



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD, SUITE 310
DENVER, CO 80204-3582

REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

September 18, 2020

Dr. Diana Sirko, Superintendent
Mesa County Valley School District #51
2115 Grand Avenue
Grand Junction, Colorado 81501

Via email only at: superintendent@d51schools.org

Re: Mesa County Valley School District #51
OCR Case Number: 08-18-1475

Dear Dr. Sirko:

On June 6, 2018, we received a complaint alleging that Mesa County Valley School District - # 51 (District) discriminates on the basis of national origin. Specifically, the Complainant alleged that the District fails to provide English Language Learners (ELL) equal educational opportunity by failing to take affirmative steps to provide an appropriate English language development program to address the language needs of ELL students, fails to provide qualified staff for its alternative language program and fails to communicate with limited English proficient (LEP) parents in a language and manner that they understand.

We are responsible for enforcing Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 Code of Federal Regulations 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 (Department). As a recipient of Federal financial assistance from the Department, the District is subject to this law and regulation. Additional information about the laws the Office for Civil Rights (OCR) enforces is available on our website at www.ed.gov/ocr.

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.

Legal Standard

On May 25, 1970, pursuant to its authority under Title VI, the Department of Education issued a memorandum titled "[Identification of Discrimination and Denial of Services on the Basis of](#)

[National Origin](#).” 35 Fed. Reg. 11,595 (July 18, 1970). The memorandum clarified OCR policy under Title VI on issues concerning the responsibility of school agencies to provide equal educational opportunity to LEP national origin minority students. It states that school districts must take affirmative steps to address the language needs of LEP students (English learners).

OCR policy interpreting Title VI and the May 25th memorandum requires school districts to select a sound educational theory for their programs for English learners, and to use practices, resources and personnel reasonably calculated to implement their educational theory. Districts have a dual responsibility to teach students English and to provide them with access to the curriculum, taking steps to ensure that students are not left with academic deficits. In addition, districts must evaluate the implementation and outcomes of their services for English learners to determine whether the services are successful in meeting these responsibilities and the program goals set by the district. If not, districts must modify the programs, as necessary.

Alternative Language Program

The Complainant alleged that the District fails to provide English Language Learners (ELL) equal educational opportunity by failing to take affirmative steps to provide an appropriate English language development program to address the language needs of ELL students and fails to provide qualified staff for its alternative language program.

The Office for Civil Rights asked the District to describe the District’s alternative language programming to include specifics of the District’s program model(s) for serving LEP students (for example, English as a Second Language, Bilingual, Dual language Instruction, Structured English Immersion) and specifics of the delivery of English Language Development to emerging bilingual students.

The District stated that its alternative language program varies from school to school and classroom to classroom. The District explained that it is utilizing pull-out ELD instruction, push-in ELD instruction, co-teaching and has a Dual language bilingual program.

The Complainant also alleged that the District fails to provide English Language Learners (ELL) equal educational opportunity by failing to provide qualified staff for its alternative language program.

OCR further asked the District to identify by name, title, each individual employed by the District who administers or assists in the administration of programs and services for LEP students at a school or at a District level (for example, District Alternative Language Program Director, School LEP Coordinator, CLDE endorsed teaches providing direct ELD instruction, etc.).

Additionally, OCR asked the District to provide OCR with an explanation of the staff qualifications required for teaching ELL students in the District’s alternative language program. OCR asked the District to include a list of the qualifications of each teacher for each English development classroom.

The District provided OCR with a database of teachers and qualifications. OCR noted in the database that the District does have many teachers who possess CLDE endorsement, it was unclear what other mechanism is being utilized by the District to qualify teachers to provide alternative language services to students.

Parent Communication

The Complainant alleged that the District fails to communicate with limited English proficient (LEP) parents in a language and manner that they understand.

The District provided OCR with documentation of the District's communication and translation systems used to communicate with Parents who do not speak English.

Before the completion of OCR's investigation, the District requested, and OCR approved the District to enter into a Resolution Agreement pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*. The completion of the Resolution Agreement will resolve the allegations raised by the complaint. OCR will monitor implementation of the Agreement to ensure that the District meets all term of the Agreement.

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, you may file another complaint alleging such treatment. In addition, you may have the right to file a private suit in Federal court, regardless of whether 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, personal information, which if released, could constitute an unwarranted invasion of privacy.

If you have any questions, please contact the attorney assigned to your complaint, Virginia Wilson-Cobble, at (xxxxx), or me, at 303-844-5927 or Tom.Rock@ed.gov.

Sincerely,

/s/

Thomas M. Rock
Supervisory General Attorney

Enclosures: signed 302 Agreement

cc (w/o enclosures): Katy Anthes, Commissioner of Education, CO Department of Education