

RESOLUTION AGREEMENT
Teton County School District #1
Case Number 08-22-1062

In order to resolve the open allegations in Case Number 08-22-1062, filed against Teton County School District #1 (District) and opened for investigation by the Office for Civil Rights (OCR) of the U.S. Department of Education (Department), the District agrees to implement this Resolution Agreement (Agreement).

The District will take the following actions to comply with the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (Title VI), and its implementing at 34 C.F.R. Part 100; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. Part 35.

During the investigation, before OCR made findings, the District indicated its willingness to voluntarily resolve the complaint pursuant to Section 302 of OCR's *Case Processing Manual*. The District's decision to enter into this Agreement is not an admission of liability or wrongdoing, nor shall it be construed as such.

Term 1: Study Regarding Current English Learner (EL) Students and Special Education Services and Gifted and Talented Education (GATE)

A. By September 6, 2022, the District will conduct a study of the 2021-2022 school year to determine (i) whether EL students are overrepresented in special education and (ii) whether the District's evaluation and testing procedures for GATE screen out EL students because of their limited English proficiency. The study will include, but not be limited to, an analysis of the data; review of existing policies, procedures, and practices; interviews with staff members; and interviews with families. The District will use the results of the study to inform the District's revision of its written EL Plan and the District's review of its policies, procedures, and practices.

REPORTING REQUIREMENT:

1.A. By September 29, 2022, the District will provide OCR with the results of the study.

B. If the District determines that EL students are overrepresented in special education, then the District will create for OCR's review and approval a draft action plan for reviewing the IEPs of all EL students to determine whether the placement, accommodations, and services are appropriate educational services designed to meet the students' individual needs.

REPORTING REQUIREMENT:

1.B. If the District determines that EL students are overrepresented in special education, then by October 29, 2022, the District will provide OCR with the District's draft action plan for reviewing the IEPs of all EL students to determine whether the placement,

accommodations, and services are appropriate educational services designed to meet the student's individual needs.

C. If the District determines that EL students are underrepresented in GATE because of their limited English proficiency, then the District will submit a draft action plan to OCR, identifying recommended modifications to the District's existing GATE policies, procedures, and practices; the specific timelines for implementation of the modifications; and the person(s) responsible for overseeing full and timely implementation of the modifications.

REPORTING REQUIREMENT:

1.C. If the District determines that EL students are underrepresented in GATE because of their limited English proficiency, then by December 29, 2022, the District will provide OCR with the District's draft action plan for modifying the District's existing GATE policies, procedures and practices.

Term 2: Revise the District's Written EL Plan (EL Plan)

The District will revise its written EL Plan to ensure that national origin minority EL students have equal access to the District's educational program. The District's revised EL Plan will specify how that EL students will receive direct English language development instruction until the EL students are proficient in all four domains of English (i.e., speaking, listening, reading, and writing), according to ACCESS scores. The District's revised EL Plan will also specify how the District will provide English language development instruction taught by qualified and ESOL endorsed teachers to all EL students, according to the EL students' level of proficiency 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 District's revised written EL Plan will address, at a minimum, how the District will:

A. 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.

B. Ensure that the District provides all EL students with English language assistance (including English language development that is based on the EL students' level of English language proficiency) that is educationally sound in theory and effective in practice in teaching EL students, including descriptions of:

1. The EL model(s) that will be used to instruct EL students;
2. How the District will provide direct English language development 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 language domains (speaking, reading, writing, and comprehension);

3. 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;
4. How schools will provide sufficient direct instruction of the English language by teachers fully qualified to teach EL students and able to address the varied needs of all EL students; and
5. The curriculum, appropriate materials, and minimum amount of time necessary for English language development for each grade level and English proficiency level.

C. Ensure that teachers who are delivering English language development instruction to each EL student are qualified;

D. Ensure that EL staffing is sufficient to provide all EL students with ELD instruction delivered by qualified teachers. The EL Plan will ensure, and incorporate into the EL Plan, procedures to ensure that the District has assigned a sufficient number of qualified teachers to properly implement the District's selected EL model(s) and services. The procedures will include the following:

1. The District will describe the staffing resources the District needs to effectively implement the District's selected EL model(s), including the training and qualifications of staff that provide services in the EL program;
2. The District will determine how many certified and endorsed qualified teachers and other staff members are necessary to fully implement the District's selected EL model(s). When making this determination, the District will consider the number of EL students and the training and qualifications of staff needed to implement each service model. The District agrees that the primary providers of EL instruction will be licensed teachers who are sufficiently trained and qualified to deliver EL instruction, including direct English language development services.
3. The District will determine whether there are a sufficient number of adequately trained staff members to properly implement the District's EL model(s) and services and, if not, how many additional staff members need to be trained, hired, or assigned to the EL program to fill those staff needs. The District will implement a plan to fully and timely meet its EL staffing needs (*i.e.*, fully qualified staff teaching all EL students). The District will describe any specific training program for its staff and include supporting documentation regarding its development and implementation.
4. The District will show how it has determined that its teachers have mastered the skills necessary to teach effectively in a program for EL students. For example, the District may require that teachers who provide EL services have an appropriate endorsement. The

District will also use validated evaluative instruments that have been shown to accurately measure the skills in question, and have EL teachers' classroom performance evaluated by someone familiar with the method being used.

5. The District will implement the staffing plan described in the preceding paragraphs to meet its staffing needs. The District will monitor the staffing plan's benchmarks or timelines to ensure adequate and timely progress in meeting the District's staff needs.

E. Provide all EL students with appropriate instructional materials in the EL program, including adequate quantities of English language development materials available at the appropriate English proficiency and grade levels. The EL Plan will ensure, and incorporate into the EL Plan, procedures to ensure that EL students are provided with instructional materials that are comparable in the quality, availability, quantity, and age or grade-level to those provided for non-EL students. The instructional materials procedures will include the following:

1. The District will survey staff members (EL, general education, and special education teachers serving EL students) at least annually to determine the availability of EL materials, the need for additional EL materials, and staff training needs related to using EL-designed materials;
2. The District will take necessary steps to respond to needs identified in the survey for EL materials; and
3. The District will notify staff members about the availability of existing EL-related resources, and train them about the use of the resources as necessary.

F. 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:

1. Any academic deficits incurred by current and former EL students are addressed;
2. 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 proficiency, including any supplemental services, interventions or supports necessary to ensure equal access; and
3. 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.

G. Provide English language development instruction to students with disabilities, including a commitment that, for each student who receives English language development and special education dual services, the District will ensure that the student's Individualized Education Plan (IEP) or Section 504 Plan specifies the setting in which English language development will be provided and contains the student's individual English language objectives/goals. The District will also ensure the following:

1. Any group of persons making diagnostic or special education evaluation and placement decisions for an EL student shall include persons knowledgeable about the student's language and culture, and the group must document that such information was considered;
2. The group of persons making diagnostic or special education evaluation and placement decisions for an EL student shall consider the EL student's current objective assessments of proficiency in all four language domains (speaking, reading, writing, and comprehension), and the effects of language and culture on the validity and reliability of assessments considered in placement decisions;
3. Delivery of EL services will be noted in the student file; and
4. Staff providing EL instruction to EL students with disabilities will be qualified in accordance with the District's EL Plan.

H. 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:

1. Benchmarks for expected growth in acquiring English and academic content knowledge;
2. How the District will monitor and assess student progress toward English proficiency and academic content knowledge;
3. How the District will identify students not making expected progress or meeting the District's program goals;
4. 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. The EL Plan will include a description of when and in what form or setting these interventions will be provided to EL students;
5. The process and frequency for reviewing the success of any such interventions/modifications for an individual EL student; and
6. The steps that will be taken to modify the intervention program at schools where the programs are not successful.

I. 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:

1. The objective criteria the District will use for exiting and reclassifying EL students;
2. 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 the EL program and services if necessary; and

3. How the District will identify the EL services to be provided to exited students who are unable to achieve the same academic level as their English only proficient peers without EL program services.

J. Evaluate the effectiveness of the District's EL program, including analyzing data to determine whether the program goals are being met or whether program modifications are necessary;

K. Produced an annual written program evaluation report, including a description of:

1. The program goals and data (including, but not limited to, a comparison of EL, former EL, and never EL students' graduation, dropout, and retention rates) that will be gathered to measure whether the District's program goals are being met;
2. A timeline for collecting data and preparing an annual narrative report that analyzes the data;
3. 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;
4. Actions the District will take to correct any deficits found in program design or implementation; and
5. The administrators and staff members who are reasonable for each step in the evaluation process.

REPORTING REQUIREMENTS:

- 2.A. By December 29, 2022, the District will submit to OCR, for review and approval, a copy of the EL Plan pursuant to the above terms. 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.
- 2.B. By December 29, 2022, 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's website.

Term 3: Notice to Families

The District will draft and distribute an EL Notice to Families, 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 Families will contain information about how families can make complaints or otherwise express dissatisfaction with the District's EL program. The EL Notice to Families will include an assurance that families will receive a response or remedy to their complaints/expressions of dissatisfaction. The EL Notice to Families and related communications with families will be translated for Limited English Proficient families in their respective languages in a manner consistent with the District's obligations under Title VI. The District agrees to fully and promptly respond to OCR's concerns, if any, until OCR notifies the District that the EL Notice to Families is approved.

REPORTING REQUIREMENTS:

- 3.A. Within 30 calendar days (or by August 29, 2022) of OCR's approval of the revised EL Plan referenced in Term 1, the District will submit to OCR, for review and approval, a copy of the draft EL Notice to Families.
- 3.B. Within 30 calendar days (or by August 29, 2022) of OCR's approval of the EL Notice to Families, the District will issue the notice and provide OCR with documentation that the District has distributed the EL Notice to Families. Such documentation may include copies of letters, emails, newsletters, webpages, etc.

Term 4: 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 to be covered in order to provide differentiated training to the following group of employees:

A. 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:

B. 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 that teachers are trained on how to deliver English language development 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 English language development to EL students with disabilities, including specifying the setting in which English language development will be provided and the English language objectives/goals in EL students' IEPs and Section 504 Plans.

REPORTING REQUIREMENTS:

- 4.A. Within 30 calendar days (or by January 29, 2023) of OCR's approval of the EL Plan referenced in Term 2, the District will submit to OCR, for review and approval, the training plan the District developed pursuant to Term 3. 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.
- 4.B. Within 180 calendar days (or by June 30, 2023) 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, at a minimum, 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.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, 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 and Title II at 34 C.F.R. §104.35; and 28 C.F.R. § 35.130(a). Upon completion of the obligations under this Agreement, OCR shall close this case.

The District 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 sixty (60) calendar days to cure the alleged breach.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has demonstrated compliance with all terms of this Agreement and is in compliance with Title VI, 42 U.S.C. § 2000d, and its implementing at 34 C.F.R. Part 100; Section 504, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104; and Title II, 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. Part 35, which were at issue in this complaint.

This Agreement will become effective immediately upon the signature of the District's representative below.

For Teton County School District #1:

Dr. Gillian Chapman
Superintendent

Date