

Resolution Agreement

Essex County Vocational School District Newark Tech (the School) OCR Case No. 02-13-1097

In order to resolve Case No. 02-13-1097, the Essex County Vocational School District (the District) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the following actions pursuant to the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d et seq., and its implementing regulation, at 34 C.F.R. Part 100:

Action Item A: Identification and Assessment of Students Whose Primary Home Language is Other Than English, and Placement of Students who are English Language Learners

1. By September 1, 2018, the District will review the School's policies and practices to ensure that every student with a primary home language other than English (PHLOTE) is identified by the School. The District will ensure that, consistent with Title VI, the home language questionnaire (HLQ) is designed and administered by the School such that it appropriately identifies students who have a PHLOTE.
2. By September 1, 2018, the District will review the School's policies and practices to ensure that every student identified as PHLOTE consistent with Action Item 1 is assessed by the School to determine whether the student is an English Language Learner (ELL); and if so, the appropriate English as a Second Language (ESL) services¹ to be provided.

Reporting Requirements:

- a) By September 15, 2018, the District will submit to OCR copies of all HLQ surveys completed for students enrolled in the School during school year 2017-2018; indicating which students have been identified as students who have a PHLOTE.
- b) By September 30, 2018, the District will submit to OCR documentation demonstrating that every student enrolled in the School identified as having a PHLOTE during school year 2017-2018 was assessed to determine whether the student is an ELL; and if so, appropriately placed in the School's ESL program.

Action Item B: Implementation of the Alternative Language Program

1. By September 1, 2018, the District will review the School's policies and practices to ensure that the School's alternative language program provides for the provision of ESL services to all ELL students in grades 9 through 12, in all educational settings, including special education, until the student exits from the program.

¹ As used in this Resolution Agreement, "English as a Second Language (ESL) services" shall mean services designed to ensure that national origin minority students who are ELL have meaningful access to the District's educational program, consistent with Title VI.

2. By September 1, 2018, the District will develop a system to maintain records for all ELL students enrolled in the School that will include, by ELL student, name, school, grade level, assessment results, proficiency level, and the provision of appropriate ESL services, including the type, frequency, and duration of services to be provided.
 - The District will monitor the provision of ESL services for ELL students enrolled in the School, and provide compensatory alternative language services, as needed and appropriate, to each student who is not being provided ESL services in accordance with the School's program.
 - The District will monitor the academic progress of ELL students enrolled in the School whose parents/guardians opted out of the alternative language program, on behalf of the ELL students, to ensure that such students are able to participate meaningfully in the regular instructional program.

Reporting Requirements:

- a) By September 1, 2018, the District will provide to OCR a copy of the School's policies and procedures for implementation of the School's alternative language program to all ELL students in grades 9 through 12, consistent with Action Item B1.
- b) By September 1, 2018, the District will provide to OCR a copy of the School's system to maintain records for ELL students, consistent with Action Item B2.
- c) By June 30, 2019, the District will submit to OCR the updated roster of all ELL students enrolled in the School during school year 2018-2019, and the following information:
 - i. The total number of ELL students enrolled in the School, by grade level and proficiency level;
 - ii. The total number of ELL students enrolled in the School who receive ESL services;
 - iii. For each ELL student provided ESL services in the School, the student's grade level, proficiency level, and services provided (including duration of services, e.g., 45 minutes/5 times a week); and,
 - iv. For each ELL student not included in the School's alternative language program, the student's grade level, proficiency level, reason for not receiving services, a statement of the language support services being provided to the

student, and a description of the student's academic progress and whether they are able to participate meaningfully in the regular instructional program.

Action Item C: Exit from the Alternative Language Program

1. By September 1, 2018, the District will review and revise, as necessary, the criteria used by the School to determine when an ELL student has obtained sufficient proficiency in English to exit the alternative language program and that exited ELL students are participating meaningfully in the School's program. At a minimum, these criteria will provide for the following:
 - The determination of English language proficiency is based on objective standards by using language proficiency test scores, in which the School can demonstrate that students meeting those standards will be able to participate meaningfully in the regular classroom;
 - The ELL students exiting ESL services exhibit English reading, writing, speaking, and comprehension skills that would indicate they can participate meaningfully in the School's regular education program;
 - Formally reviewing the academic progress of each student who exited the School's alternative language program, including examining grades, academic achievement scores, interim progress reports, and test scores throughout the school year;
 - Distributing a memorandum to instructional staff and campus administrators at the School regarding the monitoring requirements; and,
 - Permitting reentry into the alternative language program by all exited ELL students enrolled in the School who demonstrate a need for additional ESL services and/or providing additional support services to exited ELL students who demonstrate a need for additional support, such as tutoring, as appropriate.
2. By September 30, 2018, the District will identify whether any students enrolled in the School who exited the alternative language program during school year 2017-2018 have suffered any academic deficiencies and take appropriate steps to remediate such academic deficiencies (e.g. tutoring). In circumstances where a student is not succeeding academically because of premature exiting or lack of appropriate English language development, the School will consider reentry into the alternative language program as a remedy.

Reporting Requirements:

By October 15, 2018, the District will provide to OCR the following:

- a) A list of students who have exited the School's alternative language program during school year 2017-2018, and documentation demonstrating the students' achievement in the regular educational environment without ESL services, including grades and other academic achievement data.
- b) Supporting documentation (i.e., copies of student rosters indicating exit criteria and test scores) for all students reviewed; and,
- c) A list of all students who exited the School's alternative language program during school year 2016-2017 who suffered academic deficits. Of these students, identify students who obtained additional academic supports (e.g., tutoring) or reentered the alternative language program as a result of the evaluation. For those who remain as exited ELL students, provide documentation of the reasons for the placement determination (i.e., a roster with student scores or evidence of success in the regular academic program).

Action Item D: Parental Communication

1. By September 1, 2018, the District will develop policies and procedures to ensure that parents/guardians with limited English proficiency (LEP) are notified, in a language understood by the parents/guardians, of the School's activities, programs, and services that are called to the attention of other parents/guardians. Specifically, the District will develop procedures to ensure that:
 - The procedures specify how the School will provide language assistance services, including interpreters and written translations, to LEP parents/guardians, including parents/guardians from lower incidence language groups.
 - The School has a process to identify and track LEP parents/guardians who require communication in a language other than English, including ensuring that teachers, administrators, and office personnel are notified about these LEP parents/guardians.
 - The School has a process by which its staff may obtain, in a timely manner, language assistance services, including qualified translators or interpreters as needed (this could include through the use of various services, such as onsite translators/interpreters, telephonic translators/interpreters, and effective translation programs); the process will also notify appropriate staff of the applicable record keeping procedures and reporting requirements; the School's means for providing these services must be well-publicized and accessible to staff.
 - The School has a process for notifying LEP parents/guardians, in a language that the parents/guardians can understand of the availability of free language assistance services (as

described above) with respect to the School's activities, programs and services, and information as to how this assistance may be obtained. The notice will, at a minimum, be published on the School's website, in the student and parent/guardian handbooks, and in any school-based newsletters. The notification will also provide parents/guardians with a contact person who can answer any questions regarding parental communication and assist parents/guardians to access interpreter services or translated documents.

- The School has a process by which it ensures that all of its interpreters and translators are competent to provide interpretation and translation services and have been appropriately trained on the role of an interpreter and translator, the ethics of interpreting and translating, and the need to maintain confidentiality. The School will maintain documentation to support that the interpreters and translators have the skills and proficiency to interpret and translate in English and a particular non-English language.
 - When the School generates and sends commonly used documents to parents/guardians of students enrolled in the School, the School will send the documents to identified LEP parents/guardians in a language they can understand. Where translation is impractical due to the low incidence of the language, the School will advise parents/guardians of who to contact at the School if they need assistance in understanding notices and will provide oral interpretation as necessary for the parents/guardians.
2. By November 30, 2018, the District will provide training to School administrators and other staff members involved in the provision of interpreter and translation services on the newly developed policies and procedures.

Reporting Requirements:

- a) By September 1, 2018, the District will submit to OCR, for review and approval, a copy of the School's policies and procedures concerning parental communication, consistent with Action Item D1.
- b) By December 31, 2018, the District will submit to OCR copies of the training schedule(s), a brief description of the training provided consistent with Action Item D2, the name and credentials of the individual responsible for providing the training, and the names and titles of those in attendance.
- c) By June 30, 2019, the District will submit to OCR documentation of its implementation of the policy and procedure in Action Item D1 during school year 2018-2019. Documentation shall include, but is not limited to, copies of notices sent to LEP parents/guardians of students enrolled in the School of the availability of free language services, a list of individuals who requested such services and a description of when and

what services were provided, and the name and credentials of all interpreters and translators.

Action Item E: Specialized Programs and Higher-Level Courses

By November 30, 2018, the District will review the participation of ELL students in the School's specialized programs (such as gifted and talented, advanced placement, International Baccalaureate, academic academies, and any other specialized programs) and higher-level courses (including honors or advanced science and foreign language courses) and determine whether there are any barriers and/or issues negatively impacting the ELL students' level of participation in such programs and courses. The District's review will include, at a minimum:

- An assessment of whether any School policies, procedures, and/or course scheduling practices preclude or otherwise limit ELL students from participating in the School's specialized programs and higher-level courses;
- The methods used to disseminate information about the School's specialized programs and placement in higher-level courses, including the languages in which the information is provided;
- The methods used to recruit participants for the School's specialized programs and higher-level courses; and,
- A student survey of current and exited ELL students in the School regarding student interest in the School's specialized programs and placement in higher-level courses.

OCR has made clear to the District that OCR does not require or encourage the elimination of any specialized program, or the dilution of the rigor of the curriculum of such programs, and that it seeks action from the District that does not involve the elimination of any specialized program, or dilution of the rigor of the curriculum of such programs, because nothing in Title VI requires an institution to eliminate specialized programs or to dilute the rigor of the curriculum of such programs. OCR has also made clear to the District that Title VI provides institutions with flexibility and choice regarding how they will provide nondiscriminatory participation opportunities for specialized programs.

Reporting Requirements:

- a) By December 31, 2018, the District will provide to OCR a written description of the District's review of the participation of ELL students in the School's specialized programs and higher-level courses. The description will include:

- i. the information gathered pursuant to Action Item E; and,
 - ii. the results of the student survey conducted pursuant to Action Item E.
- b) By March 15, 2019, the District will provide to OCR a written plan to address any barriers and/or issues negatively affecting the level of participation of ELL students in the School's specialized programs and higher-level courses, as revealed during the District's review. The plan may include but is not limited to revision of participation criteria and/or course scheduling.

Action Item F: Data Collection and Self-Monitoring of Discipline of ELL Students:

1. Discipline Data Collection: The District will collect and report data from the School regarding referrals for student discipline and the imposition of disciplinary sanctions, including warnings and non-exclusionary discipline consequences, as well as any exclusionary discipline² consequences, including suspensions (in school and out), expulsions, disciplinary transfers, and referrals to law enforcement, citations, and arrests. The District will ensure that, beginning with school year 2018-2019, and thereafter, the School's discipline system will include collection of at least the following information:
 - the name/identification number, race, ethnicity, and/or ELL status, of each student referred for discipline;
 - for each referral, the name/identification number, race, ethnicity, and/or ELL status, of all other students involved in the incident, and whether or not they were referred for discipline themselves;
 - a detailed description of the alleged misconduct;
 - the date of the referral;
 - the specific discipline code violation for which the referral was made;
 - the referring staff member (by staff identification/employee number or other unique identifier);
 - the school and type of class from which the referral was made or other specific settings (e.g. bus referral, hallway referral);

² For purposes of this Agreement, exclusionary discipline sanctions include In-School suspensions, Out-of-School suspensions, and Expulsions.

- whether there were any student and/or adult witness(es) to the incident; names of witness(es); number of witnesses;
 - the specific code violation for which the student was punished and the penalty/sanction imposed; or, if no violation was charged or penalty/sanction imposed, the reason why, and if the sanction imposed was inconsistent with the sanction listed in the policy, the reason why;
 - the date the penalty/sanction was imposed;
 - the length of the penalty/sanction (in number of days);
 - the staff member who assigned the penalty/sanction (by staff identification/employee number or other unique identifier);
 - whether the student was transferred to an alternative school or another school site;
 - whether the student was expelled, and if so, the length of and basis for the expulsion;
 - whether school-based or local law enforcement were involved (e.g. law enforcement was notified of the offense);
 - whether referral to law enforcement was mandatory, and if so, the governing legal authority;
 - whether the student was cited, arrested or otherwise sanctioned by law enforcement as a result of school-based or local law enforcement involvement;
 - any other non-punitive outcomes arising out of each referral incident, including, but not limited to, skill building, peer mentoring, counseling, restorative circle, etc.; and,
 - whether the student was given access to due process procedures in connection with the penalty/sanction, including but not limited to being given the opportunity to present his or her version of events and/or an explanation for his or her conduct prior to the imposition of sanctions, and whether, when, and how their parents were contacted in connection with each referral incident.
2. Discipline Data Analysis: The District will evaluate on an ongoing basis, but at least at the end of each semester, starting with school year 2018-2019, the data referenced in Action Item F.1 above, to assess whether the School is implementing its student discipline policies, procedures, and practices consistently and in a nondiscriminatory manner. The evaluation of the data will include the following:

- review of the School's discipline referrals and sanctions to examine whether students of a particular race/ethnicity, including ELL students, receive more referrals or sanctions than students of other races, analyzed with respect to each racial/ethnic group;
 - review of the School's discipline consequences to determine whether students of a particular race/ethnicity, including ELL students, receive more exclusionary sanctions, such as suspensions, or more significant sanctions, such as longer suspensions or referrals to law enforcement, than students of other races, analyzed with respect to each racial/ethnic group;
 - review of the types of offenses leading to School discipline sanctions to determine whether students of a particular race/ethnicity, including ELL students, receive more referrals or exclusionary discipline sanctions for certain types of offenses than students of other races, analyzed with respect to each racial/ethnic group;
 - review of the School's student referrals for disciplinary transfers and expulsions to examine whether students of a particular race/ethnicity, including ELL students, receive more discipline transfers and/or expulsions than students of other races, analyzed with respect to each racial/ethnic group;
 - examination of whether certain teachers and administrators within the School refer students of a particular race/ethnicity, including ELL students, for discipline at a higher rate than students of other races, and whether certain teachers and administrators, impose disciplinary sanctions that include exclusion from the educational program for students of a particular race/ethnicity, including ELL students, at a higher rate than students of other races, analyzed with respect to each racial/ethnic group;
 - examination of whether the School's school-based or local law enforcement cite or arrest students of a particular race/ethnicity, including ELL students, more than students of other races, analyzed with respect to each racial/ethnic group; and,
 - examination of whether penalties imposed by the School are consistent with the penalties specified in the District's discipline policies and procedures, and, where exceptions are made, whether they are justified by legitimate, non-discriminatory reasons.
3. Identify Root Cause(s) and Develop Action Plan: The School will, in consultation with District staff, and, if deemed necessary, expert consultant(s), examine the root cause(s) of any disparities in the discipline of students in the School, including ELL students, and identify and, subject to the review and approval of OCR, take appropriate actions

necessary to address the root cause(s) as part of the District's obligations under the Agreement. This will include reviewing discipline data and analysis as described in Action Items F.1. and F.2, infra, securing any expert input, as needed, reviewing School policies and practices, and reviewing employee training and school-site practices. Based on this examination, the District will develop a plan describing the actions it has identified to ensure nondiscrimination in the School's administration of discipline (Action Plan).

Reporting Requirements:

- a) By December 31, 2018 and June 30, 2019, the District will provide to OCR the data analysis and summary of findings referenced in Action Item F.2, for school year 2018-2019.
- b) By July 31, 2019, the District will provide to OCR its preliminary examination of the root cause(s) of any racial disparities in the School's discipline, as required by Action Item F.3, supra, and any initial steps it proposes to take during the fall 2019 semester, for OCR's review and approval.
- c) By December 31, 2019, the District will provide to OCR its completed examination of the root cause(s) of any racial disparities in discipline, as required by Action Item F.2., supra, and the Action Plan. Upon OCR's review and approval, the District will implement the Action Plan in the School, and will provide to OCR documentation of such implementation on January 31, 2020, and June 30, 2020. Throughout the course of the Agreement, the District will submit for OCR's review and approval any changes to the Action Plan prior to implementation.

The District understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, 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 Title VI and its implementing regulations at 34 C.F.R. §§ 100.3(a) and (b). Upon completion of the obligations under this Agreement, OCR will 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.

This Agreement will become effective immediately upon the signature of the District's representative below.

_____/s/_____
Dr. James Pedersen
Superintendent
Essex County Vocational School District

_____5/30/18_____
Date