrained. OCR interviewed the principal, who stated that the school’s practice was to have XXX XXXXX assess the Student after he was restrained. The District did not have documentation regarding use of physical restraint on these occasions, even though District policy requires that such restraints be documented. OCR requested that the District provide any other information it had available about the use of physical restraint on the Student on these occasions, but the District did not provide any further data.

The District informed OCR that four other students were physically restrained by District staff during school years XXXX-XXXX and XXXX-XXXX. OCR determined that student A, a non-disabled student, was restrained to protect another student (student B), when student A was punching student B. The District stated that no other non-disabled student engaged in conduct similar to the Student’s conduct. OCR also determined that students C, D, and E, all of whom are students with disabilities, were restrained during school years XXXX-XXXX and XXXX-

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<sup>16</sup> The complainant informed OCR that the Student told her that the XXXXXXXXXX put her hands on his back, which caused him to hit his mouth and cut his lip.

XXXX for engaging in physically aggressive behavior towards staff, self-abusive behavior, or destruction of property.

On March 20, 2017, the District entered into the enclosed agreement with OCR to resolve Allegation 1 without further investigation. OCR will monitor the implementation of the agreement.

With respect to Allegations 2 and 3, the complainant alleged that the District discriminated against the Student, on the bases of national origin and disability, by failing to make certain documents available to the complainant in her native language between XXXXXXXX and XXXXX XXXX, including suspension notices and the Student’s IEP. The complainant asserted that when the Student began attending the school in XXXXXX XXXX, she asked the District to send her information in her native language (XXXXXX). The complainant asserted that despite her request, and despite the District’s knowledge that her primary language is XXXXXXXX, the District sent her suspension letters, notices of manifestation determination reviews (MDRs), and IEPs in English from XXXXXX through XXXXX XXXX. The complainant informed OCR that she cannot XXXX XXXXXXXX.

OCR determined that District Policy 4326, entitled “Limited English Proficiency Instruction” (policy 2), requires that the District provide “appropriate school-related information to the parents of LEP students in English, or when necessary, in the language they understand.” OCR determined that the District uses a home language questionnaire (HLQ) to determine, among other things, whether parents/guardians require translation of school-related information. The complainant filled out the HLQ on XXXXXXXX XX, XXXX, prior to the Student’s enrollment at the school, and indicated in it that she would like to receive information from school in XXXXXXXX.<sup>17</sup>

The school principal informed OCR that she was not aware of the HLQ process or any other procedure whereby the District identifies parents/guardians in need of translation or interpretation services. The principal informed OCR that she was also not aware of any District policy, procedure or practice regarding translation of special-education related documents and notices, or suspension notices, for LEP parents/guardians. The principal informed OCR that in practice, the school will accommodate any request made by a parent for translation or interpretation services, by doing the following: (1) if a request is made for an interpreter, school staff will send the request to the District’s central office, which will coordinate provision of an interpreter; and (2) if a request is made for translation of documents, the principal will herself translate the documents using Google Translate, or ask a XXXXXXXX-speaking staff member to translate the documents.

The District denied that the complainant ever requested that District or school staff provide any specific document to her in XXXXXXXX. Additionally, the principal informed OCR that she was unaware of the complainant’s request in her HLQ to receive information from the school in XXXXXXXX. The principal stated that from meeting with the complainant, the principal

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<sup>17</sup> Specifically, in response to the question “in what language would you like to receive information from the school,” the complainant replied “XXXXXXX.” The complainant also indicated in the HLQ that both of the Student’s parents speak XXXXXXXX at home and that the Student speaks and understands both XXXXXXXX and English.

believed that the complainant spoke and understood English; and that school staff often communicated with the complainant in English. The principal acknowledged to OCR that the District provided interpretation services to the complainant during meetings, but stated that this was not done because the complainant did not speak and understand English; rather, it was done “as a form of kindness and consideration,” because the complainant seemed more comfortable having an interpreter present. Similarly, the principal often asked the school’s XXXXXXXX-speaking XXXXXXXXXXXXXXXX to reach out to the complainant on the principal’s behalf, not because the complainant did not speak and understand English, but because the complainant seemed more comfortable speaking in XXXXXXXX.<sup>18</sup>

The District acknowledged that it did not provide copies of any documents regarding the Student to the complainant in XXXXXXXX between XXXXXXXX and XXXXX XXXX, including suspension notices and the Student’s IEP.<sup>19</sup> The District asserted that this was because the complainant never requested that the District translate any document or provide any specific document to her in XXXXXXXX; however, as stated above, the District acknowledged that the complainant indicated on the HLQ that she wanted to receive information from the school in XXXXXXXX. In late XXXXX XXXX, the District began sending certain documents to the complainant in XXXXXXXX, including special education related documents.<sup>20</sup>

Based on the above, OCR determined that pursuant to the District’s procedures, the complainant indicated on the HLQ that she wanted to receive important documents translated into XXXXXXXX because she was LEP. The District acknowledged that it did not translate any documents into XXXXXXXX for the complainant. OCR determined that the failure to translate suspension letters, notices of MDRs, and IEPs denied the complainant meaningful access, in violation of the regulation implementing Title VI, at 34 C.F.R. § 100.3(a) and (b); and, resulted in a failure to implement procedural safeguards, particularly meaningful notice of actions involving the evaluation and educational placement of the Student, in violation of the regulation implementing Section 504, at 34 C.F.R. § 104.36. On March 20, 2017, the District entered into the enclosed resolution agreement with OCR to resolve these compliance issues. OCR will monitor the implementation of the agreement.

This letter should not be interpreted to address the District’s compliance with any other regulatory provision or to address any issues other than those addressed in this letter. 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.

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<sup>18</sup> The principal informed OCR that no staff member at the school received training regarding the provision of translation or interpretation services, and the District had no records of any such training.

<sup>19</sup> OCR determined that between XXXXXXXX XX, XXXX, and XXXXX XX, XXXX, the Student was suspended for ten school days. The District held an MDR on XXXXX XX, XXXX.

<sup>20</sup> The complainant filed a due process complaint against the District in or around late XXXXX XXXX, in which she raised this issue.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions regarding OCR's determination, please contact Bernard Dufresne, Compliance Team Attorney, at (646) 428-3802 or [bernard.dufresne@ed.gov](mailto:bernard.dufresne@ed.gov); or Tiffany Lyttle, Compliance Team Attorney, at (646) 428-3754 or [tiffany.lyttle@ed.gov](mailto:tiffany.lyttle@ed.gov).

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: XXXXXXXXXXX XXXXXXXX, Esq.