



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION I  
5 POST OFFICE SQUARE, 8<sup>th</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921

March 29, 2018

Dr. Robert Tremblay  
Superintendent  
Framingham Public Schools  
Framingham, MA 01701

Re: Complaint No. 01-17-1253  
Framingham Public Schools

Dear Superintendent Tremblay:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received against the Framingham Public Schools (the District). The Complainant alleged that the District discriminated against students who are English language learners (ELLs) who were placed in the Resiliency for Life (RFL) program, and against their parents who have limited English proficiency (LEP), by failing to provide timely and accurate information and notices in the parents' native languages, and failing to provide qualified interpreters at meetings concerning changes to their children's educational programming (Allegation 1). The Complainant also alleged that the District treated students with disabilities differently than non-disabled students by failing to provide their parents with effective communication, concerning their children's special education programming (Allegation 2). As explained further below, before OCR completed its investigation, the District expressed a willingness to resolve this complaint by taking the steps set out in the enclosed Resolution Agreement. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Resolution Agreement.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance from the Department. OCR also enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. Additionally, OCR enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. The District is subject to Title VI and Section 504 because it receives Federal financial assistance

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by fostering educational excellence and ensuring equal access.*

from the Department and it is subject to Title II because it is a public entity operating an education system.

### **Background**

According to the District, the RFL program serves a high-needs population within the town of Framingham. RFL is a voluntary academic intervention and dropout prevention program that develops skills and confidence in students with social difficulties who are at-risk of academic failure.<sup>1</sup>

The Complainant filed this complaint on behalf of ELL students and their parents who may be LEP, alleging that major changes were made to the District's RFL program. The Complainant alleged that the lack of communication in parents' first languages hindered their ability to understand the changes that were being made to the RFL program, and that some of the children in the RFL program were students with disabilities on Individualized Education Programs (IEPs).

The District has a significant number of ELLs enrolled. The data reported by the Massachusetts Department of Elementary and Secondary Education for 2018 shows that 44% of the District's students have a primary home language other than English (as compared to 20% statewide), and 21.9% of the District's students are ELLs (as compared to 10.2% statewide).

### **Legal Standards**

#### *Title VI*

The Title VI regulation, at 34 C.F.R. § 100.3(a) and (b), provides that a school district may not exclude persons from participation in its programs, deny them any service or the benefits of its programs, or subject them to different treatment on the basis of race, color, or national origin.

The Departmental Policy Memorandum issued on May 25, 1970, entitled "Identification of Discrimination and Denial of Services on the Basis of National Origin" (the May 1970 memorandum), 35 Fed. Reg. 11,595, clarifies OCR policy under Title VI on issues concerning the responsibility of schools to provide equal educational opportunity to limited English proficient (LEP) national origin minority students. The May 1970 memorandum states that school districts must adequately notify LEP national origin minority group parents of information that is called to the attention of other parents, and that such notice may have to be provided in a language other than English in order to be adequate. This policy concerning the need for effective communication with parents who do not speak English fluently has consistently been upheld by the courts and reiterated in subsequent OCR policy guidance.

In addition to prohibiting discrimination against students, Title VI's prohibition on national origin discrimination also requires districts to take "affirmative steps" to address language barriers so that ELL students can meaningfully participate in public schools' educational programs and services. See *Lau v. Nichols*, 414 U.S. 563, 566-67 (1974); see also 34 C.F.R.

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<sup>1</sup> Information on the program can be found on the Program's website at: [www.resiliencyforlife.org](http://www.resiliencyforlife.org).

§ 100.3(b)(1). These affirmative steps include ensuring that LEP parents/guardians have meaningful access to district- and school-related information. Districts have an obligation to ensure meaningful communication with LEP parents/guardians in a language they can understand and to adequately notify LEP parents/guardians of information about any program, service, or activity of a district that is called to the attention of non-LEP parents/guardians. At the school and district levels, this essential information includes special education-related documents and notices to parents/guardians and qualified interpreters at special education-related meetings, among other items.

#### *Section 504*

The Section 504 regulation at 34 C.F.R. § 104.4 states that, “no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.” The Title II regulation provides a similar prohibition against different treatment on the basis of disability at 28 C.F.R. § 35.130(a) and (b).

#### **Allegation 1**

The District provided a data response to OCR in which it noted that while it has a policy and procedures for translating and interpreting notices and other information for parents who do not speak or understand English, the policy and procedures were not fully followed with respect to information about changes occurring to the RFL program. Specifically, the District acknowledged that after deciding to restructure the RFL program, a notice was sent on May 4, 2017, via email, from the Framingham High School (FHS) Principal informing the parents of students enrolled in the RFL program of the planned restructuring. According to the District, this email was sent only in English, and was not translated into other languages. However, the District informed OCR that a letter in English, Spanish, and Portuguese was sent by mail the same day from the FHS Principal to the parents of students enrolled in the RFL program informing them of the planned restructuring.

The District also reported that it held an informational meeting on May 8, 2017 concerning the changes to the RFL program. From information the District provided to OCR, it appears that no interpreters were present at the meeting to translate the information from English into other languages spoken by LEP parents. However, the District informed OCR that on June 21, 2017, it held another informational meeting at which interpreters were available for parents/guardians of students in the RFL program. The District reported that the notice of this second meeting was sent out to parents/guardians in English, Spanish, and Portuguese.

Prior to OCR completing its investigation concerning the adequacy of the District’s parental communication under Title VI, the District agreed to resolve this allegation by signing the attached Resolution Agreement.

## **Allegation 2**

In the District's initial response to OCR's data request, the District represented that the RFL program is not a special education program. The District also represented that while some students who participate in the RFL program do have IEPs, none of those IEPs includes the RFL program as a service or placement.

Prior to OCR completing its investigation concerning the adequacy of parental communication to parents of students with disabilities, the District agreed to resolve this allegation by signing the attached Resolution Agreement.

## **Conclusion**

Prior to the conclusion of OCR's investigation and pursuant to Section 302 of OCR's *Case Processing Manual*, the District expressed an interest in resolving this complaint. Subsequent discussions between OCR and the District resulted in the District signing the enclosed Resolution Agreement which, when fully implemented, will resolve the issues raised in the complaint. The terms of the Resolution Agreement are aligned with the complaint allegations and are consistent with the applicable laws and regulations. OCR will monitor the District's implementation of the Resolution Agreement and continue to do so until it has determined that the District has complied with the terms of the Resolution Agreement. Failure to implement the Resolution Agreement could result in OCR reopening the complaint.

This concludes OCR's investigation of the complaint. 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.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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

If you have any questions, please contact Civil Rights Attorney Jacob Tabor at (617) 289-0123 or by e-mail at [Jacob.Tabor@ed.gov](mailto:Jacob.Tabor@ed.gov).

Sincerely,

/s/ Adrienne M. Mundy-Shephard

Adrienne M. Mundy-Shephard  
Acting Regional Director

Enclosure

cc: Philip Benjamin, Esq.