

RESOLUTION AGREEMENT
Tucson Unified School District
OCR Case 08-23-1063

INTRODUCTION

Tucson Unified School District (District) agrees to implement this Resolution Agreement (Agreement) to resolve the non-compliance and compliance concerns identified by the U.S. Department of Education, Office for Civil Rights (OCR), under Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation, in the above-referenced OCR case.

OCR found that the District, at Cholla High School (School), is failing to:

1. timely identify English learner students (ELs);
2. provide ELs with a language assistance program that is educationally sound, proven successful, and based on the individualized needs of students;
3. provide qualified staff and sufficient resources to effectively implement the District's chosen language assistance program;
4. ensure that parents' decisions to opt out of language assistance programs are knowing, voluntary, and appropriately documented;
5. meet the English language and other academic needs of ELs who opt out of formal language assistance programs;
6. ensure that ELs have meaningful opportunity to participate in the grade-appropriate core curriculum (e.g., reading/language arts, math, science, and social studies);
7. provide adequate language assistance services to dually identified students in a self-contained setting;
8. ensure individualized education program (IEP) teams are considering the language needs of dually identified students in self-contained settings when developing IEPs;
9. monitor reclassified students for two years after they exit the English language development (ELD) program; and
10. evaluate the effectiveness of the language assistance program.

OCR's compliance concerns are:

1. The District is not monitoring whether the School's ELs who attend Tucson Unified Virtual Academy (TUVA) are receiving in an ELD program services and have meaningful access to the core curriculum.
2. The District is not annually monitoring the progress of all ELs in achieving English language proficiency, particularly opt-out students, students attending TUVA, and dually identified students in self-contained settings.
3. The School's records for ELs are incomplete and inconsistent and do not meet the District's record-keeping obligations under Title VI.

The District assures OCR that it will take the following actions to comply with the requirements of Title VI.

TERM I: REMEDIAL SERVICES

The District will develop and implement a plan to provide compensatory language acquisition services for all students who:

- attended the School and were identified as an EL at any point during the 2021-22 school year (SY) or 2022-23 SY, including students who were opted out or improperly withdrawn;
- have not been exited from EL services due to demonstrating proficiency on the Arizona English Language Learner Assessment (AZELLA);
- have not graduated high school and will be a student in the District during the 2023-24 SY; and
- choose to avail themselves of compensatory services.

The services will be offered, at a minimum, during the 2023-24 SY and summers 2023 and 2024.

The plan will include, at a minimum:

- what services will be provided (e.g., ELD instruction, tutoring, etc.);
- when services will be provided (e.g., afterschool, on Saturdays, during the summer, etc.);
- who will provide each service (e.g., qualified teachers);
- who will oversee implementation of the plan (e.g., the School's ELD Coordinator, a secondary specialist in the District's Language Acquisition Department (LAD), etc.);
- where the services will be provided (e.g., at the School or a nearby school, online, etc.);
- how students will receive transportation to and/or from the services, if necessary;
- how students and parents will be notified about the services (e.g., emails, flyers, letters, etc.), in a language they understand; and
- how students and parents will be able sign up or register for the services (e.g., email, online form, hardcopy form, etc.).

Reporting Requirement 1: Within 30 calendar days of this Agreement being signed, the District will submit to OCR a draft of the plan. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the plan is approved.

Reporting Requirement 2: Ninety calendar days after OCR approves the plan, and every 90 calendar days thereafter until OCR notifies the District that no further reporting is required for Reporting Requirement 2, the District will submit to OCR a report on implementation of the plan. The reports will include, among other information, for each student who received services:

- the student's full name;
- the student's grade;
- the date(s) the student receive services;
- the amount of services (in minutes or hours) the student received on each date; and
- who provided the services to the student (i.e., the individual's name and title or position).

The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement 2.

TERM II: PLANNING TO ADEQUATELY SERVE EL STUDENTS

The District will, annually, by the end of May, conduct an analysis to determine the funding and staffing needed to adequately serve ELs at the School during the upcoming school year. The analysis will include, at a minimum:

- the anticipated number of ELs throughout the school year (including an estimate of ELs who will enroll mid-year);
- the anticipated needs of ELs, including consideration of known ELs' English proficiency levels and ELs with disabilities;
- the EL program(s) that will be available at the school (e.g., English as a Second Language, Structured English Immersion, Dual Language Program, etc.);
- the certifications or endorsements needed by ELD teachers;
- the certifications or endorsements needed by special education teachers and non-ELD teachers who serve ELs in core academic classes (i.e., English language arts, science, social studies, and math);
- responsibilities of the ELD coordinator;
- instructional resources needed by ELD teachers;
- instructional resources needed by non-ELD teachers who serve ELs in core academic classes; and
- oversight by the District's LAD.

The District will develop and implement a written plan to adequately serve EL students at the School. The plan will include, at a minimum:

- the results of the analysis;
- steps to recruit, hire, and retain an adequate number of qualified staff;
- steps to procure adequate instructional resources;
- when each step will be taken;
- who will implement each step; and
- the funding needed to implement the plan.

Reporting Requirement 3: Within 30 calendar days of this Agreement being signed, the District will submit to OCR a draft of the analysis for the 2023-24 SY. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement 3.

Reporting Requirement 4: Within 30 calendar days of OCR notifying the District that no further reporting is required for Reporting Requirement 3, the District will submit to OCR a draft of the plan for the 2023-24 SY. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the plan is approved.

Reporting Requirement 5: By the first day of the 2023-24 SY, and every 90 calendar days thereafter until the District fully implements the plan, the District will submit to OCR a report on implementation of the plan for the 2023-24 SY. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement 5.

Reporting Requirement 6: By April 1, 2024, the District will submit to OCR a draft of the analysis for the 2024-25 SY. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement 6.

Reporting Requirement 7: Within 30 calendar days of OCR notifying the district that no further reporting is required for Reporting Requirement 6, the District will submit to OCR a draft of the plan for the 2024-25 SY. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the plan is approved.

TERM III: POLICIES, PROCEDURES, AND FORMS

The District will develop, adopt, and implement policies, procedures, and forms to ensure that, with respect to the School, the District:

Identification	1)	Timely and accurately identifies students with a Primary or Home Language Other than English (PHLOTE) (e.g., a home language survey (HLS) at the time of enrollment)
Assessment	2)	Timely and accurately determines if PHLOTE students are ELs through a valid and reliable English language proficiency (ELP) assessment that assesses the proficiency of students in all four domains of English (i.e., speaking, listening, reading, and writing)
Notice	3)	Provides notice, within 30 calendar days of the beginning of the school year, to all parents of ELs regarding the ELs' identification and placement
Language assistance services	4)	Provides all ELs with language assistance services that address their level of ELP and give them an equal opportunity to meaningfully and equally participate in the District's programs
	5)	Provides to all ELs language assistance services that are educationally sound in theory, effective in practice, and reasonably calculated to enable them to attain both English proficiency and parity of participation in the standard instructional program within a reasonable length of time
	6)	Consider, for each EL, the student's proficiency level, grade level, educational background, and language background to determine which EL program services are appropriate for the student
	7)	Provides all ELs with appropriate language assistance services until they are proficient in English and can participate meaningfully in the District's educational programs without language assistance services
	8)	Provides the qualified personnel and resources necessary to effectively implement the EL program, including having an adequate number of highly qualified teachers to provide language assistance services, trained administrators who can evaluate these teachers, and adequate and appropriate materials for the EL programs
	9)	Provides appropriate instructional materials in the EL program, including adequate quantities of ELD materials available at the appropriate English proficiency and grade levels
	10)	Evaluates whether training for EL teachers adequately prepares them to implement the EL program effectively
	11)	Adequately trains administrators who 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
Access to core curriculum	12)	Provides all ELs with equal access to the core grade-level curriculum (e.g., reading/ language arts, math, science, and social studies) so that they can meet promotion and graduation requirements
	13)	Measures all ELs' progress in core subjects to assess whether they are incurring academic deficits
Opted out students	14)	Respects the right of parents to opt their student out of the EL program or out of particular EL services within the EL program
	15)	Does not recommend that parents decline all or some services within an EL program for any reason
	16)	Provides guidance in a language parents can understand to ensure they understand their student's rights, the range of EL services that their student could receive, and the benefits of such services before voluntarily waiving language assistance services
	17)	Grants parents' opt-out requests only when the request is knowing and voluntary
	18)	Documents parent communications and decisions regarding opting-out a student from EL services
	19)	Takes affirmative steps (e.g., informing the ELs' parents of his or her lack of progress and offering the parents further opportunities to enroll the student in the EL program or at least certain EL services at any time), if an EL who opted out of the District's EL programs or services does not demonstrate appropriate growth in English proficiency, or struggles in one or more subjects
Monitoring current ELs	20)	Validly, reliably, and annually measures ELs' progress in achieving ELP (including in the four domains of speaking, listening, reading, and writing) and their performance in academic content areas
Monitoring former ELs	21)	Monitors, at least annually for at least two years, the academic progress all students who have been exited or opted out to ensure that the students have not been prematurely exited, any academic deficits they incurred as a result of participation in the EL program have been remedied, and they are meaningfully participating in the standard instructional program comparable to their never-EL peers
	22)	Re-tests – using a valid, reliable, and grade-appropriate ELP test – an exited student whose monitoring indicates that a persistent language barrier may be the cause of academic difficulty, and if a persistent language barrier is the cause of academic difficulty, reenters the student into EL status and offers EL services
ELs with disabilities	23)	Include staff who are qualified in EL instruction and second language acquisition in placement decisions under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973
	24)	Provides ELs with disabilities with both language assistance and disability-related services
Program evaluation	25)	Periodically evaluates the School's EL programs, including considering accurate data (e.g., graduation, drop out, and retention rates; performance on standardized tests; etc.) that permit a comprehensive and reliable comparison of how ELs in the EL program, ELs who exited the program, and

	never-ELs are performing on criteria relevant to participation in the District's educational programs over time ¹
	26) Makes appropriate changes to EL programs
Record-keeping	27) Creates and maintains timely, accurate, and complete records of compliance with the above requirements

Once the policies, procedures, and forms are approved by OCR, the District will disseminate them by, at a minimum (in English and Spanish):

- posting the policies, procedures, and forms on the LAD's webpage;
- creating an ELD webpage on the School's website, and posting the policies, procedures, and forms on that webpage;
- including an announcement about the policies, procedures, and forms in the School's newsletter;
- including an announcement about the policies, procedures, and forms on the School's social media, if the School maintains social media;
- sending an announcement about the policies, procedures, and forms, via email, to all parents of School students; and
- holding a meeting for ELs and their parents at which the LAD conducts a presentation and answers questions about the policies, procedures, and forms, and at which ELs and their parents are provided with information about how to access the policies, procedures, and forms, and how to request a hard copy of the policies, procedures, and forms in their native language.

Reporting Requirement 8: Within 60 calendar days of this Agreement being signed, the District will submit to OCR draft policies, procedures, and forms (e.g., an HLS, notice of identification and placement forms, opt out form, monitoring forms, program evaluation forms, etc.). The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the policies, procedures, and forms are approved.

Reporting Requirement 9: Within 30 calendar days of OCR notifying the District that the policies, procedures, and forms are approved, the District will disseminate them as required by Term III and submit to OCR documentation demonstrating that they were disseminated as required by Term III (e.g., screenshots, URLs, copies of emails, meeting agenda and presentation, etc.). The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement 9.

TERM IV: SCHOOL STAFF TRAINING

The District will, annually, train all relevant School staff about the policies, procedures, and forms approved by OCR pursuant to Term III. Relevant School staff will include, at a minimum administrators, teachers, counselors, attendance and registration staff, support services staff, and academic support personnel.

¹ The evaluation data may include information derived from data reported to the Arizona Department of Education as part of state reporting requirement.

The trainings will be conducted by one or more individuals who meet the following criteria:

- experience training school staff;
- knowledgeable about applicable state and federal laws and regulations;
- knowledgeable about applicable District policies and procedures; and
- experience with ELD.

The trainer may be an employee or non-employee of the District who meets the above requirements.

Reporting Requirement 10: Within 30 calendar days of receiving notice from OCR that no further reporting is required for Term III, the District will submit to OCR (for the 2023-24 SY training):

- a draft training agenda;
- draft training materials;
- a list of individuals to be trained, including the name and job title of each individual; and
- the name(s) and qualifications of one or more proposed trainer.

The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's approval of the agenda, training materials, list of trainees, and trainer(s).

Reporting Requirement 11: After receiving notice from OCR that no further reporting is required for Reporting Requirement 10, and within the first 30 calendar days of the 2023-24 SY, the District will conduct the training required by Term IV for the 2023-24 SY and submit to OCR:

- written confirmation that the approved agenda, training materials, and trainer(s) were used;
- a list of individuals who attended the training, including the name and job title of each individual; and
- a list of School employees who did not attend the training, if any, the reason for each individual's absence, and the plan to ensure the individual is trained in a timely manner.

The District will promptly and fully address OCR's concerns, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement 11.

Reporting Requirement 12: By June 1, 2024, the District will submit to OCR (for the 2024-25 SY training):

- a draft training agenda;
- draft training materials;
- a list of individuals to be trained, including the name and job title of each individual; and
- the name(s) and qualifications of one or more proposed trainer.

The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's approval of the agenda, training materials, list of trainees, and trainer(s).

Reporting Requirement 13: After receiving notice from OCR that no further reporting is required for Reporting Requirement 12, and within the first 30 calendar days of the 2024-25 SY, the District will conduct the training required by Term IV for the 2024-25 SY and submit to OCR:

- written confirmation that the approved agenda, training materials, and trainer(s) were used;
- a list of individuals who attended the training, including the name and job title of each individual; and
- a list of School employees who did not attend the training, if any, the reason for each individual's absence, and the plan to ensure the individual is trained in a timely manner.

The District will promptly and fully address OCR's concerns, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement 13.

TERM V: DISTRICT OVERSIGHT

The District will develop and implement a plan to oversee the School's compliance with the policies and procedures adopted pursuant to Term III. The plan will include, at a minimum, for each step:

- what the step will entail (including, at a minimum, mandatory professional development for staff on how to meet the needs of EL students, teacher observations, data analyses, records reviews);
- who will be responsible for implementing the step (i.e., name and title or position); and
- when the step will take place (i.e., approximate date).

Reporting Requirement 14: Within 30 calendar days of OCR notifying the District that no further reporting is required for Reporting Requirement 9, the District will submit to OCR a draft of the plan. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the plan is approved.

Reporting Requirement 15: Within 30 calendar days of the end of the 2023-24 SY, the District will submit to OCR:

- documentation showing that the approved oversight plan was implemented (e.g., completed teacher observation forms, copies of records reviewed, completed data analyses, etc.);
- a description of any measures that were taken or that will be taken to address deficiencies in the School's implementation of the policies and procedures approved pursuant to Term III; and
- a plan for ongoing oversight of the School.

The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Term V.

GENERAL REQUIREMENTS

The District understands that by signing this Agreement, the District agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, OCR may visit the District – after notifying the District of OCR's compliance concerns and providing the District with 10

days advance notice – to 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 Title VI, and its implementing regulations at 34 C.F.R Part 100, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR will close and dismiss this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and is in compliance with Title VI, and its implementing regulation at 34 C.F.R. Part 100, which were at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR will give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

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

For the District:

Dr. Gabriel Trujillo, Superintendent

Date