

**RESOLUTION AGREEMENT**  
**Ohio Virtual Academy**  
**OCR Docket No. 15-12-1116**

Ohio Virtual Academy (the Academy) submits this Resolution Agreement to the U.S. Department of Education's Office for Civil Rights (OCR) to resolve the above-referenced complaint and ensure compliance 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. This Agreement is being voluntarily submitted by the Academy and before the completion of OCR's investigation and any issuance of findings. The Academy therefore agrees to take the following actions:

**PARENTAL COMMUNICATION – MEANINGFUL ACCESS**

- I. By August 1, 2015, the Academy will develop a written plan to provide language assistance to national origin minority, Limited English Proficient parents/guardians (LEP parents) that ensures that they are notified, in a language they understand, of school activities, including activities related to and associated with their role as learning coaches, and other information and matters that are called to the attention of other parents. The written plan will include:
  - A. a process for notifying LEP parents and all Academy staff of the availability of free language assistance services with respect to information about Academy programs and activities (e.g., on-line/digital and "in person" or telephone-based orientation sessions, parent-teacher conferences, meetings with Academy staff, special education or other meetings about disability, learning coach activities, etc.). The notification(s) will include information about how to access the services and will identify an Academy contact person who can assist LEP parents in accessing interpreter services or translated documents. The notification will, at a minimum, be published on the Academy's website, in student and parent handbooks, and in any Academy-wide or school-based newsletters or other general communications, as well as in general contact information in advertisements or other contacts relating to enrollment/admissions;
  - B. a process for identifying LEP parents who may need language assistance through, at a minimum, home language surveys that ask parents, in a language they understand (in writing and/or verbally, as appropriate), if they need written translations or oral interpretation of communications and, if so, to specify the language(s) needed; through interaction between parents and staff; and taking into account that English language learner (EL) students, whom the Academy has an obligation to identify, may also have LEP parents;
  - C. a statement that a parent does not have to be of limited English proficiency in speaking, reading, writing, and comprehending English in order to be considered LEP; rather, a parent need be limited in only one of these areas in order to be eligible to receive language assistance as needed;

- D. a statement that, generally, the Academy will accept a parent’s assertion that he or she needs language assistance without requiring additional corroboration;
- E. a process that ensures that the Academy has a centralized and current list of LEP parents identified as needing language assistance services, as well as the type of language assistance services they need and a log of the language assistance services provided to them that includes 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 provided to all Academy staff who may interact with LEP parents, as well as to all administrators. “Staff,” for the purposes of this Agreement, will include all relevant administrators, teachers, counselors, and support staff. Should the Academy choose to use its centralized data system (Sharepoint) for this purpose, the Academy will ensure that all relevant staff are aware of the location and purpose of the list.
- F. a process by which Academy staff members who are likely to interact with an identified LEP parent are advised of the parent’s potential need for language assistance, the circumstances under which they may need assistance (e.g., setting up hardware and software, explaining the Academy’s process, first and later contacts with teachers and other staff, parent-teacher conferences, contacts and documents related to learning coach activities, disciplinary actions, disciplinary hearings, contacts and documents related to Individualized Education Programs (IEP) developed under the Individuals with Disabilities Education Act of 2004 (IDEA) or plans developed under Section 504 of the Rehabilitation Act of 1973 (Section 504), hearings or documents relating to dis-enrollment), the type of language assistance they might need (e.g., translation services or interpreter services), and the means by which they may timely obtain such assistance for the parent. Including such a notice on the Academy’s centralized description of students (Sharepoint) shall not be considered sufficient notice of such a need;
- G. a process by which Academy staff may obtain, in a timely manner, appropriate, qualified translators or interpreters as needed;
- H. a process to ensure that interpreters understand any specialized processes, terms, or concepts pertinent to the Academy’s program and that the interpreters can explain or interpret/translate the terms in the native language of the parents for whom they are providing services, including but not limited to, how to set up and deal with the Academy’s on-line provision of its program, interpreters at IEP meetings and Section 504 meetings and special education or disability-related terminology and concepts;
- I. a process by which the Academy will ensure that its interpreters and translators are trained on how to utilize the academy’s on-line system, the role of interpreter

and translator, the ethics of interpreting and translating, and the need to maintain confidentiality;

- J. a process for notifying relevant Academy staff, on an annual basis, that the use of family members and friends for the provision of language assistance is generally not acceptable. The notice shall state that the use of such individuals may raise issues of confidentiality, privacy, or conflict of interest and that, in many circumstances, such persons are not competent to provide quality, accurate interpretations. The process will also include notification to relevant Academy staff that they should not rely on family members and friends 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 Academy 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 and/or when identified LEP parents do not request translation but a translator is deemed necessary to convey information. 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 never advisable to use such children to convey information about their own education and/or complex information;
  
- K. a process for identifying and translating vital written documents into the language of each frequently-encountered LEP parent group eligible to be served and/or likely to be affected by the Academy's program or activities, as well as other languages as necessary. In determining which written documents are vital, the Academy will consider the importance of the program, information, encounter, or service involved and the consequence to the LEP parent and his/her children if the information in question is not provided accurately or in a timely manner. At a minimum, the following vital written documents will be translated into the language of each frequently-encountered LEP parent group:
  - 1. notice relating to matters of Academy procedures, such as how to access its on-line program and how to set up hardware, software, and an internet service provider to access the Academy's program;
  - 2. notice of procedural safeguards in the context of providing children with disabilities with a free appropriate public education (FAPE) under Section 504 and IDEA;
  - 3. documentation related to eligibility and placement decisions under Section 504 and IDEA;
  - 4. disciplinary notices and procedures;

5. registration/enrollment forms, emergency notification forms, and other forms most commonly used by the district to communicate with parents;
  6. report cards and student progress reports;
  7. notices of parent-teacher conferences or meetings;
  8. parent handbooks and fact sheets, if utilized by the Academy;
  9. documentation regarding the availability of academic options and planning, including any gifted and talented programs, alternative language programs, tutoring, and counseling and guidance services; and
  10. screening procedures that request information from parents about the child's language background and the parents' preferred language for communication with the school.
- L. A process for translating and/or interpreting documents and communications that are specifically tailored to the online format of the Academy, including, but not limited to:
1. K-mail
  2. Class Connect sessions
  3. Online threaded academic discussions and other discussions involving the participation of learning coaches
  4. web conferencing and chat room communications
- M. a process to ensure that translators understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology. The process should require, as deemed appropriate and necessary, consultation with relevant community organizations to help determine whether a document is written at an appropriate level for the intended audience.
- II. Within 60 calendar days of receipt of the OCR-approved language assistance plan, the Academy will adopt and implement the plan; notify all Academy staff and administrators of the language assistance plan; publish the notice required by Item I.A. above; and train its staff, including guidance counselors, counselors, and advisors, on its policy and procedures for effectively communicating with LEP parents. The training will consist of a review of the language assistance plan and will include training on the importance of effective communication with LEP parents, use of interpreters when staff receive or make calls to language-minority individuals, and applicable record-keeping procedures and reporting requirements. Additionally, the Academy will have a trainer, qualified in addressing cultural sensitivity issues, train staff on the impact of ethnic and cultural differences on effective communication and the importance of cultural sensitivity in communicating with LEP parents.

**Reporting Requirements:** By August 1, 2015, the Academy will submit to OCR, for review and approval, a copy of the language assistance plan it has developed pursuant to the requirements of Item I above. Within 60 calendar days of receipt of the OCR-approved language assistance plan, the Academy will submit to OCR documentation demonstrating adoption and implementation of the language assistance plan developed pursuant to Item II, including but not limited to: the notification issued pursuant to Item I.A.; a list of identified LEP parents, their language background, types of services that they require, and information as to any services provided to the parents by the central administration (including date of services, type of services, and name and qualifications of service provider); the annual notice issued to staff; and copies of the documents the Academy has translated, including links to any translated communications available on the Academy's website; and a copy of the training sign-up sheet or other documentation of staff and administration attendance at the training, the name and qualifications of the trainer, any agenda utilized, and any outline or materials used during the training.

- III. By August 1, 2015, the Academy will develop a written plan for the annual evaluation of the effectiveness of its language assistance plan, developed pursuant to Item I 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 Academy; the frequency of encounters with LEP parents; the nature and importance of activities involving LEP parents; the availability of resources, including technological advances and sources of additional resources, and the costs imposed; 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; and
  - D. a process for determining whether new documents, programs, services, and activities need to be made accessible for LEP parents and whether the Academy needs to provide notice of any changes in services to LEP parents and to Academy staff.
- IV. Within 60 calendar days of receipt of the OCR-approved evaluation plan developed pursuant to Item III above, the Academy will adopt and implement the plan.

**Reporting Requirements:** By August 1, 2015, the Academy will submit to OCR, for review and approval, a copy of the evaluation plan it has developed pursuant to the requirements of Item III above. Within 60 calendar days of receipt of the OCR-approved evaluation plan, the

Academy will submit documentation verifying it adopted and implemented the plan pursuant to Item IV above. By July 30, 2016, the Academy will submit to OCR documentation demonstrating the results of its evaluation of the Academy's implementation of its language assistance plan during the 2015-2016 school year, consistent with the evaluation plan approved by OCR, including documentation of any changes resulting from the evaluation.

### **ENGLISH LANGUAGE LEARNER PROGRAM**

- V. By August 1, 2015, the Academy will develop a comprehensive plan (the comprehensive plan) outlining how it will provide English language services and instruction to English language learner (EL) students enrolled in the Academy. The approach/methodology must be recognized as sound by some experts in the field or recognized as a legitimate educational strategy. The Academy will consult with other on-line learning institutions and/or outside experts as needed concerning delivery of on-line learning for EL students to ensure the plan appropriately addresses delivery of services to EL students in an on-line education environment, providing them an opportunity to participate in and benefit from the Academy's on-line learning program that is comparable to that offered to non-EL students.
  
- VI. The comprehensive plan will include the following:
  - A. Regarding identification of EL students, the Academy will finalize home language survey questions currently being developed, and each national origin minority student in kindergarten through grade twelve who has a primary or home language other than English (PHLOTE) will be identified by the Academy upon enrollment using K-12's and the Academy's Home Language Survey questions for all students enrolling in the Academy. The Academy will review completed Home Language Surveys, as well as teacher and other staff input to identify all students who have a primary or home language other than English. The Academy will deliver the Home Language Survey questions in person or via a survey document in English and in Spanish, as needed. For those languages that are less prominent, the Academy will have translated versions of the survey available or will advise national origin minority limited English proficient (LEP) parents, in a language they understand, of whom to contact at the Academy if they need assistance in understanding and completing the survey.
  
  - B. Regarding assessment of potential EL students, the Academy will continue to promptly and objectively assess students identified as having a primary or home language other than English to determine their proficiency in reading, writing, speaking, and understanding English. The Academy will articulate what level of performance on the assessments qualifies students for EL services, the placement determination regarding the EL student's participation in the EL program, and the EL services to be provided by the Academy to the EL student. The Academy will promptly notify EL students' parents, in a language they understand, of the assessment results and of the EL services to be provided.

- C. The Academy will develop a system to maintain records for all EL students that will include information that allows them to track the services provided to its EL students, such as student, name, grade level, assessment results, proficiency level, and the type, amount, and time of language services to be provided.
- D. Regarding EL program staffing, the Academy will ensure that EL program staff and providers are qualified for their positions. Additionally, the Academy will ensure that EL program staffing, including regular education teachers teaching EL students, is sufficient, and sufficiently trained, to provide EL students the EL services necessary to meet their needs. The Academy will take into account the extent of modifications that may be necessary given the amount of time students work independently, the need for additional technology such as webcams and additional monitors so that teachers and students can see each other as well as materials to be worked on; possible need to utilize aides or other personnel, such as interpreters, who speak the languages of specific EL students to ensure that they will effectively provide EL students with an opportunity to participate in and benefit from the Academy's general education program that is comparable to that provided to non-EL students; and the teacher/student ratio in on-line classes.
- E. Regarding EL program instructional materials, the Academy will ensure that the instructional materials that it provides to the EL program are appropriate to the EL program, grade level, and English language proficiency of the students it serves, given the on-line nature of the program and the independent way Academy students access most of their curriculum/studies. The Academy will also ensure that the instructional materials are comparable in quality and scope to the materials provided to all students and that they will effectively provide EL students with an opportunity to participate in and benefit from the Academy's general education program that is comparable to that provided to non-EL students and will allow EL students to effectively develop skills in reading, writing, comprehending, and speaking English.
- F. Regarding EL program facilities, should the Academy provide any instruction or services in a physical location, such as face-to-face meetings, etc., the Academy will ensure that the facilities and locations in which it delivers EL instruction and services are both adequate to program needs and comparable in size and quality to the facilities and locations in which all students are educated. In addition, the Academy will ensure that its on-line learning provides access for EL students is comparable to that provided to non-EL students.
- G. Regarding EL student progress, the Academy will monitor EL student progress in order to identify EL students not making adequate progress toward meeting the Academy's identified EL program goals. The Academy will identify the specific interventions that it will provide to EL students who do not exhibit adequate progress in both learning English and participating in the Academy's general education program. The Academy will document the monitoring as well as the special interventions that it provides to individual EL students.

- H. Regarding peer integration, the Academy will ensure that it does not separate EL students from their non-EL peers in the on-line context and in any “in person” provision of instruction or services, except to the extent such separation is necessary to the stated goals of the EL program.
- I. Regarding EL students with disabilities or suspected disabilities, the Academy will ensure that it appropriately identifies EL students who need or are believed to need special education or related services. Additionally, it will obtain input from relevant EL program staff when a group of knowledgeable person evaluates, reevaluates or makes making placement decisions for EL students with disabilities.
- J. Regarding special programs (e.g., advanced placement, honors, etc.), flex credit opportunities, and extra-curricular activities, if available, the Academy will ensure that EL students have the same opportunity to participate in such programs as their non-EL peers.
- K. Regarding exit criteria and monitoring of students exited from the EL program, the Academy will articulate appropriate criteria for determining when it should exit an EL student from the EL program. The Academy will also ensure that EL program personnel monitor the academic and English language proficiency of students exited from the EL program for at least two years after their exit. The Academy will ensure that EL personnel monitoring the exited student will consider, at a minimum, report cards, progress reports, teacher input, and standardized test scores to determine whether to place the EL student back in EL program. The Academy will assess whether each student exited from the EL program is able to achieve without EL program services (including by reviewing grades and academic achievement data) and, if an exited student is unable to achieve without EL program services, the Academy will determine the EL services to be provided to the EL student. The Academy will promptly notify EL students’ parents, in a language they understand, of the assessment results and of the EL services to be provided.
- L. Regarding EL program evaluation, the Academy will establish and implement a program and criteria for periodically evaluating the effectiveness of its EL program in providing EL students a meaningful opportunity to develop English-language skills and to benefit from its overall educational programs. The Academy will ensure that it makes prompt and appropriate changes to its EL programs based on the evaluation.
- M. The Academy must not recommend that parents decline all or some services within an EL program for any reason; rather, the Academy will develop a method to provide guidance in a language parents can understand to ensure that they understand their child’s rights, the range of EL services that their child could receive, and the benefits of such services. When parents who are so informed about the Academy’s EL program then decide, knowingly and voluntarily, not to

have their children participate in the program or decline particular services, the Academy must take affirmative steps to provide these EL students access to its educational programs and ensure the needs of “opt-out” EL students are being met; the Academy will periodically monitor their progress and, if a student does not demonstrate appropriate growth in English proficiency or struggles in one or more subjects due to language barriers, the Academy’s affirmative steps will include informing the parents of the lack of progress and offering further opportunities to enroll the student in the EL program or in particular services at any time.

VII. Within 30 calendar days of receipt of the OCR-approved comprehensive plan, the Academy will adopt and implement the plan.

VIII. By September 30, 2015, the District will provide training by a competent authority to all of its upper-level administrators, principals, teachers, and staff on the District’s legal requirements, pursuant to Title VI of the Civil Rights Act of 1964, OCR policy, and case law, to provide equal educational opportunity to EL students and to provide meaningful access to the District’s program to LEP parents.

### **Reporting Requirements**

1. By August 1, 2015, the Academy will submit to OCR, for review and approval, a copy of the comprehensive plan it has developed pursuant to Item V. above.
2. Within 30 calendar days of receipt of written notification from OCR of approval of the comprehensive plan, the Academy will submit to OCR documentation demonstrating adoption and implementation of the comprehensive plan. In addition, the Academy will submit documentation, including, but not limited to, its Home Language Survey (or its questions reduced to writing), including any translation copies and information about the provision of interpreter services for parents to complete the survey; and any data collected pursuant to the development of the comprehensive plan, such as a list of instruction materials used or to be used with EL students and documentation demonstrating that the materials are appropriate.
3. By June 30, 2016 and June 30, 2017, the Academy will submit to OCR information documenting the total number of EL students enrolled in the Academy; the total number of EL students who receive alternative language program services; and the EL program services provided to each student, as well as information about the students’ grade and proficiency levels. For each EL student not included in the EL program, the Academy will provide information documenting the student’s grade level, proficiency level, and reason for not receiving services, as well as a statement of the language support services being provided to the student and a description of the student’s academic progress and whether the student was able to participate meaningfully in the regular instructional program. For any student who is not being provided services because a parent opted out, the Academy will provide to OCR a copy of the information provided to the parent of the unserved student.

4. By June 30, 2016 and June 30, 2017, the Academy will provide information documenting the monitoring of EL student progress, staffing information, a list of all students who exited the EL program during the 2015-2016 and 2016-2017 school years, and information supporting whether each student was able to achieve without EL program services, including grades and academic achievement data and statements describing where/how EL students are receiving EL services. If a student was unable to achieve without EL program services, the Academy will provide information documenting that the student was again provided with EL services and that appropriate notice was provided to the student's parents.
5. By June 30, 2016 and June 30, 2017, the Academy will submit to OCR documentation demonstrating the results of the Academy's evaluation of the implementation of the comprehensive plan during the 2015-2016 school year, pursuant to Item V.L. of this agreement, consistent with the OCR-approved evaluation plan, including documentation of any changes the Academy took as a result of the evaluation.
6. By October 30, 2015, the Academy will submit to OCR documentation showing that it conducted training pursuant to Item VII, including copies of training schedules, a brief description of the training, the name and credentials of the individual responsible for providing the training, and sign-in sheets or other information that includes the names and titles of those in attendance.

## **GENERAL REQUIREMENTS**

The Academy understands that OCR will not close the monitoring of this agreement until OCR determines that the Academy has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title VI, 42 U.S.C. §§ 2000d *et. seq.*, at 34 C.F.R. §§ 100.3(a) and (b).

The Academy understands that by signing this agreement, it agrees to provide data and other information in a timely manner. Further, the Academy understands that during the monitoring of this agreement, OCR may visit the Academy, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Academy has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title VI at 34 C.F.R. §§ 100.3(a) and (b).

The Academy 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 Academy written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

/s/

3/11/15

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Superintendent or designee

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Date