

RESOLUTION AGREEMENT
Burlington School District
OCR Complaint No. 01-14-5001

The Burlington School District (District) has voluntarily entered into this agreement to resolve the above-referenced compliance review. The District assures that it will take the following actions and will meet its obligation to comply with the requirements of Title VI of the Civil Rights Act of 1964 (Title VI) or any other law enforced by OCR.

Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions.

Action Item 1: Home Language Survey

The District will update its Home Language Survey (HLS) to ask for the native language of the student's parent(s) or guardian(s) and the language most frequently used when speaking to the student, in addition to the questions currently on the HLS.

Reporting Requirement:

1. By August 1, 2018, the District will provide to OCR a screenshot or weblink showing the updated HLS.

Action Item 2: The Language Program for English Learner (EL) Students in Elementary and Middle School

As part of its language program for EL students, the District will ensure:

- A. All pull-out classes in its elementary schools contain students from no more than two WIDA levels and no more than two grade levels. Those WIDA and grade levels must be consecutive.¹
- B. The newcomer program at the middle school level provides specialized instruction to EL students so that they can meet grade-level standards within a reasonable period of time, and provides meaningful access to the core curriculum.
- C. At the end of each semester, the District will conduct a self-assessment of its newcomer program at the middle school level to determine if they are meeting the goals of the language program for EL students. Based on the results of this self-assessment, the District will modify its newcomer program as needed to meet the goals of the program.

¹ For example, a classroom may have WIDA 1.0 and 2.0 students from first and second grade, but it cannot have (i) WIDA 1.0 and 3.0, (ii) WIDA 1.0, 2.0, and 3.0 students, (iii) first and third graders, or (iv) first, second, and third graders.

Reporting Requirements:

1. By November 1, 2018, the District will provide copies of the rosters for each pull-out EL class at the elementary level, including the grade level and WIDA level for each student.
2. By October 1, 2018, the District will provide to OCR a written description of the changes it will undertake to accomplish Action Item 2.
3. By November 1, 2019, the District will provide to OCR a description of the results of the self-assessments it has undertaken to accomplish Action Item 2 and any changes made as a result of said assessment.

Action Item 3: Math for EL Students

- A. The District will evaluate and assess the math education its high school EL students are receiving. If the District's EL high school students are not receiving grade-appropriate instruction in math, the District will develop a plan to remedy any deficits and will include benchmarks and specific deadlines for implementing this plan.
- B. At the end of each semester, the District will conduct a self-assessment of the math education program for its high school EL students to determine if it is meeting the goals of the language program for EL students. Based on the results of this self-assessment, the District will modify its program as needed to meet the goals of the program.

Reporting Requirement:

1. By February 1, 2019, the District will submit to OCR for its review, a copy of its evaluation and assessment of its EL high school students' performance in math.
2. If the assessment shows that the District's EL high school students are not receiving grade appropriate instruction, on April 1, 2019, the District will submit to OCR for its review and approval the plan developed to remediate any deficits revealed by that analysis.
3. By February 1, 2020, the District will submit to OCR a description of the self-assessment the District has conducted in compliance with Action Item 3(B) and any changes made as a result of said assessment.

Action Item 4: Core Content and Class Access for Former ExcEL Students

The District shall ensure that all students who exit the ExcEL program at the high school are able to fully access all core content and other classes and have no empty periods in their schedules due to scheduling conflicts and/or capacity issues with core content and other classrooms.

Reporting Requirements:

1. By January 15, 2019, for all students who exit the ExcEL program from the date of this agreement until December 31, 2018, the District shall submit copies of said students' schedules both immediately before and immediately after their exiting from ExcEL.
2. By July 1, 2020, for all students who exit the ExcEL program from January 1, 2019 through the end of the 2019-2020 school year, the District shall submit copies of said students' schedules both immediately before and immediately after their exiting from ExcEL.

Action Item 5: Professional Learning and Qualifications of Teachers and Other Personnel

- A. The District will ensure that all EL personnel are qualified to implement the District's chosen language program for EL students, and that the District has an adequate number of EL personnel to implement the District's chosen language program for EL students.
- B. The District will develop a plan for ensuring that all general education teachers are adequately trained to instruct EL students. This plan shall include:
 - i. A timetable for ensuring all general education teachers in the District who provide core content instruction to EL students receive ongoing, appropriate, and effective professional learning on teaching EL students;
 - ii. A description of each professional learning session that will be offered, including length, topics, and the trainer; and
 - iii. A plan for conducting periodic, and ongoing, surveys of the general education teachers to assess their comfort and familiarity with instructing EL students, and any topics for which they need or want additional professional learning.

Reporting Requirements:

1. By October 1, 2018, the District will submit to OCR for its review and approval a list of its EL personnel for the 2018-2019 school year, including each individual's certifications and relevant qualifications.
 - a. If the District identifies any EL personnel who are not certified or otherwise qualified to implement the District's chosen language program for EL students, the District shall:
 - i. By November 1, 2018, submit a plan for ensuring all its EL personnel are qualified by December 1, 2019; and
 - ii. By January 1, 2020, submit an updated list of its EL personnel's certifications and relevant qualifications.

- b. If OCR determines that any of the District’s EL personnel are not certified or otherwise qualified to implement the District’s chosen language program for EL students, the District shall have 30 days from OCR’s notice of these deficiencies to prepare a plan for ensuring all its EL personnel are qualified within one year of OCR’s determination. Within 375 days of OCR’s notice, the District shall submit an updated list of its EL personnel’s certifications and relevant qualifications.
- c. By November 1, 2018, the District will submit to OCR its self-assessment of whether it has a sufficient number of EL personnel to implement its chosen language program for EL students.
 - i. If the District’s assessment reveals that its staffing levels are inadequate to implement the program, then the District shall submit to OCR its plan to remediate these staffing deficiencies by December 1, 2018.
 - ii. By June 1, 2019, the District shall submit to OCR a description its efforts taken to come into compliance.
 - iii. By June 1, 2020, the District will submit an updated description of its efforts, demonstrating that it has come into compliance with this plan.
- 2. By November 1, 2018, the District will submit to OCR for its review and approval a copy of this professional learning plan.
- 3. Within 30 days of OCR’s approval of the professional learning plan, the District will submit to OCR evidence that the approved plan is being implemented.
- 4. By September 1, 2019, the District will:
 - i. Submit to OCR a list of all professional learning sessions regarding instructing EL students that were provided to general education teachers during the 2018-2019 school year, including the number of attendees and topics covered.
 - ii. If, after a year of this professional learning plan, the District determines any changes are necessary to meet (i) the professional development needs of its general education teachers and/or (ii) the needs of its EL students, the District shall submit to OCR for its review and approval an updated copy of its professional learning plan.

Action Item 6: Special Education Services

- A. The District will review its policies, procedures and practices to ensure that it is providing EL students with disabilities with both the language assistance and disability-

related services to which they are entitled under Title VI and Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II), including that the District is not delaying or failing to appropriately evaluate an EL student for services under Section 504 and Title II based on their EL status and/or language abilities.

- B. The District will send a notice to all licensed educators and administrators that all EL students should be evaluated in accordance with the requirements of Section 504 and Title II, without delays for any period of time due to EL status and/or how long they have been in the country.
- C. The District will take steps to remedy the effect of any past policies or practices that delayed the evaluation of EL students until they had been in the country a minimum length of time. Specifically, the District will review the files of all EL students identified as having a disability since August 2015, determine whether there is any indication the evaluation of the student may have been delayed because of the student's EL status, and, if so, convene a team meeting to determine compensatory services for the student.

Reporting Requirements:

- 1. By November 1, 2018, the District will provide OCR with documentation confirming any revisions to its policies, procedures and practices based on its review under Action Item 6(A), and demonstrating that it disseminated any revised policies/procedures to District staff and/or notified District staff of any changes to practices.
- 2. By October 1, 2018, the District will provide OCR with copies of the notice to District personnel made in compliance with Action Item 6(B).
- 3. The District will provide OCR with evidence demonstrating its compliance with Action Item 6(C). Specifically, the District shall provide:
 - i. By February 1, 2019, a list of files reviewed and the files for which there was any indication that evaluation may have been delayed;
 - ii. By April 1, 2019, notes from all team meetings convened in compliance with Action Item 6(C).
 - iii. By April 1, 2019, documentation demonstrating the District's plans to provide students with compensatory services, including notice to the students' parents/legal guardians, and providers/schedules for the services.

Action Item 7: Advanced and Specialized Courses and Programs

- A. Except for courses where English proficiency is required for meaningful participation (e.g., advanced placement English courses), the District shall ensure that EL students are not being screened out of advanced coursework (e.g., honors or advanced placement

courses) because of their limited English proficiency. To accomplish this goal, the District will review the number of current and former EL students in its advanced courses. It will also evaluate whether any requirements for participation in these advanced courses (e.g., prerequisites, teacher recommendations, etc.) have the consequence of excluding or limiting participation by EL students and, if so, whether it has a substantial educational justification for those requirements. If those requirements exclude or limit participation, and there is no substantial educational justification for said requirements, the District shall develop a plan for eliminating or modifying said requirements and ensuring EL student participation in the advanced coursework.

- B. The District will prepare and implement a plan for continuing to expand access to its Technical Center for its EL students.
- C. The District will prepare a plan for ensuring EL students can fully access the District’s alternative programs and implement said plan if any EL students seek to enroll in the alternative programs.

Reporting Requirements:

1. By April 1, 2019, the District shall submit to OCR evidence of its compliance with Action Item 7(A), including its participation numbers, its assessment of the requirements, and any plan for modifying the requirements to ensure greater access to advanced coursework for EL students.
2. By December 1, 2018, the District shall submit to OCR evidence of its compliance with Action Item 7(B), including a description of the plan and how it will be monitored, and the names/titles of individuals involved in implementing the plan.
3. By December 1, 2018, the District shall submit to OCR evidence of its compliance with Action Item 7(C), including a description of the plan and shall indicate whether any EL students are currently enrolled in the District’s alternative programs.

Action Item 8: Instructional Materials

The District shall ensure that it is using instructional materials to effectively implement its selected language service model for the instruction of EL students. Such materials will be appropriate to the curriculum, and comparable in quality, availability, and developmentally appropriate for the age of the student to materials provided for the instruction of non-EL students.

Reporting Requirement:

1. By October 1, 2018, the District will submit to OCR for its review and approval a written narrative description of (i) the instructional materials it is using or plans to use for the 2018-2019 school year for EL students and, (ii) how the materials are appropriate to the curriculum and comparable to non-EL student materials that it

has in place and/or has ordered.

2. If, after receipt of this written narrative, OCR determines the District does not have adequate instructional materials to effectively implement its selected language program for EL students, the District shall submit documentation to OCR within 90 days confirming that it has addressed the inadequacies and is now using instructional materials to effectively implement its program.

Action Item 9: Facilities

The District shall ensure it has the necessary facilities to implement its EL program. At a minimum, this will include:

- A. Surveying all EL teachers regarding their facilities to ensure that students in the EL program have access to comparable facilities as their non-EL peers and, if not, determine where there are inadequacies.
- B. Obtaining an adequate space for the EL program to conduct intake and assessment at the high school.

Reporting Requirements:

1. By December 1, 2018, the District will provide OCR with copies of all responses to the survey described in Action Item 9(A).
2. By September 15, 2018, the District will provide an update about the interim space being used to conduct intake and assessment at the high school or changes made to the current space.
3. By December 1, 2019, the District will provide OCR with a written description and photos of the new space used for intake and assessment at the high school.
4. If the District determines that students in the EL program do not have access to facilities comparable to those of their non-EL peers, on February 1, 2019, the District will submit to OCR for its review and approval the plan (Facilities Plan) developed to remediate these inadequacies.
5. By July 1, 2020 or within 6 months of OCR's approval of the Facilities Plan, whichever is later, the District will submit to OCR documentation showing the implementation of the Facilities Plan.

Action Item 10: Monitoring

The District will continue to update and improve its system for monitoring all students who exit the EL program for two years after the date they exit the program. These efforts will include:

- A. Continued biannual surveying of all teachers for all students who have exited the EL program in the last two years to determine whether students require additional services;
- B. An email notice to all faculty receiving the monitoring surveys that completion is mandatory, including a reminder of the District’s obligation to monitor students who exit its EL program pursuant to Title VI;
- C. Follow-up contact with all teachers who do not respond to the monitoring surveys, until the District has adequate data to effectively assess the current language skills of each exited student; and
- D. Providing any supplemental services necessary to meet the individual language needs of each student being monitored.

Reporting Requirements:

- 1. By January 1, 2019, the District will provide OCR with the copies of all the monitoring surveys received during the fall of 2018. For all surveys sent to teachers but not completed, the District shall describe in detail (i) its efforts to follow up with the teacher, and (ii) why it has determined it has sufficient data about the student without the teacher’s response.
- 2. By January 1, 2019, the District will provide OCR with a copy of the email notice described in Action Item 10(B).
- 3. By July 1, 2019, if the District determines any supplemental services are necessary to comply with Action Item 10(D), the District will submit a narrative description of all services that are being provided or will be provided. Additionally, for any students whose teachers indicated any concerns, the District shall provide a narrative description of the process it undertook to determine whether supplemental services were necessary.

Action Item 11: Opt Out Students

The District will ensure it is meeting the English-language and other academic needs of students who opt out of the EL program by (i) monitoring these students through the same process used in connection with Action Item 10 and (ii) take affirmative steps to provide the students with access to the educational program.

Reporting Requirements

- 1. By December 1, 2018, the District will provide OCR with a list of all students who opted out of the EL program during the 2016-2017, 2017-2018, and 2018-2019 school years.
- 2. By July 1, 2019, the District shall provide OCR with all teacher surveys completed in connection with the District’s monitoring of all students identified in response to Reporting Requirement 11(1). The District will also

provide a narrative description of the affirmative steps taken to provide students with access to the education program, in light of responses to the monitoring surveys.

Action Item 12: Communications with LEP Parents

The District shall develop a plan for ensuring all essential information available to parents in online computer systems (e.g., Jupiter, PowerSchool) is conveyed to parents or guardians with limited English proficiency in a timely manner. At a minimum, essential information will include the student’s grades on each assignment, missing assignments, and day-to-day attendance.

Reporting Requirements:

1. By December 1, 2018, the District shall provide a copy of the plan to OCR for its review and approval. The District shall also provide OCR with a list of all information conveyed via the online computer systems referred to in Action Item 10 that the District has determined is not essential information, with descriptions of why the District has made these determinations.
2. Within 90 days of OCR’s approval of the plan, the District shall submit documentation demonstrating the plan is being implemented.

Action Item 13: Reviewing and Adapting its Language Program for EL Students

- A. The District will develop concrete and measurable goals for evaluating the effectiveness of its language program for EL students, and will annually evaluate its program in accordance with these goals. The goals must include enabling EL students to attain both English proficiency and meaningful participation in the standard educational program of their never-EL peers within a reasonable amount of time.
- B. The District will establish a procedure for modifying its language program for EL students if the annual evaluation created in compliance with Action Item 13(A) demonstrates the program is not meeting its goals.

Reporting Requirements:

1. By December 1, 2018, the District will develop its (i) goals, (ii) plan for annually evaluating its progress towards those goals, and (iii) procedure for modifying its program, in compliance with Action Item 13(A) and (B).
2. By December 1, 2019, the District will submit to OCR evidence of its most recent annual evaluation of its progress with respect to the goals created in compliance with Action Item 13(A).
3. By December 1, 2020, the District will submit to OCR evidence of its most recent annual evaluation of its progress with respect to the goals created in compliance with Action Item 13(A) and any modifications, or planned modifications, in accordance with the procedure created in Action Item 13(B).

Action Item 14: Lau Plan

The District will update and revise the plan describing its language program for EL students (Lau Plan), including all of the changes required by Action Items 1, 2, 4, 6, 7, 10, 11, and 13 of this agreement.

Reporting Requirement:

1. By April 15, 2019, the District will submit to OCR for its review and approval, its updated *Lau Plan*.
2. Within 30 days of OCR’s approval of the plan, the District will submit to OCR evidence of the plan’s availability on the District’s website.

General Requirements

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District to interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title VI, at 34 C.F.R. Part 100, which was at issue in this case. The District understands that OCR will not close the monitoring of the Agreement until such time that OCR determines the District has fulfilled the terms of the Agreement and is in compliance with the statutes and regulations that were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

By: /s/ _____ Date: July 16, 2018 _____
Yaw Obeng, Superintendent