

Resolution Agreement
Coolidge Unified School District
OCR Case Number 08-16-1096

Coolidge Unified School District (the District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR). By this Agreement, the District commits to the following actions, consistent with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulation, at 34 C.F.R. Part 104; Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation, at 28 C.F.R. Part 35; and 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 Department. The District is committed to complying fully with Section 504, Title II, and Title VI, and, accordingly, it has agreed to take the steps outlined in this Agreement. The District hereby commits to the following:

I. ENGLISH LANGUAGE LEARNERS WITH DISABILITIES

- A. By July 15, 2018, the District will conduct a review of its special education and English Language Learner (ELL) policies and procedures and modify them as necessary to ensure that students who speak English as a second language and have disabilities are properly evaluated for ELL services so that their Section 504 or Individualized Education Program (IEP) teams can appropriately place them. Specifically, the District will create policies and procedures that:
- i. Ensure that current objective assessments of proficiency in English and the primary or home language are available prior to or upon referral of students with a primary or home language other than English (PHLOTE students) for testing, evaluation, or placement in special education or related services. The procedures will ensure that consideration of language proficiency is documented in the students' IEPs or Section 504 plans;
 - ii. Require testing or evaluation using only the language modalities in which the student is objectively known to be proficient, if feasible, and develop criteria for determining when a bilingual diagnostician will conduct the evaluation of ELL students with potential disabilities;
 - iii. Provide for testing or evaluation by staff persons or contractors who are qualified to administer special education tests in the languages required whenever appropriate;
 - iv. Establish objective criteria by which the District will determine which staff members are qualified to administer special education testing and evaluations in Spanish, as required by the Section 504 implementing regulations;
 - v. Require that diagnostic reports for ELL students include: an analysis of the effect of linguistic and cultural factors on educational history and learning; whether (and how) diagnostic instruments or procedures were altered for the

- student; documentation of the use of translation or interpretation in the administration of diagnostic instruments or procedures, and the effect on the validity and reliability of the results; an evaluation of the validity and reliability of test results, considering the effect of differences in criteria related to language proficiency; and cross-validation of formal diagnostic measures with other data available about the student;
- vi. Require that any group of persons making diagnostic or placement decisions for ELL students includes at least one person who is knowledgeable about each ELL students' culture and language, discusses and understands the effects of language and culture on the evaluation, and considers the validity and reliability determinations noted in the diagnostic report;
 - vii. Require that placement decisions be based on a variety of information, such as a review of existing records, the results of pre-referral interventions, and curricular adaptations, work samples, formal and informal assessments, and observations;
 - viii. Clarify that the belief that "special services trumps everything else" is not accurate and that ELL students with disabilities participate in both English language development (ELD) instruction and special education services or related aids and services, unless it is inappropriate to provide dual services due to the documented nature of the student's disability;
 - ix. Ensure appropriate placement of all ELL students with disabilities with qualified teachers who deliver ELD instruction as determined by the ELL student's IEP or Section 504 team;
 - x. Ensure that all ELL students with disabilities receive appropriate English language acquisition services as determined by the ELL student's IEP or Section 504 team;
 - xi. Ensure that all ELL students with disabilities receive appropriate special education services, if required by a student's IEP or Section 504 Plan as determined by the ELL student's IEP or Section 504 team; and
 - xii. Include in all ELL students with disabilities' files the District's documentation of placement decisions as determined by the ELL student's IEP or Section 504 team.

Reporting Requirements:

1. By July 15, 2018, the District will provide OCR with its draft policies and procedures for review and approval. The District will consider and respond to any feedback from OCR with respect to the draft policies and procedures until OCR is able to approve them.
2. Within 60 calendar days of OCR's approval of the modified policies and procedures, the District will adopt and implement the modified policies and procedures and incorporate them into the District's special education manual and the District's ELL plan.

3. The District will train its personnel on the policies and procedures required by Agreement Item I(A). Within 45 calendar days of OCR's approval of the policies and procedures, the District will submit its proposed trainer, draft training materials, list of personnel at the District required to receive the training, and a plan for providing the training by September 14, 2018. Within 14 calendar days of the completion of the training, the District will provide OCR with a sign-in list of District personnel who participated in the training and confirmation that all who needed the training received it.
- B. If the Student re-enrolls in the District during the 2017-2018 or first half of 2018-19 school years, within 14 days of such re-enrollment, the District will evaluate whether his English proficiency may have impacted or continues to impact his access to a free, appropriate public education (FAPE) and whether he requires ELD instruction in addition to special education services.
- i. If the Student's English language proficiency evaluation reveals that the Student is not English proficient, the Student will be identified as ELL and receive the District's ELD services. If the Student is determined to be an ELL student, the District will convene a team of persons knowledgeable about the Student and ELD instruction, including the Student's parent(s), to assess whether compensatory services (both ELD and special education) are necessary. This meeting will be conducted in accordance with the Section 504 regulatory requirements at §§ 104.34, 104.35, and 104.36. If compensatory services are determined to be necessary, the team will draft an action plan containing proposed compensatory services or remedial measures that will be offered or taken, a specific timeline for implementation, and the person(s) responsible for overseeing full and timely implementation of the compensatory services
 - ii. If the District determines that compensatory services are not appropriate, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation, for OCR's review and approval.
 - iii. Within 14 days of the Student re-enrolling, the District will evaluate the Student to determine whether his English proficiency may have impacted or continues to impact his access to a free, appropriate public education (FAPE) and whether he requires ELD instruction in addition to special education services.

Reporting Requirements:

1. Within 14 days of the Student re-enrolling, the District will provide OCR with documentation demonstrating that it has timely completed the requirements of Agreement Item (I)(B), including the results of the Student's English language proficiency assessment. For any proposed compensatory services or remedial measures, the District will submit its proposed compensatory services or remedial measures to OCR for review. The District will consider and respond to any

feedback from OCR with respect to the proposed compensatory services or remedial measures. After the proposed compensatory services or remedial measures are accepted, the District will provide or begin providing the compensatory services or take the remedial measures.

2. Within 30 days from the date of OCR's acceptance of the proposed compensatory or remedial measures, the District will provide documentation that it has provided, or is in the process of providing, the compensatory services or remedial measures. For compensatory services and remedial measures that will occur over time, the District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services and remedial measures are being provided as specified. The case will remain in monitoring until compensatory services and remedial measures have been provided in full.

II. LIMITED ENGLISH PROFICIENT PARENT COMMUNICATION

- A. The District will develop and fully implement a Plan for Oral and Written Language Assistance to provide oral and written language assistance services to limited English Proficient (LEP) parents of students at the District which ensures that they have meaningful access to important information about their children's education program. The Plan will include the following:

Oral Language Assistance Services

- i. Assurance that the District will continue to utilize the Primary Home Language Other Than English (PHLOTE) survey to formally identify LEP parents/guardians who may need oral language assistance services;
- ii. A list of staff members at each school who are currently qualified to provide oral interpretation, the languages they speak, and their days/hours of availability;
- iii. A description of how site staff members will ensure effective oral communication with LEP parents regarding vital school-related information;
- iv. A description of how School site staff will ensure effective oral communication with LEP parents who speak low-incidence languages;
- v. Procedures for ensuring that:
 1. All school site employees who provide oral interpretation services to parents at the District are qualified to do so and have demonstrated their ability to engage in oral communication correctly and effectively in both English and the target language, and have been trained as required in Item II(B) of this Agreement; and
 2. All school site employees who provide oral interpretation for parents of students at both special education and disciplinary meetings or hearings are familiar with and understand special education and disciplinary terms and concepts, and are able to communicate

- accurately and effectively in English and the target language about those terms and concepts;
- vi. A description of how the District will annually notify LEP parents of the availability of oral language assistance services and the procedure parents should follow to request these services;
 - vii. A process for annually informing staff about the right of LEP parents to oral language assistance services and the process staff should follow to obtain these services;
 - viii. A process for annual review by the District to ensure that its oral language assistance services are effective in providing meaningful access to important information to LEP parents and are consistent with the terms of this plan;

Written Language Assistance Services

- ix. A description of how the District will identify LEP parents and guardians who require written translation to understand communications from the District;
- x. The procedures for translating vital written documents;¹;
- xi. The procedures that administrators and staff will use to obtain translation of vital documents identified in Agreement Item II(A)(x);
- xii. The procedures for providing meaningful access to vital documents as identified in Agreement Item II(A)(x), that are not routinely translated and low-incidence languages that are less widely spoken in the District;
- xiii. The procedures for ensuring that the individuals who provide translation for the District are competent, appropriately trained, and have demonstrated their ability to communicate effectively in English and the target language; and
- xiv. A description of how the District will regularly notify LEP parents of the availability of written translation services and the procedure parents should follow to request these services.

Reporting Requirements:

1. By July 15, 2018, the District will submit a draft Plan for Oral and Written Language Assistance for the District described in Section II(A) to OCR for review and comment. The District will consider and respond to any feedback from OCR with respect to the draft plan until OCR is able to approve it.

¹ To determine which written documents are vital, the District will consider the importance of the program, information, encounter, or service involved, and the consequence to the LEP parent if the information in question is not provided accurately or in a timely manner. Typical vital documents include: notice of procedural safeguards in the context of providing children with disabilities a FAPE under Section 504 and the Individuals with Disabilities Education Act (IDEA); documentation related to eligibility and placement decisions under Section 504 and IDEA; disciplinary notices and procedures; registration and enrollment forms, emergency notification forms, and other forms most commonly used by the District to communicate with parents; report cards and student progress reports; notices of parent-teacher conferences or meetings; parent handbooks and fact sheets; and other documents necessary to allow meaningful participation in the student's education.

2. Within 60 calendar days of receiving OCR's approval, the District will finalize and implement the Plan for Oral and Written Language Assistance and submit documentation to OCR demonstrating this implementation.

B. By August 15, 2018, the District will develop plans for initial and ongoing training that will first occur during fall 2018-2019 professional development for all staff that provide oral interpretation and/or written translation for parents at the District. This training will include instruction in the following areas:

- i. The Plan for Oral and Written Language Assistance described in Item II(A);
- ii. The role of an interpreter in communications with LEP parents and the protocol and ethics of interpretation, including the need to maintain confidentiality;
- iii. The specialized terms or concepts that may be used in the activities in which the employee will be providing interpretation or translation, specifically including terms used in the special education or student discipline processes;
- iv. That generally, it is not appropriate to use family members and friends, including students or other children, for the provision of interpretation except in emergency situations, that the use of such individuals may raise issues of confidentiality or other concerns, and that even though LEP parents/guardians may voluntarily bring their own interpreter, the District may still need to provide an interpreter to ensure accurate interpretation of important information; and
- v. That generally, the District will accept a parent's assertion that he or she needs language assistance without requiring additional corroboration.

Reporting Requirements:

1. By August 15, 2018, the District will submit to OCR its plans for staff training as described in Item II(A) and II(B). This plan should include copies of training materials and the names and qualifications of the selected trainer(s). The District will consider and respond to any feedback from OCR with respect to the plan until OCR is able to approve it.

2. Within 60 days of OCR's approval of the staff training plan, the District will provide OCR with documentation that demonstrates that the training has been completed. This documentation will include, but is not limited to, the date(s) of the training and a list of staff participants.

C. By June 15, 2018, the District will make arrangements to hire or contract with an independent, approved interpretation and translation service that it will utilize for all interpretation and translation needs until the District implements its Plan for Oral and Written Language Assistance.

Reporting Requirements:

1. By June 30, 2018, the District will submit to OCR documentation that demonstrates that the District has hired or otherwise contracted with an independent, approved interpretation and translation service.
2. By July 30, 2018, and the 30th of every third month thereafter until the District fully implements its Plan for Oral and Written Language Assistance and expected to be within six months of approval of the District's Plan, the District will submit to OCR a record of the number of times the services was utilized each month and the languages that were accessed.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. § 104, Title II, at 28 C.F.R. § 35.130, and Title VI, at 34 C.F.R. § 100, which were at issue in this case.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements contained herein. 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 the regulations implementing Section 504, at 34 C.F.R. § 104, Title II, at 28 C.F.R. § 35.130, and Title VI, at 34 C.F.R. § 100, which were at issue in this case.

The District further 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 60 calendar days to cure the alleged breach.

/s/

5/16/18

Ms. Charie Wallace, Superintendent
Coolidge Unified School District

Date