

**Section 302 Resolution Agreement**  
**MESA COUNTY VALLEY SCHOOL DISTRICT No. 51**  
**OCR Case Number: 08-18-1475**

The U.S. Department of Education, Office for Civil Rights (OCR) and the Mesa County Valley School District No. 51 (District) enter into this agreement (“Agreement”) to resolve the allegations in the above-referenced complaint in accordance with Section 302 of OCR’s *Case Processing Manual (CPM)*.

The Complainant alleged that the District discriminates against English language learners (ELLs) on the basis of national origin. Specifically, the Complainant alleged that the District fails to provide equal educational opportunity to English language learner, national origin minority students by failing to take affirmative steps to provide an appropriate alternative language program (ALP) 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.

The District denies the Complainant’s allegations, but agrees to take the following actions, voluntarily and without admitting any of the allegations or any other wrongdoing, to assure compliance with 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).

**Agreement Terms**

*Agreement Item 1: Alternative Language Plan (ALP)*

The District will review and revise its ALP so that it includes the following:

- **Alternative Language Program Model:** The District may select ALP models appropriate for its use that is based on sound educational theories and practices that are designed to assure equal educational opportunity to District LEP students, and fully describe the ALP model(s) the District will implement at the elementary, middle school, and high school levels to serve all LEP students.
- **Staffing.** The District will develop and describe procedures designed to assure that it will have sufficient licensed and endorsed/qualified staff to fully implement its selected ALP service model(s) within a reasonable time. The District will:
  - describe the staffing resources it needs to effectively implement the District’s ALP model(s), including a description of the training and qualifications of staff that provides program services;
  - determine how many certified and endorsed/qualified teachers and other staff members are necessary to fully implement the ALP model(s) at each school that

offers ALP services. In making this determination, the District will consider the training and qualifications of staff needed to implement each service model.<sup>1</sup>

- Determine the extent to which the staff members needed to implement the ALP models and services are currently available, and how many additional staff members need to be trained, hired, or assigned to the ALP program to meet ALP staffing needs.
  - Describe the steps it will take to assure that ALP teachers have the skills necessary to teach effectively in a program for LEP students, (*e.g.*, use validated evaluative instruments that measure the skills in question, evaluate teacher's classroom performance by an individual trained and familiar with the skills and methods required by the District's ALP model(s)).
  - Describe the steps it will take to fully and timely meet its ALP staffing needs (fully qualified staff teaching all LEP students), and the anticipated timeframe for the ALP to be fully staffed. The ALP shall include the manner and timeframes the District will implement to monitor progress toward acquiring sufficient qualified ALP staff.
- **Program Evaluation and Modification.** The ALP will include procedures for periodically evaluating effectiveness of services for LEP students provided pursuant to the ALP based on longitudinal data collected annually for use in its evaluations. For the District's initial ALP evaluation due at the end of SY 2020-2021 by **June 30, 2021**, the District will provide to OCR:
    - The total number of PHLOTE students and LEP students by school for school year 2020-2021;
    - An assessment of the ALP placement and services for LEP students;
    - A description of staff training needs and the District's response or scheduled for responding to identified needs; and
    - The District's assessment of the specific measurable language acquisition and performance goals identified for LEP students.
    - For all subsequent program evaluations (to be conducted at least once every two years), the District will develop:
      - A description of the factors used to determine effectiveness of the District's programs and services. Minimum factors to include in the self-evaluation are:
        - Whether current LEP students are satisfying established goals and objectives for student participation and achievement;
        - Whether current LEP students are progressing in English language proficiency in each of the four skill areas (oral, reading, writing and comprehension);
        - A comparison of LEP and former LEP student's academic progress, dropout, graduation, and grade retention rates with non-LEP peers; and

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<sup>1</sup> The District agrees that the primary providers of ALP instruction should be licensed teachers who are also sufficiently trained and endorsed/qualified to deliver ELD instruction.

- A comparison of LEP students' special education referrals and placements, and referrals and placements in the gifted and talented education program, as compared with their general representation in the District and to non-LEP students.
  - Whether and to what extent ELL teachers lack training required by the ALP, and
  - The specific steps the District will take, including applicable timeframes and persons responsible for identification, adoption and implementation of ALP program modifications or improvements designed to assure program effectiveness.
- **Staff Professional Development.** The ALP will contain provisions for staff development to include:
    - Procedures used to determine ELL staff training and development that will be needed on an ongoing basis for effective implementation of the ALP, and training for regular content area teachers to support the District's ELL program as well as required training for building administrators.
    - The specific steps the District will take, including timeframes for ELL staff professional development and persons responsible and accountable for ensuring that professional development is taking place on an ongoing basis.
  - **Parent Communication.** The District will include in its ALP guidelines and procedures designed to assure meaningful communication with national-origin limited-English proficient parents of students enrolled in its schools. The ALP will specify how the District will provide language assistance and address all relevant communication with LEP parents that are called to the attention of other parents in the District. The ALP will also address how the District will self-monitor implementation of its guidelines and procedures.

### *Reporting Requirement 1.1*

By **October 15, 2020**, the District will provide its alternative language plan (ALP) for the 2020-2021 school year to OCR for OCR's approval.<sup>2</sup> The District's ALP will include: that all limited English proficient (LEP) students have equal access to the District's educational program; a specific description of the District's direct (targeted) ELD instruction designed specifically for ELL students; will require ALP teachers not already possessing appropriate endorsement/qualifications (English or bilingual) to obtain such endorsement/qualifications within a reasonable time (not to exceed three years from the date of employment or the date of this ALP whichever is later).<sup>3</sup> For each ALP element, the ALP will specify the appropriate policies and procedures pertinent to such element, the activities corresponding to such element, the timeframes for these activities, the District staff personnel responsible for implementation of such element, and the District administrator or official responsible for accountability for the ALP element.

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<sup>2</sup> In the District, this was most recently called the *August 2018 ELL Guide*.

<sup>3</sup> Where the District had existing policies, procedures, training, or documentation requirements from the prior ALP that meet OCR standards, these requirements may be incorporated into the 2020-2021 ALP.

The District will also confirm to OCR that principals have been specifically notified of the requirement to provide direct ELD instruction to all of their ELL students by appropriately endorsed/qualified staff, and how principals will be held accountable for correctly implementing the ALP.

*Reporting Requirement 1.2*

Within **10 school days** of OCR's approval of the District's 2020-2021 ALP, the District will notify students, parents, staff and the community of its ALP through its normal practice for communication to include notifying LEP parents in a language and manner that they understand and ensuring that parents of ELL students who do not have adequate internet access are notified in an alternative manner. The District will include OCR in this notification.

*Reporting Requirement 1.3*

The District will initiate full implementation of the ALP agreed to in Item 1 of this Agreement within **30 days** of OCR's final approval of the ALP. Additionally, within **45 days** of implementation, the District will provide OCR with:

- Documentation that the ALP has been implemented.
- Documentation demonstrating that all principals have received a copy of the ALP;
- A training agenda for OCR's approval for administrators and staff regarding the implementation of the ALP (including training dates for the 2020-2021 school year, with training responsibilities delineated and assigned) that will be incorporated into the District's annual staff training schedule; and
- Written verification that a newsletter or other similar document has been sent to notify parents and guardians of all District students that the District has developed an ALP designed to assure that national-origin minority LEP students have equal and meaningful access to the District's educational services and that LEP parents in the District have been notified in a language and manner that they understand.

*Reporting Requirement 1.4*

By **November 1, 2020**, the District will provide OCR with a data sheet that lists every ELL student organized by school and grade, the specific ELD instructional services and amount of time that each student is receiving, and who is providing the services, as of October 1, 2020.

*Reporting Requirement 1.5*

By **November 1, 2020**, the District will provide OCR with a data sheet organized by school of names, certifications of the teachers at each school who are providing direct ELD instructional services for ELL students, as of October 1, 2020. If there are individuals who do not possess an appropriate endorsement/qualifications, the District will provide a narrative or qualification plan explaining how they will become appropriately endorsed/qualified within a reasonable time.

*Agreement Item 2*

By **October 15, 2020**, utilizing its home language survey, that is completed by every parent in the District, the District will develop a list of its national-origin LEP parents who require translation and/or interpreter services, including the language of the parent.

*Reporting Requirement 2.1*

By **October 15, 2020**, the District will:

- confirm to OCR in writing that each school has notified teachers and administrators whose job duties require regular contact with LEP students of the names of their national-origin LEP parents who require translation and/or interpreter services;
- confirm to OCR that the District has trained staff whose job duties require regular contact with LEP students on its ALP guidelines and procedures for effectively communicating with national-origin minority LEP parents. Interpreter and translator training will include when and how to obtain qualified language assistance, the importance of effective communication with LEP individuals, use of interpreters when staff receive or make calls to language-minority individuals, how to work effectively with interpreters, the impact of ethnic and cultural differences on effective communication, and applicable record-keeping procedures and reporting requirements.

*Reporting Requirement 2.2*

By **October 15, 2020**, the District will notify OCR that the District has implemented a record-keeping system of interpreter and translator services provided to LEP parents for all schools and at District administrative offices. The data will include the LEP parent's name, primary language of the LEP parent, the date, and in what manner the communication needs of the national-origin minority LEP parent was provided.

*Agreement Item 3*

For predominant language minority groups (such as Spanish), as determined by the District, the District will provide, written translations for national-origin minority LEP parents of routine notices that are sent to other parents (particularly regarding parent notices on special education-related matters, grade and progress reports, discipline referrals and parent notices, and notices to parents about standardized testing information). For those languages that are less predominant or where translations are not feasible, the District will establish a plan and procedures designed to assure that students and parents are advised, in a language and manner that they understand, of who to contact in the District if they need assistance in understanding notices or communicating with District staff members.

*Reporting Requirement 3.1*

By **November 1, 2020**, for those documents routinely provided to parents as noted above, the District will confirm the distribution and availability of written translations, to District

administration and schools for use and confirm to OCR that it has reminded staff members and administration that these translated documents are available and are to be used for predominant language[s] LEP parents.

*Reporting Requirement 3.2*

By **November 1, 2020**, the District will confirm that it has notified LEP parents and their students in a language and manner that they understand of how to gain translation and interpretations assistance in the District. Notification will include adequate notification for parents who do not have internet access.

*Reporting Requirement 3.3*

By **June 30, 2021**, provide OCR with a copy of its list of national-origin minority LEP parents who have requested or who have required translation or interpreter services at each school site and for administration for the 2020-2021 school year.

*Agreement Item and Reporting Requirement 4*

By **June 30, 2021**, the District will provide OCR with its initial program evaluation for its ALP and services for LEP students based on longitudinal data collected annually for use in its evaluations. The District will provide to OCR:

- 1) The total number of PHLOTE students and LEP students by school for school year 2020-2021;
- 2) An assessment of the ALP placement and services for LEP students;
- 3) A description of staff training needs and the District's response or scheduled for responding to identified needs; and
- 4) The District's objectives for providing educational services to LEP students, including the objectives of the ALP model(s) selected; and the specific measurable language acquisition and performance goals identified for LEP students.

**Monitoring of Agreement.** The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the 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 the regulations implementing Title VI of the Civil Rights Act of 1964 and its regulation at 34 C.F.R. part 100, which were at issue in this complaint.

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 Title VI regulation at 34 C.F.R. part 100. Further, 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.

MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51

By: \_\_\_\_\_/s/\_\_\_\_\_  
Diana Sirko, Ed.D.  
Superintendent

\_\_\_\_9/18/2020\_\_\_\_\_  
Date