



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

230 SOUTH DEARBORN ST., 37TH FLOOR
CHICAGO, IL 60604

**REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN**

November 3, 2020

Dr. Keith P. Posley
Superintendent
Milwaukee Public Schools
5225 W. Vliet Street
Milwaukee, WI 53208

posleykp@milwaukee.k12.wi.us

Re: OCR Case #05-09-1252

Dear Dr. Posley:

This is to advise you of the resolution by the U.S. Department of Education (Department), Office for Civil Rights (OCR), of the above-referenced complaint filed with OCR against Milwaukee Public Schools (District). The complaint alleged that the District was discriminating against Hispanic English Language Learners (ELL students) in grades K-12 on the basis of national origin by failing to provide:

1. staff that are appropriately trained, qualified and sufficient in number to fully implement the District's alternative language program (ALP);
2. adequate and sufficient English language development (ELD) services in the program;
3. adequate and comparable access to academic content areas in the program; and,
4. effective methods of communication with limited English proficient parents and students.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d-2000d-7, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in programs and activities operated by recipients of Federal financial assistance. As a recipient of Federal financial assistance, the District is subject to the requirements of Title VI and its implementing regulation.

Prior to the conclusion of OCR's investigation and before OCR making a compliance determination, the District expressed interest in a voluntary resolution pursuant to Section 302 of OCR's Case Processing Manual (CPM), and OCR determined it was appropriate to do so. The legal standards, facts gathered to date, and resolution of the issues are summarized below.

Legal Standards

The Title VI implementing regulations, at 34 C.F.R. § 100.3(a) and (b), provide that a recipient of Federal financial assistance may not, directly or through contractual or other arrangements, on the ground of race, color or national origin, exclude persons from participation in its programs, deny them any service or benefits of its programs, or provide any service or benefit which is different or provided in a different manner from that provided to others. Section 100.3(b)(2) provides that, in determining the types of services or benefits that will be provided, recipients may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin.

On May 25, 1970, pursuant to its authority under Title VI, the Department of Education issued a memorandum entitled, "Identification of Discrimination and Denial of Services on the Basis of National Origin" (May 25, 1970), reprinted in 35 Fed. Reg. 11,595 (July 18, 1970) (hereinafter May 25th memorandum). The May 25th memorandum clarified OCR policy under Title VI on issues concerning the responsibility of school agencies to provide equal educational opportunity to limited English proficient national origin minority students. The May 25th memorandum states that school districts must take affirmative steps to address the language needs of limited English proficient students (ELL students).

In evaluating a school district's compliance with Title VI, OCR determines whether the school district has chosen a program model for providing educational services to ELL students that is based upon a sound educational approach or upon a legitimate experimental strategy and whether the school district is effectively implementing the educational theory it adopted. A school district must allocate adequate and appropriate staff and resources to implement its chosen program properly. Finally, OCR determines whether the school district has taken action if the program, after a legitimate trial, fails to produce results indicating that the language barriers confronting students are actually being overcome. For a school district to make a determination as to whether its program is succeeding in producing results that indicate that ELL students' language barriers are being overcome, the district must periodically evaluate its ELL programs and modify them when they do not produce these results.

The May 25th memorandum states "school districts have the responsibility to adequately notify national origin-minority group parents of school activities that are called to the attention of other parents [and that] such notice in order to be adequate may have to be provided in a language other than English." OCR analyzes this issue consistent with the U.S. Department of Justice's (DOJ) "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (67 Fed. Reg. 41455, June 18, 2002). Under the DOJ Guidance, the extent of a recipient's obligation to provide language assistance to limited English proficient (LEP) individuals is determined by balancing four factors: the number or proportion of LEP individuals likely to come in contact with the program; the frequency with which LEP individuals come in contact with the program;

the nature and importance of the services provided by the program; and, the resources available to the recipient. The DOJ guidance sets forth the following balancing of interests with respect to an entity's responsibility to provide language assistance: ensuring meaningful access by LEP persons to critical services while not imposing undue burdens on small business, small local governments, or small nonprofits. DOJ describes the four-factor test as a "flexible and fact-dependent standard," but stated that "the flexibility that recipients have in meeting the needs of the LEP populations should not be used to minimize the obligation that those needs be addressed."

OCR has previously stated that a school district's obligations are as follows, in relevant part: school districts must develop a process for determining the existence of LEP parents in their district and their language needs; once identified, school districts must notify the LEP parents of the availability of interpretation and translation services and that these services are free of charge; interpreters and translators must have knowledge of specialized terms or concepts in the relevant languages and be trained on the role of an interpreter and translator, the ethics of interpreting and translating, and the need to maintain confidentiality; school districts must have an approach for adequately notifying LEP parents of information that is called to the attention of other parents; and, school districts must take reasonable steps to ensure that its chosen approach to providing interpretation and translation services is implemented in a manner that gives LEP parents meaningful access to programs and activities.

Facts

Background and Evaluation of the ALP

OCR advised the District on December 23, 2009, that it was opening an investigation of the four complaint allegations. The District provided relevant information to OCR between 2010 and 2019, including in the 2019-20 school year when OCR conducted on-site visits to schools that included interviewing 180 bilingual, general and special education teachers, paraprofessionals, parent coordinators and other staff.

The District enrolled 75,675 students in the 2019-20 school year. Hispanic students were 20,611 or 27.2% of all students. The District reported that 6,230 or 30.2% of the Hispanic students were ELL students and that the majority of ELL students were Spanish speakers.

The District's Bilingual Education Program and English as a Second Language (ESL) Program provides Hispanic ELL students content-area instruction along with English language development through a dual language bilingual program that in the 2019-20 school year was offered at 20 grade K-12 schools. The goal of the program is content mastery at grade level with students having the opportunity to become biliterate in English and Spanish. Instruction is from English-Spanish bilingual teachers that includes ESL instruction from an ESL teacher. The District utilizes the Teaching for Bilinguality pedagogical approach consisting of three elements: building oracy, which focuses on the development of students' speaking and listening skills in

and across content areas, building vocabulary and knowledge; bridging, which focuses on transferring academic content learned in one language to the other and increasing metalinguistic awareness; and, extending, which focuses on providing students with ways to use acquired academic vocabulary to deepen and extend learning.

ESL Stand-Alone is a second type of programming available to Hispanic ELL students that was offered at 21 other grade K-12 schools. At ESL Stand-Alone schools, ELL students study in English alongside their monolingual peers and also receive instruction from an ESL teacher.

In April 2014 the District received a report from an external educational consultant who reviewed the District's bilingual program by considering the program's structure, assessment, curriculum and instruction, staffing and professional development, support and resources, and parental involvement. The District responded to the review by increasing English instruction provided to students, conducting additional planning and targeting professional development around elements of the Teaching for Biliteracy pedagogical approach. In 2017-18 the District conducted an internal evaluation of the bilingual program. The evaluation confirmed that Teaching for Biliteracy is a sound pedagogical approach and included recommendations to strengthen the program through a clear content and language allocation plan (CALP), professional development, collaboration, and data analysis. The 2017-18 internal evaluation did not include a comprehensive examination of the effectiveness of all components of the ALP.

The District has continued to examine implementation of oracy, bridging and extension, which has included on-site observations at every school with a bilingual program, and it has created an ESL program evaluation tool for use at schools with an ESL program. The District reported it has considered effectiveness in the implementation of ALP components, such as identification of ELL students, but there is a concern that the District had not conducted a periodic program evaluation recently.

Allegation 1

The complaint alleged that the District was discriminating against Hispanic ELL students in grades K-12 on the basis of national origin by failing to provide staff that were appropriately trained, qualified and sufficient in number to fully implement the ALP. In this regard the complaint asserted that the District was using uncertified bilingual and ESL teachers and had an inadequate number of certified and qualified bilingual teachers and ESL teachers in the ALP, as well as an inadequate number of certified and qualified bilingual special education teachers and bilingual support staff, for meeting the needs of Hispanic ELL students. It was also asserted that the District was using non-bilingual psychologists, social workers, and counselors with Hispanic ELL students and their parents in providing educational services.

Data provided to OCR by the District indicate that in the 2019-20 school year the District employed approximately 300 bilingual teachers and ESL teachers. All teachers were licensed to

teach by the Wisconsin Department of Public Instruction. The data also indicate that as many 18% of the bilingual teachers were teaching under a license with stipulations because they did not have a supplemental bilingual/bicultural education license. Administrators and teachers informed OCR there was in 2019-20 a shortage of bilingual teachers and the program had not been fully staffed. Staff at some schools reported a need for more bilingual teachers as at the school level it was indicated to OCR that in 2019-20 some bilingual classroom enrollments were large, e.g., more than 40 at an elementary school and more than 50 at a high school visited by OCR. ESL teachers also indicated a need for more ESL teachers where fewer than three teachers were reportedly assigned to teach approximately 300 ELL students at a school visited by OCR. Staff at many visited schools in addition to District administrators stated there is a shortage of bilingual special education teachers and/or bilingual special education specialists.

Bilingual paraprofessionals have been employed by the District to support Hispanic ELL students in bilingual and special education and in other programs. Teachers at several schools indicated more paraprofessionals have been needed, including at schools where it was said that none were assigned to upper grades and where they had been withdrawn after having been provided. In addition to working under the direct supervision of bilingual classroom teachers, OCR found they have served as substitutes for absent bilingual teachers when other classroom teachers or certified substitute teachers have been unavailable. Some paraprofessionals interviewed by OCR indicated they held a teaching license in addition to the qualifications needed to be a paraprofessional.

Information presented to OCR demonstrates strong efforts by the District in recent years to train teachers and other staff on topics of importance for educating Hispanic ELL students, nevertheless, staff at some schools indicated insufficient or no such training for some teaching staff who work with Hispanic ELL or former ELL students.

A District administrator informed OCR that not all bilingual teachers are appropriately proficient in English. One bilingual teacher under a license with stipulations in fact had difficulty understanding questions asked by OCR during its on-site visit. Some paraprofessionals could not recall receiving a language proficiency assessment or otherwise having their language skills evaluated. The District does not prefer but has accepted paraprofessional candidates with “intermediate low” language proficiency. Concerns were expressed to OCR at the school level about the English language proficiency of some paraprofessionals. A bilingual paraprofessional demonstrated difficulty speaking in English to OCR during its on-site visit.

Allegation 2

The complaint alleged that the District was discriminating against Hispanic ELL students in grades K-12 on the basis of national origin by failing to provide adequate and sufficient ELD services in the District’s program. In this regard the complaint asserted that the District did not

have an appropriate K-12 bilingual curriculum and was not providing an adequate amount of ELD within the bilingual program.

The District has adopted and has been using the standardized statewide Home Language Survey (HLS) for identifying newly enrolling students who may be ELL, that is, students who have a primary or home language other than English (PHLOTE). Responses to HLS questions as to where and how often a student uses a language other than English indicate whether to assess the student for English language proficiency if the student has not already been assessed with the ACCESS assessment (Assessing Comprehension and Communication in English State-to-State for English Language Learners). The District has conducted training on the HLS for staff who have been responsible for its administration.

The District uses the W-APT (Wisconsin Assessing Comprehension and Communication in English State-to-State Placement Test) or the WIDA screener (World-Class Instruction Design and Assessment) to assess PHLOTE students and an assessment in Spanish may also be administered. According to 2019-20 school year data reviewed by OCR, the District had determined the identity of all Hispanic PHLOTE students. The data did not indicate when administration of HLSs and screenings were completed for all students, but staff at schools and at central office indicated that identification and assessment has occurred promptly. School staff did not identify to OCR any enrolled Hispanic students who should have been screened but were not or should have been placed into the ALP but were not.

Parents of Hispanic ELL students have an option to accept or decline offered ALP services. OCR was informed that staff at its central office or school sites provide parents with information about the ALP services offered and their benefits. Declinations as well as permissions for participation in the ALP are documented in a language the parents can understand through a form signed by parents.

Hispanic ELL students have received ELD services from certified teachers through the bilingual program, which includes ESL instruction, or through ESL instruction at ESL Stand-Alone schools. The ESL services nurture the acquisition of English and the District supports the flexible scheduling of ESL to promote the academic growth and linguistic development of bilingual learners. Language is taught through content by contextualizing the English in the content area being taught. This may involve co-teaching by the ESL and classroom teachers. ESL instruction may also be provided to individual or small groups of ELL students in the classroom or through a pull-out approach.

In the District's Dual Language model, students in grades K4/K5 are instructed in Spanish for 90% of the time and in English 10% of the time. There is an increase in English language instruction by 10% at each grade level so that by fourth grade 50% is allocated to English and 50% to Spanish. The amount of instruction in English with respect to ELD and content area learning is generally the same in each grade across the District. The instruction in English

Language Arts (ELA) includes all four language domains of listening, speaking, reading and writing. The amounts of instruction are set forth in the CALP:

<u>Grade</u>	<u>Total Daily Minutes in English</u>
K4	30 in ELA
K5	30 in ELD and ELA
Grade 1	50 in ELD and ELA
Grade 2	70 in ELD and ELA
Grade 3	90 in ELD and ELA and Social Studies
Grade 4 & 5	125 in ELD and ELA and Social Studies
Grade 6 – 8	140 in ELD and ELA and in Science and Math

Bilingual and ESL teachers interviewed by OCR expressed knowledgeability of the CALP and indicated that ESL services have been provided adequately through push-in and/or pull-out approaches in consideration of individual student needs. They confirmed that the amount of ELD is generally the same for all students at a grade level but emphasized that it is differentiated when possible in consideration of students' differing language proficiency levels, e.g., for new arrival students.

Teachers generally indicated to OCR that the ELD services provided to Hispanic ELL students have been adequate and sufficient at both bilingual and ESL Stand-Alone schools with exceptions noted as concerns at some schools visited by OCR:

- ESL services have reportedly not always been available to some Hispanic ELL students in the bilingual program when their ESL teacher performed other assigned duties in connection with ACCESS testing.
- Some Hispanic ELL students may not receive a sufficient amount of ESL instruction at a school when an enrollment influx of ELL students occurs or not receive ESL instruction that is always differentiated to meet individual language needs due to a large number of ELL students assigned to an ESL teacher.
- Some new arrival Hispanic ELL students and students with low language proficiency have reportedly been in need of more ESL service than what has been available.
- Some Hispanic ELL students with intermediate proficiency may not have been assigned to receive ESL services without showing a need for assistance in writing English.
- ESL services reportedly were not provided daily as guided by the CALP or were not otherwise provided on a consistent basis to some Hispanic ELL students.

The District administers ACCESS annually to Hispanic ELL students approximately midway into a school year to determine their level of English language proficiency. A composite score on ACCESS of 5.0 or higher results in the reclassification of students to non-ELL status. A score of 4.5 - 4.9 with a showing of full English proficiency on the MIP (Multiple Indicator Protocol) also is a basis to exit a student.

The District monitors a newly designated non-ELL student's performance for at least two years from the time of reclassification. This is done primarily through tri-annual reading and math STAR standardized testing. When individual students demonstrate a need for targeted assistance, ELL staff are to work with the students' teachers to ensure that appropriate supports are provided to assist the students. The District indicated that teachers of Hispanic students whose parents declined ELL services also receive assistance for the purpose of providing appropriate academic support to those students whose STAR performance indicates a need for support.

According to District data, all reclassifications of Hispanic students to non-ELL status during the 2018-19 school year were based on ACCESS criteria. Generally, teachers reported that such students have performed comparably to non-ELL students in their classrooms and with few exceptions did not need additional supports. Some reclassified students reportedly have received support from ESL teachers, whereas others have not though there was indication that other supports are available such as Title I services where appropriate. As for Hispanic ELL students whose parents had declined ALP participation for their children, staff at schools indicated that some of these students were struggling with reading and writing English. Not all classroom teachers indicated awareness of such students' level of assessed language proficiency and there was indication that more indirect support through relevant training to such teachers would be helpful in meeting these student's educational needs.

The District indicated that parents of Hispanic students decline participation in the ALP, after being informed of the program's benefits, for varying reasons including school location, transportation, and consideration of where family members attend school. Some school staff expressed to OCR the belief that not all parents who decline ALP services meaningfully understand the type and scope of services declined and noted there may be parents who do not realize that a refusal of bilingual program participation includes declination of ESL services. It was also indicated some parents would like their children in the bilingual program but choose otherwise due to smaller class sizes in general education.

The District employs bilingual psychologists, social workers, and speech and language pathologists to conduct assessments and provide other services to Hispanic LEP students. The District indicated a team consisting of knowledgeable persons decides whether to do a special education evaluation in Spanish or English for a Hispanic ELL student referred for evaluation or re-evaluation and each referral takes into consideration which language to use. Special education teachers indicated a student's dominant or primary language is the determinant with respect to re-evaluations. OCR was informed that students are assessed by bilingual diagnosticians and if unavailable then by monolingual diagnosticians with assistance from interpreters. Assessment protocols are in Spanish and English, and the assessments may be done in Spanish or start in English and then switch to Spanish depending on the student's responsiveness. A bilingual speech and language pathologist noted to OCR that speech and language assessments are done in both languages or in Spanish if Spanish is the dominant home language.

The District indicated that Hispanic ELL students in the bilingual program who require special education or related services are assigned to receive those services, in accordance with their Individualized Education Programs (IEPs), from a bilingual special education teacher if available. There is a shortage of such teachers so where not available students often receive instruction from a monolingual special education teacher with support from a bilingual paraprofessional. The special education teacher, the classroom teacher and the ESL teacher collaborate to ensure the provision of dual services. Administrators and teachers averred that dual services are provided to Hispanic ELL students who require English language development and special education or related services although some teachers indicated concern:

- Some Hispanic ELL special education students participating in the bilingual program reportedly were not provided sufficient or adequate dual services due to an absence of bilingual special education teachers or of bilingual paraprofessionals to provide assistance to monolingual special education teachers which led one teacher interviewed by OCR to rely on a classroom bilingual student to provide assistance.
- Some Hispanic ELL special education students may not have consistently received ESL services due to scheduling conflicts.
- ESL services have reportedly not always been available to some Hispanic ELL special education students in the bilingual program when their ESL teacher performed other assigned duties in connection with ACCESS testing.

Allegation 3

The complaint alleged that the District was discriminating against Hispanic ELL students in grades K-12 on the basis of national origin by failing to provide adequate and comparable access to academic content areas in the District's program. In this regard the complaint asserted that the District did not have an appropriate K-12 bilingual curriculum.

The educational consultant who reviewed the District's bilingual program in 2014 identified strengths and challenges as to the program curriculum. Strengths included reliance on pacing guides in Spanish using District materials, training from District curriculum specialists on usage of pacing guides, use of standards rather than materials as a basis for planning, and the expertise of staff in the area of bilingual education. Challenges included keeping up with pacing in the guides, meeting expectations in curriculum implementation, updating the curriculum and aligning it with program goals, and articulating curriculum program expectations at the high school level. The consultant's recommendations included developing protocols regarding the use the program's curriculum and pacing guides while being standards-based, and writing bilingual units of study that are standards-based, reflective of the CALP, include bilingual materials and assessment, and span elementary through secondary grades.

The District indicated that its CALP, which assigns a language to content in order to systematically support the development of two languages, has been used as a foundation for the development of biliteracy curriculum maps in which content area standards are mapped into

units of study with writing, reading and language standards added to units to create an interdisciplinary approach. Standards are applied in developing the biliteracy curriculum maps and units: Common Core State Standards, Next Generation Science Standards, Wisconsin Standards for Social Studies, and WIDA ELD standards.

The District uses the Teaching for Biliteracy pedagogical approach in its bilingual program to promote the development of content and literacy. Units of study are developed in grade level teams that include ESL, bilingual and special education teachers and content specialists. Bilingual and general education program teachers interviewed by OCR indicated that curricula for students in the programs are driven by the established standards and that content area instruction in the programs is similar or comparable.

Teachers stated frequently in interviews that grade-level meetings of all teachers and instructional collaboration among and between teachers at their schools have effectively promoted comparable access to the curriculum. Concerns were not raised in this regard by administrators or teachers except for indication that at the high school level Hispanic ELL students may not have access to the International Baccalaureate program and adequate supports for participation in all core content areas.

The DBME Manager (Manager) stated that instructional materials for the bilingual program have been aligned with established standards and that appropriate materials have been identified through committees that include ELL staff. Teachers at schools confirmed that instructional materials used in the bilingual program have been grade and age appropriate and appropriate to the level of ELL students' language proficiency.

DBME had not received funds for the purchase of new materials in the 2018-19 school year but reported working to ensure that what is provided is adequate and sufficient. Requests made for authentic Spanish language materials reportedly have been denied but so have requests for materials in other programs; teachers confirmed, for example, that requested resource materials for certain high school general education content areas have not been provided. Bilingual and general education teachers at different schools said that in their programs instructional materials were outdated or were insufficient in quantity. Other concerns raised by some teachers regarding the bilingual program included:

- A shortage of supplemental instructional materials and enough and appropriate Spanish language reading materials. Although adoptions of new instructional materials were not reported to have occurred recently in either the bilingual or the general education program, some content area materials of lesser-quality than in the general education program have reportedly been used in the bilingual program at the elementary and high school levels.

- In several content areas where there were reportedly shortages of books or supplemental resources, bilingual teachers spent much time searching for relevant materials and then translating the materials into Spanish without coordination or centralization by DBME.

Allegation 4

The complaint alleged that the District was discriminating against Hispanic ELL students in grades K-12 on the basis of national origin by failing to provide effective methods of communication with LEP parents and students. In this regard the complaint asserted that the District was providing to parents written notice of District events and other information pertaining to the education of their ELL children that were translated poorly into Spanish, specifically, materials that contained inaccurate grammar and literal English-to-Spanish translations that did not communicate an accurate message. And the complaint asserted that District communication at meetings with Hispanic parents regarding educational interventions or special education services for their children were ineffective because the District provided translators at meetings that were not competent and that special education summary reports and recommendations translated into Spanish by the District were inappropriately translated.

The District's translator (Translator) at the central office works directly with the District's bilingual and ESL programs as well as other District programs by providing or arranging requested translation and interpretation services. The Translator is a certified court interpreter for the Wisconsin State Courts Office, is certified by the American Translators Association, and has received training in translating and interpreting from the International Institute of Wisconsin on bridging cultural and linguistic barriers and from the National Association of Judiciary Interpreters and Translators.

The District entered into a contract in 2019 with two agencies that have worked with the District since 2015 in providing oral and written language services. Renewal of the contract required the contractors to provide a showing of continuous education or new certification attained by the contractors' employees.

The District has made provisions for all school sites to have effective communication with Hispanic LEP parents through implementation of a process that has been publicized on the District's employee intranet called mConnect and periodically through the *Thursday Update* which also is available on mConnect. Guidance provided to staff explains what to do to have written documents translated, to have interpreters at meetings or events, and to have interpreters and translations for specialized services including services for IEPs. All written documents that are submitted for translation to Spanish are translated by the Translator or sent to a contractor for translation. A few teachers noted to OCR that they have edited Spanish translations or heard criticism of translations received from central office because they reportedly have not always been linguistically correct.

The District's electronic student information system lists parents' preferred language of communication based on information provided to the District by parents at enrollment or other times. District employees otherwise learn of parents' preferences through their school interactions with parents. Some teachers indicated to OCR a lack of awareness of how and where to locate parents' preferred language of communication in the electronic student information system and some expressed uncertainty as to what if anything their school was doing to publicize in writing to parents how and where to make a request for language assistance.

The Translator stated that all Hispanic LEP parents are provided notice in Spanish of all activities which are called to the attention of other parents when the notices are issued Districtwide. The District also issues in Spanish other important information including the parent/student handbook of rights, responsibilities and discipline, and report cards. Teacher comments on report cards may not always be translated into Spanish and teachers' communications with Hispanic LEP parents through translation apps may not always be linguistically correct.

The Manager stated that before any written communication in Spanish is sent out for the first time by DBME, she makes sure it is written correctly or asks a member of the DBME team to review it. OCR was informed that all special education Spanish-related notices, invitations, and authorizations are sent to Hispanic LEP parents in Spanish.

Teachers confirmed to OCR that contracted interpreters are provided for IEP meetings and some indicated that school bilingual teachers are used too. A bilingual teacher interviewed by OCR was impressed with the quality of the contracted interpretation. IEPs and other documents such as Section 504 and auditory reports are always translated upon request, but Hispanic LEP parents may not always be receiving translated IEPs or special education evaluation reports promptly. OCR was informed that some very lengthy documents may take weeks to translate and a backlog has happened due to high-volume requests.

OCR was informed that bilingual interpreters are assigned to Districtwide events like school board meetings, events where high-level management speak, and meetings scheduled with parents. Messages sent by telephone using the District's automated system are translated into Spanish and sent to the households that have identified Spanish as their preferred language of communication.

Decisions concerning the use of interpreters for parent-teacher conferences, school curriculum nights and other such events are generally made by school staff. Teachers at ESL Stand-Alone schools and especially at bilingual program schools averred that bilingual staff, such as bilingual administrators, teachers, paraprofessionals and secretaries, have always been available to provide interpreter assistance when requested. There was indication that at the school level such staff were used frequently in comparison to contracted interpreters.

The Director of Specialized Services (Director) indicated that for ad-hoc discussions at school regarding special education matters, school staff will work with parents and make arrangements by often relying on the Language Line, which is the phone-in interpreter system available 24/7 to all schools and District offices to communicate orally with Spanish-speaking parents. Requested interpreters and translators for special education meetings have been trained on ethics and confidentiality of interpretation/translation.

The Translator said she has used and made available to bilingual staff at schools the District's Translator's Manual (Manual) that has a useful glossary of terms and guidance on the role of an interpreter, ethics, and confidentiality. Training on communicating effectively with parents was provided to certain District staff in the 2018-19 school year. Staff were advised among other best practices not to use a parent's family member as an interpreter or translator. Nevertheless, students have been used at times to translate classroom-based communications to Hispanic parents. Some schools also have used bilingual paraprofessionals and other staff to provide interpretation or translation service who may not have been appropriately qualified or trained.

Teachers interviewed by OCR generally indicated they did not have and were unaware of complaints or concerns regarding the availability or quality of written translations or oral interpretations for Hispanic LEP parents but for a few concerns indicated above and indication that some schoolwide or classroom informational notices have not been issued in Spanish at schools with Hispanic families, such as newsletters.

Neither the Manager nor the Director was aware of any complaints about the availability or quality of interpretation or translation services for Hispanic LEP parents. The District has tracked the frequency of certain translations and interpretations, however, it was not evaluating the effectiveness of interpretation and translation services in order to make appropriate modifications for ensuring meaningful communication with Hispanic LEP parents.

Conclusion

The District has taken positive and productive actions to enhance educational services for Hispanic ELL students. But based on the information gathered in OCR's investigation to date, OCR has concerns that the District has not recently evaluated its ALP for Hispanic ELL students comprehensively and then modified the ALP based on such a periodic evaluation and concerns as to whether the District has allocated adequate and appropriate staff to carry out its chosen ALP for Hispanic students properly and has effectively implemented the ALP for all Hispanic ELL students, and, whether the District has ensured meaningful communication with all Hispanic LEP parents about any program, service, or activity that is called to the attention of other parents.

In accordance with Section 302 of the CPM, a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the

complaint. Prior to the conclusion of OCR's investigation, the District expressed interest in resolving the complaint under Section 302. OCR determined that a resolution agreement with the District is appropriate under the circumstances presented by this case. The enclosed Agreement, when fully implemented, will address all of the allegations investigated. The provisions of the Agreement are aligned with the allegations in the complaint and the information obtained during OCR's investigation to date, and are consistent with the applicable regulations. OCR will monitor the implementation of the Agreement.

The 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.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a complaint alleging such treatment. The complainant may have a right to file a private suit in Federal court whether or not OCR finds a violation.

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

OCR would like to thank the District for the courtesy and cooperation extended during the resolution of this complaint. OCR looks forward to working with the District during the monitoring of the Agreement. If you have any questions or need assistance, please contact me at (312) 730-1608 or algis.tamosiunas@ed.gov.

Sincerely,

Algis Tamosiunas
Program Manager

Enclosure