

Resolution Agreement

Davis School District OCR Case Number 08-21-1196

Davis School District (District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education (Department), Office for Civil Rights (OCR). By this Agreement, the District commits to the following actions, consistent with the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination based on race, color, or national origin in programs and activities that receive Federal financial assistance from the Department. The District's decision to enter into this Agreement is not an admission of liability or wrongdoing, nor shall it be construed as such.

The District voluntarily agrees to take the steps outlined in this Agreement to ensure that all national origin minority English learner (EL) students in the District receive direct English language development instruction from EL qualified teachers and have meaningful access to academic content to participate meaningfully in the District's educational program, and that the District communicates school-related information to national origin minority limited English proficient (LEP) parents in a language they can understand about any program, service, or activity that is called to the attention of parents who are proficient in English. To resolve OCR Case Number 08-21-1196, the District will implement the actions described in this Agreement.

I. Comprehensive English Learner Plan (EL Plan)

- A. EL Expert: The District will identify or retain¹ an expert in the development and implementation of effective programs for English learners (EL). The expert will work with District staff on the development of the EL Plan (described below), implementation of the EL Plan, and the training specified in this Agreement.

Reporting Requirement I(A)(i): Within 30 calendar days of this Agreement being signed, the District will provide to OCR the name, contact information, and qualifications of the proposed expert for review and approval. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the expert is approved.

Reporting Requirement I(A)(ii): Within 30 calendar days of OCR's approval of the expert, the District will provide OCR with documentation that demonstrates the District has secured, in writing, the expert's services.²

- B. EL Plan: The District will provide all ELs enrolled in the District with direct English language development (ELD) instruction until they are proficient in all four domains of English (*i.e.*, speaking, listening, reading, and writing), according to ACCESS scores. The District will develop an EL plan that specifies how the District will provide ELD instruction taught by qualified and ESOL endorsed teachers to all EL students, according

¹ If the District does not have an employee with expertise in this area, the District agrees to contract with or otherwise hire an expert in this field for the purpose of implementing this Agreement.

² Such documentation may include a contract, memorandum of understanding, or other written agreement.

to their level of proficiency, enrolled in the District and how the District will ensure that all EL students attain both English proficiency and parity of participation in the standard instructional program within a reasonable length of time. The approach/methodology must be recognized as sound by some experts in the field or recognized as a legitimate educational strategy. The EL Plan will address, at a minimum, how the District will:

- i. maintain records for all EL students, including information that allows the District to track the services provided to EL students, such as student name, school, grade level, assessment results, and proficiency level, and the type, amount, and duration of English language development instruction and sheltered content instruction provided;
- ii. ensure that the District provides all EL students with English language assistance (including ELD instruction that is based on their level of English language proficiency) that is educationally sound in theory and effective in practice in teaching them English, including descriptions of:
 - a. how the District will provide direct ELD instruction to all EL students that takes into account each EL student's English proficiency level, grade level, educational background, language background, and disability (if any), until the student achieves proficiency in all four domains of English;
 - b. how EL instruction will be differentiated to address the needs of EL students at every English proficiency level and grade level, in all four language domains;
 - c. how schools will provide sufficient direct instruction of the English language by qualified and ESOL endorsed teachers to address the varied needs of all EL students; and
 - d. the curriculum, appropriate materials, and minimum amount of time necessary for ELD instruction for each grade level and English proficiency level;
- iii. ensure that teachers who are delivering direct ELD instruction to each EL student are qualified;
- iv. ensure that EL program staffing is sufficient to provide all EL students with ELD instruction delivered by qualified teachers;
- v. provide all EL students with appropriate instructional materials in the EL program, including adequate quantities of ELD materials available at the appropriate English proficiency and grade levels;
- vi. provide all EL students with meaningful access to the core curriculum so that they can achieve parity of participation in the standard instructional program within a reasonable length of time, including descriptions of how the District will ensure that:
 - a. any academic deficits incurred by current and former EL students are addressed;
 - b. all EL students, at all levels of English proficiency, have equal access to grade-appropriate core curriculum through instruction that is targeted to their level of English language proficiency, including any supplemental services, interventions or supports necessary to ensure equal access; and

- c. the use of supplemental materials for EL students at all English proficiency levels are appropriate to the content area being taught and the English proficiency level of students;
- vii. provide ELD instruction to EL students with disabilities, including a commitment that, for each student who receives ELD and special education dual services, the District will ensure that the student's IEP or Section 504 Plan specifies the setting in which ELD will be provided and contains the student's individual English language objectives/goals;
- viii. monitor the progress of all EL students to ensure they achieve English language proficiency and acquire content knowledge within a reasonable period of time, including descriptions of:
 - a. benchmarks for expected growth in acquiring English and academic content knowledge;
 - b. how the District will monitor and assess student progress toward English proficiency and academic content knowledge;
 - c. how the District will identify students not making expected progress or meeting the District's program goals;
 - d. interventions or instructional modifications available to EL students not making expected progress, including services for EL students who have been enrolled in the District for five or more years without meeting the reclassification criteria;³
 - e. the process and frequency for reviewing the success of any such interventions/modifications for an individual EL student; and
 - f. the steps that will be taken to modify the intervention program at schools where the programs are not successful;
- ix. monitor the academic and English language proficiency of students exited from the EL program for at least two years after their exit from the EL program, including a description of:
 - a. the appropriate, objective criteria the District will use for exiting and reclassifying EL students; and
 - b. procedures the District will use to ensure that EL personnel monitoring exited students will consider, at a minimum, report card grades, progress reports, teacher input, and standardized test scores to determine whether to provide recently exited EL students with timely and appropriate interventions, including inclusion in EL program and services if necessary; and
 - c. how the District will identify the EL services to be provided to exited students who are unable to achieve at the same academic level as their English only proficient peers without EL program services;
- x. evaluate the effectiveness of its EL program, including analyzing data to determine whether the program goals are being met or whether program modifications are necessary;
- xi. produce an annual written report, including a description of:
 - a. the program goals and data (including, but not limited to, a comparison of EL, former EL, and never EL students' graduation, dropout, and

³ The Plan will also include a description of when and in what form or setting these interventions will be provided to EL students.

- retention rates) that will be gathered to measure whether the District's program goals are being met;
- b. a timeline for collecting data and preparing an annual narrative report that analyzes the data;
 - c. the contents of the annual narrative report, including, if necessary, the specific reasons that program goals are not being met and identifying whether the failure to meet a goal is due to a deficit in program design or a deficit in program implementation;
 - d. actions the District will take to correct any deficits found in program design or implementation; and
 - e. the administrators and staff members who are responsible for each step in the evaluation process.

Reporting Requirement I(B)(i): Within 90 calendar days of the date OCR approves the expert referenced in Term I(A), the District will submit to OCR, for review and approval, a copy of the EL Plan pursuant to the terms of Item I(B). The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the EL Plan is approved.

Reporting Requirement I(B)(ii): Within 30 calendar days of OCR's approval of the EL Plan, the District will adopt and begin implementing the EL Plan. To demonstrate implementation, the District agrees to publish and widely disseminate the EL Plan, including, but not necessarily limited to, disseminating the EL Plan to all relevant District personnel and prominently posting the EL Plan on the District website. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement I(B)(ii).

Reporting Requirement I(B)(iii): After the District has implemented the EL Plan for one full semester, the District will provide OCR with a written report within 45 calendar days after the semester's end. The written report will assess the degree of implementation of the EL Plan at the District level and at each school site, and if needed, will identify steps the District will take to ensure continued and full implementation of the EL Plan. The written report will also include documentation of the implementation of the EL Plan, including, but not limited to, any data collected and reviewed pursuant to the EL Plan, a list of instructional materials used with EL students and evidence demonstrating that the materials are appropriate, documents demonstrating the monitoring of EL student progress, staffing information, a list of EL students who met the criteria for reclassification during the semester, and documentation that the District is monitoring the progress of students exited from the EL program. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement I(B)(iii).

Reporting Requirement I(B)(iv): By June 30 of the 2021-2022 and 2022-2023 school years, the District will provide OCR with the results of its annual program evaluation, consistent with the OCR-approved evaluation plan described in Term I(B), including a copy of the annual written report required by that Term and documentation of any changes the District proposes to take, including regarding training, implementation, and/or the EL Plan, as a result of the evaluation.

The District understands that its proposed changes to training, implementation, and/or the EL Plan are subject to OCR review and approval, and agrees to respond to OCR's concerns, if any, until OCR approves the proposed changes. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement I(B)(iv).

- C. **Notice to Parents:** The District will draft and disseminate an EL Notice to Parents, which will describe the District's educational program and design for EL students and specify the interventions, modifications, and services that are available to EL students who are not making expected progress. The EL Notice to Parents will contain information about how parents can provide complaints or otherwise express dissatisfaction with the District's EL program and assurance that they will receive a response or remedy. The EL Notice to Parents and related communications with parents will be translated for Limited English Proficient parents/guardians in their respective languages in a manner that is consistent with the District's obligations under Title VI.

Reporting Requirement I(C)(i): Within 30 calendar days of OCR's approval of the EL Plan referenced in Term I(B), the District will submit to OCR, for review and approval, a copy of the draft EL Notice to Parents. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the EL Notice to Parents is approved.

Reporting Requirement I(C)(ii): Within 30 calendar days of OCR's approval of the EL Notice to Parents, the District will issue the notice and provide OCR with documentation that the District has disseminated the EL Notice for Parents.⁴ The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement I(C)(ii).

- D. **Training:** To promote effective implementation of the EL Plan, the District will develop a training plan for OCR's review and approval. The training plan will specify the names, titles, and qualifications of those providing the training, the staff to be trained, the frequency and duration of the training to be provided, and the training topics that will be covered in order to provide differentiated training to the following groups of employees:
- i. all District and school administrators to ensure that they can oversee and implement the EL Plan at school sites. The District will ensure that administrators who are responsible for overall implementation of the EL Plan are adequately trained to assess implementation data and information, make continuous improvements, and meaningfully evaluate whether EL teachers are appropriately employing the training in the classroom and are adequately prepared to provide the instruction that will ensure that the EL program model successfully achieves its educational objectives;
 - ii. all teachers to ensure that they can fulfill their responsibilities under the EL Plan and can meet the needs of EL students in the classroom. The District will ensure

⁴ Such documentation may include copies of letters, emails, newsletters, webpages, etc.

teachers are trained on how to deliver English language development/ELD instruction that is targeted to EL students' level of English language proficiency, how to use supplemental materials, strategies, or supports that are appropriate to the needs of EL students to ensure equal access to core content, and how to monitor the progress of EL students and provide interventions and provide support to EL students who are not making expected progress. For special education teachers, specific training on providing ELD to EL students with disabilities, including specifying the setting in which ELD will be provided and the English language objectives/goals in EL students' IEPs and Section 504 Plans.

Reporting Requirement I(D)(i): Within 30 calendar days of OCR's approval of the EL Plan referenced in Term I(B), the District will submit to OCR, for review and approval, the training plan the District developed pursuant to Term I(D). The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the training plan is approved.

Reporting Requirement I(D)(ii): Within 180 calendar days of OCR's approval of the District's training plan, the District will provide OCR with documentation demonstrating that the training has been completed for all required employees. This documentation must include, minimally, for each training, the date(s) of the training, a list of all District staff required to attend, and a list of training participants. If any District staff who are required to complete the training are absent, the District will identify the staff member(s) and describe a plan to ensure that the individual(s) are trained. The District will promptly and fully address OCR's concerns, if any, until the District receives notification from OCR that no further reporting is required for Term I(D)(ii).

II. LEP Parent⁵ Communication

- A. The District will develop and fully implement a Plan for Oral and Written Language Assistance (Language Plan) to provide language assistance services to national origin minority LEP parents of students in the District to ensure that they have meaningful access to school-related information that English-speaking parents receive, in a language that they understand. The Language Plan will include the following:
- i. assurance that the District will continue to use a HLS to identify LEP parents who may need oral language assistance services;
 - ii. assurance that the District will use the information it gathers through its review of HLSs to inform all staff who serve students of the preferred language of communication for each student's parents;⁶
 - iii. a list of staff members at each school who are qualified⁷ to provide oral interpretation and/or written translation, the standards by which they were

⁵ The word "parent," as used throughout this Agreement, also refers to students' guardians.

⁶ Each staff person must be informed of the preferred language of communication for the parents/guardians of the students the individual staff person serves.

⁷ Recipients must ensure that: (1) interpreters "[h]ave knowledge in both languages of any specialized terms or concepts peculiar to the entity's program or activity and of any particularized vocabulary and phraseology used by the LEP person;" and (2) "[t]ranslators should understand the expected reading level of the audience and, where

- deemed qualified, the languages they speak or write fluently, and their work schedules;
- iv. a description of how District and school site staff members will ensure effective communication with LEP parents so that information called to the attention of English-speaking parents is also available to LEP parents;
 - v. the procedures for having vital documents translated;⁸
 - vi. the procedures that administrators and staff will use to obtain translation of vital documents;
 - vii. the procedures for providing meaningful access to vital documents that are not routinely translated and for lower incidence languages;
 - viii. a description of how school site and District staff will ensure effective communication with LEP parents who speak low-incidence languages;
 - ix. procedures for ensuring that all District employees, including school site staff, who provide oral interpretation and/or written translation services to LEP parents are competent, appropriately trained, qualified, and have demonstrated their ability to engage in oral and/or written communication correctly and effectively in both English and the target language, and have been trained as required in Term II(C) of this Agreement;
 - x. procedures for ensuring that all District employees, including school site staff, who provide oral interpretation and/or written translation for parents of students at disciplinary or disability-related meetings or hearings are familiar with and understand disciplinary or disability-related terms and concepts, and are able to communicate accurately and effectively in English and the target language about those terms and concepts;⁹
 - xi. a description of how the District will annually notify LEP parents of the availability of oral and written language assistance services and the procedure parents should follow to request these services;
 - xii. a process for annually informing staff about the right of LEP parents to oral and written language assistance services and the process staff should follow to obtain these services;

appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology." 67 Fed. Reg. at 41464. Recipients also should ensure that its interpreters and translators are trained on the role of an interpreter and translator, the ethics of interpreting and translating, and the need to maintain confidentiality.

⁸ 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 that OCR expects the District to routinely translate include, but are not limited to: disciplinary notices, procedures, and hearing related information; 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; registration and enrollment forms, emergency notification forms, and other forms most commonly used by the District to communicate with parents/guardians; 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.

⁹ Generally, interpreters and translators must have knowledge of specialized terms or concepts that may be used in the activities in which the individual will be providing language assistance, whether the topic is discipline, special education, extracurricular activities, college applications, or any other program or benefit offered by the District.

- xiii. a process for recording requests for language assistance, including the type of assistance requested (*i.e.*, interpretation and/or translation), the language in which the requester communicates, and the date of the request;
- xiv. a process for recording how the District responds to requests for language assistance, including the date of fulfillment of the request and who provided the interpretation or translation services (or an explanation for why the request was not fulfilled); and
- xv. a process for annual review by the District to ensure that its oral and written language assistance services are effective in providing meaningful access to school-related information to LEP parents and are consistent with the terms of the Language Plan.

Reporting Requirement II(A)(i): By September 24, 2021, the District will submit a draft Language Plan, as described in Term II(A), to OCR for review and approval. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the Language Plan is approved.

Reporting Requirement II(A)(ii): Within 30 calendar days of receiving OCR's approval of the Language Plan, the District will finalize and begin implementing the Language Plan and submit documentation to OCR demonstrating its implementation. Additionally, the District will widely disseminate the Language Plan and submit documentation to OCR demonstrating this dissemination.¹⁰ The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement II(A)(ii).

- B. The District will provide training to all District staff who may interact with LEP parents – *e.g.*, school-based administrators, EL coordinators, teachers, student support staff, front office staff, and the central office Translation and Interpretation Services Department – regarding the contents of the Language Plan.

Reporting Requirement II(B)(i): Within 30 calendar days of receiving OCR's approval of the Language Plan, the District will submit to OCR its plan for training all District staff who may interact with LEP parents regarding the contents of the Language Plan. This training plan should include copies of training materials and the names and qualifications of the trainer(s) the District proposes to use to fulfill Term II(B). The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that its training materials and proposed trainer(s) are approved.

Reporting Requirement II(B)(ii): Within 30 calendar days of OCR's approval of the training material(s) and trainer(s), the District will provide OCR with documentation demonstrating that the training has been completed. This documentation must include, minimally, the date(s) of the training, a list of all District staff who may interact with parents, and a list of training participants. If any District staff who are required to complete the training are absent, the District will identify the staff member(s) and a plan to ensure that the individual(s) are trained. The District will promptly and fully

¹⁰ Such documentation may include copies of letters, emails, newsletters, webpages, etc.

address OCR's concerns, if any, until the District receives notification from OCR that no further reporting is required for Term II(B)(ii).

- C. The District will develop plans for initial and ongoing training – the first of which will occur during fall of the 2021-2022 school year – for all staff that provide oral interpretation and/or written translation for parents in the District. This training will include the following areas:
- i. the Language Plan approved per Term II(A);¹¹
 - ii. the role of an interpreter and the protocol and ethics of interpretation, including the need to maintain confidentiality when providing interpretation or translation;
 - iii. the specialized terms or concepts that may be used in the activities in which the employee will be providing interpretation or translation, such as terms used in disability-related or discipline-related processes;
 - iv. that the District must provide translation or interpretation from appropriate and competent individuals and that the District must not rely on or ask students, siblings, friends, or untrained school staff to translate or interpret for parents, especially when conveying information about vital school matters;
 - v. that in addition to using a HLS, the District may also use other processes reasonably calculated to identify LEP parents, and should identify the language needs of LEP parents whenever those needs become apparent;
 - vi. that District staff must take parents at their word about their communication needs if they request language assistance; and
 - vii. that the District should remember that parents may need interpretation or translation services even if their child is proficient in English.

Reporting Requirement II(C)(i): Within 30 calendar days of this Agreement being signed, the District will submit to OCR its plans for staff training as described in Term II(C). This plan will include a copy of the draft training materials and the names and qualifications of the trainer(s) the District proposes to use to fulfill Agreement Term II(C). The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that its training materials and proposed trainer(s) are approved.

Reporting Requirement II(C)(ii): Within 60 calendar days of OCR's approval of the staff training plan and trainer(s), the District will provide OCR with documentation demonstrating that the training has been completed. This documentation will include, but is not necessarily limited to, the date(s) of the training, a list of all District staff who provide oral interpretation and/or written translation at the District, and a list of training participants. If any District staff who provide language assistance are absent, please identify the staff member(s) and a plan to ensure that the individual(s) are trained. The District will promptly and fully address OCR's concerns, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement II(C)(ii).

¹¹ The District may deliver the initial training on the Language Plan separately from the other instruction required by Term II(C), within 60 calendar days of OCR's approval of the Language Plan. In future years, all training outlined at Term II(C) should be delivered concurrently.

- D. The District will develop a plan to ensure the language assistance it provides is consistent with the requirements of Title VI while the District works to develop and fully implement the Language Plan. For example, the District may wish to make arrangements to hire or contract with an independent, approved, interpretation translation service (Contractor) to use for interpretation and translation needs until OCR notifies the District that Terms II(A)-(C) have been satisfied in full or in part.

If the District does not intend to rely upon a Contractor until Terms II(A)-(C) are satisfied in full, the District must outline for OCR how it will ensure that: all school-related information called to the attention of English speaking parents is also called to the attention of LEP parents; and the individuals who provide language assistance at the District and school levels are qualified to provide such assistance.

Reporting Requirement II(D)(i): Within 30 calendar days of this Agreement being signed, the District will submit to OCR documentation that outlines the District's plan to ensure that it provides language assistance consistent with the requirements of Title VI while it works to develop and implement the Language Plan. If applicable, the District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the Contractor is approved.

Reporting Requirement II(D)(ii): Within 60 calendar days of this Agreement being signed, and the 30th of every third month thereafter until the District fully implements its Language Plan,¹² the District will submit to OCR a record of requests for language assistance, including the subject matter of the request, the language assistance provided, dates of the request and interpreter/translation services provided, the identification and qualifications of the interpreter/translator, and the languages that were accessed. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that no further reporting is required because the District has fully satisfied Terms II(A)-(C).

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 Title VI, which were at issue in this case. OCR will close the monitoring of this Agreement once OCR determines that the District has fulfilled the terms of this Agreement.

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 (pursuant to 34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR will give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

¹² OCR anticipates that the District will fully implement its Language Plan within six months of OCR's approval of the Language Plan.

/s/
Mr. Reid P. Newey, Superintendent
for Davis School District

8/17/21
Date