

RESOLUTION AGREEMENT
Fayette County Public Schools
OCR Docket # 04-21-1106

Fayette County Public Schools enters into this Resolution Agreement (Agreement) to resolve the above-referenced complaint. The school system assures OCR that it will take the following actions to comply with the requirements of Title VI of the Civil Rights Act of 1964 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 that receive Federal financial assistance from the U.S. Department of Education.

Prior to the completion of OCR's investigation, the school system voluntarily agreed to resolve the investigation pursuant to Section 302 of OCR's *Case Processing Manual*. This Agreement does not constitute an admission of wrongdoing or liability by the school system. Accordingly, the school system voluntarily agrees to take the following actions:

Definition: For purposes of this Agreement ESOL refers to the school system's English to Speakers of Other Languages program or any other program that the school system uses during the term of this Agreement to provide services to English learners.

INDIVIDUAL REMEDY

Item 1

- a. By **March 15, 2023**, the school system will assess the Student to determine whether:
1) the Student was prematurely exited from English Learner services; 2) any academic deficits incurred as a result of participating in an English Learner program have been remedied; and 3) the Student is meaningfully participating in the school system's standard instructional program comparable to her never-English Learner peers. The assessment will be conducted by the school system's ESOL personnel with input from the Student's second and third grade teachers and the Student's parent(s).
- b. If the assessment conducted in accordance with subpart a) of this Item indicates that a persistent language barrier may be the cause of academic difficulty,
 - i. by **April 1, 2023**, the school system will contact the Student's parents to offer to re-test the Student with a valid and reliable, grade-appropriate English language proficiency test to determine if there is a persistent language barrier. If the school system determines that there is a persistent language barrier, it will offer additional language assistance services or re-entry into an English Learner program.
 - ii. by **May 1, 2023**, the school system will assess the Student's need for compensatory education services and offer any compensatory education services deemed appropriate.

- iii. by **September 15, 2023**, if the school system determines that compensatory education services are appropriate, the school system will provide all compensatory services to which the Student's parent(s) consent.

REPORTING REQUIREMENT:

By **April 1, 2022**, the school system will provide OCR with a written report of the assessment it conducted in accordance with subpart a) of this Item. The report will include the names, titles and expertise of all individuals involved in the assessment; a summary of the input from the Student's teachers and parents as well as all other information considered in conducting the assessment; and the outcome of the assessment including the rationale for the school system's determination.

By **May 30, 2023**, if the assessment conducted in accordance with subpart b) indicates that a persistent language barrier may be the cause of academic difficulty, the school system will provide OCR documentation demonstrating that it contacted the Student's parents as required by subpart b)(i) above and documentation of the Student's parent(s)' response. Additionally, the school system will provide OCR with the outcome of the assessment of the Student's need for compensatory education services in accordance with subpart b)(ii) of this Item. The school system will also provide a copy of the plan for any services deemed appropriate with projected dates of completion.

By **October 15, 2023**, if the Student's parent(s) consent to compensatory services that the school system deems appropriate, the school system will provide OCR documentation demonstrating that the school system provided the services.

POLICIES, PRACTICES AND RECORD-KEEPING REGARDING MONITORING OF EXITED STUDENTS

Item 2

By **May 1, 2023**, the school system will revise its policies and procedures for monitoring students exited from an English Learner program during the first two years after they have exited, as necessary to ensure that the school system is in compliance with Title VI and within two weeks of receiving notice of OCR's approval of the policies and procedures, will disseminate and implement the procedures. At a minimum the revised policies and procedures will:

- a. provide for monitoring by ESOL personnel with appropriate input from students' teachers;
- b. describe the consideration that ESOL personnel will give to the students' report card grades, progress reports, teacher input, standardized test scores and other materials or indicators specified by the school system to ensure that recently exited English Learner students will be provided with timely and appropriate

language assistance services, including re-testing for the ESOL program, if necessary;

- c. establish a tracking process and record-keeping system for ensuring that all teacher forms or other feedback and all other documentation related to the monitoring of students is submitted to the ESOL coordinator or other ESOL personnel designated to provide school system level oversight over the school system's provision of services to English Learners, and maintained by the school system;
- d. describe how the school system will identify the English Learner services to be provided to exited students who are unable to achieve the same academic level as their never-English learner peers.

REPORTING REQUIREMENT:

By **May 15, 2023**, the school system will provide its revised policies and procedures for OCR's review and approval.

Within **30 calendar days of OCR's approval**, the school system will provide documentation that the approved policies and procedures have been disseminated and the school system has initiated implementation of the policies and procedures.

By **October 15, 2023**, the school system will provide a list of all students exited from the ESOL program since May 31, 2022. For each student the school system should provide the name and title of the school system personnel with responsibility for monitoring that student. If OCR requests a specific student(s) monitoring documentation, the school system will provide the student(s) file and a summary of all monitoring determinations regarding the student to OCR within two weeks of OCR's request.

Item 3

By **September 15, 2023**, the school system will provide training to all faculty involved in monitoring exited EL students and all ESOL personnel. The training will be provided by a qualified individual knowledgeable about school districts' obligations to English learners under Title VI and will address, at a minimum, the school system's obligation under Title VI to monitor exited EL students, monitoring policies and procedures, and the criteria that faculty and staff should be using to monitor these students. Such training will incorporate an evaluation component so the school system can assess the effectiveness of its training efforts.

REPORTING REQUIREMENT:

By **October 1, 2023**, the school system will provide OCR with a written report confirming the completion of training. The documentation shall include: (1) the background and qualifications of the presenter(s) or trainer(s); (2) a copy of the materials used for the training; (3) signed and dated list of the participants' names and titles who

completed the training; and (4) the school system's plan to provide the training to faculty and staff who were unable to attend the scheduled training session(s).

By signing the resolution agreement, the school system agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. During the monitoring of the Agreement, if necessary, OCR may visit the school system, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the school system has fulfilled the terms of the resolution agreement

The school system understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that the school system is in compliance with the terms of the Agreement and the statute(s) and regulation(s) at issue in the case.

The school system understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings in the event of breach. Before initiating such proceedings, OCR will give the school system written notice of the alleged breach and 60 calendar days to cure the alleged breach.

XXXXXXXXXX

3/15/23

Fayette County Public Schools Superintendent
(If designee, please print title below)

Date