

**RESOLUTION AGREEMENT**  
**Brighton School District 27-J**  
**OCR Case No. 08-23-1352**

The United States Department of Education (Department), Office for Civil Rights (OCR) and the Brighton School District 27-J (District) enter into this Resolution Agreement (Agreement) to resolve the allegations related to Second Creek Elementary School (School) in the above-referenced case. 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 assures OCR that it will take the following actions to comply with the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin by recipients of federal financial assistance from the Department.

- I. Policies and Procedures.** The District will develop, adopt, and implement policies and procedures (Policies and Procedures)<sup>1</sup> to ensure that, with respect to the School, the District:
- a. **Identification.** 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);
  - b. **Assessment.** Timely and accurately determines if PHLOTE students are English learner (EL) students 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);
  - c. **Notice.** Provides notice, within 30 calendar days of the beginning of the school year, to all parents of EL students regarding identification and placement in the EL language development (ELD) program;
  - d. **Language Assistance Services.**
    - 1. Provides all EL students with language assistance services (i.e., ELD program) that address their level of ELP and provide an equal opportunity to meaningfully and equally participate in the District's programs;
    - 2. Provides to all EL students language assistance services that are educationally sound in theory, effective in practice, and reasonably calculated to enable EL students to attain both English proficiency and parity of participation in the standard instructional program within a reasonable length of time;
    - 3. Consider, for each EL student, the student's proficiency level, grade level, educational background, and language background to determine which EL program services are appropriate for the student;
    - 4. Provides all EL students 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;
    - 5. Provides the qualified personnel and resources necessary to effectively implement the ELD program, including having an adequate number of highly qualified

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<sup>1</sup> The Policies and Procedures may also necessitate that creation of relevant forms to implement the requirements outlined in Term I, such as forms a home language survey, notice of identification and placement forms, monitoring forms, program evaluation forms, etc.

- teachers to provide language assistance services, trained administrators who can evaluate these teachers, and adequate and appropriate materials for the EL programs;
6. Provides appropriate instructional materials in the ELD program, including adequate quantities of ELD materials available at the appropriate English proficiency and grade levels;
  7. Evaluates whether training for EL teachers adequately prepares them to implement the EL program effectively; and
  8. 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 ELD program model successfully achieves its educational objectives;
- e. **Access to Core Curriculum.**
1. Provides all EL students 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; and,
  2. Measures all EL students' progress in core subjects to assess whether they are incurring academic deficits;
- f. **Monitoring current EL Students.** Validly, reliably, and annually measures EL students' progress in achieving ELP (including in the four domains of speaking, listening, reading, and writing) and their performance in academic content areas
- g. **Monitoring former EL Students.**
1. Monitors, at least annually for at least two years, the academic progress all EL 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 ELD program have been remedied, and they are meaningfully participating in the standard instructional program comparable to their never-EL peers; and,
  2. Reassesses an exited EL student whose monitoring indicates that a persistent language barrier may be the cause of academic difficulty using a valid, reliable, and grade-appropriate ELP test; and, if the results of the re-testing qualify the student as NEP or LEP, the school district must reenter the student into current EL status and offer language assistance services;
- h. **Program evaluation.**
1. Periodically evaluates the School's ELD program(s), 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 EL students in the EL program, EL students who exited the program, and never-EL students are performing on criteria relevant to participation in the District's educational programs over time; and,
  2. Modifies, as necessary, the School's ELD program(s) to ensure the language assistance services are producing results which indicate that the EL students' language barriers are being overcome;
- i. **Meaningful Communication with Limited English Proficient Parents.**
1. Identifies and evaluates the language needs of parents/guardians who are limited English proficient (LEP);

2. Provides free, effective language assistance (oral interpretation and written translation) to LEP parents/guardians to ensure meaningful communication regarding school-related information, including by providing adequate notice and meaningful access to information about all School and District programs, services, and activities;
  3. Ensures the language assistance is provided to LEP parents/guardians effectively with appropriate, competent staff and/or appropriate, competent outside resources; and,
  4. Notifies LEP parents/guardians, at least annually, of the availability of language assistance services (oral interpretation and written translation) and the procedure parents/guardians should follow to request these services.
- j. **Recordkeeping.** Creates and maintains timely, accurate, and complete records of compliance with the policies and procedures outlined in Term I.a.-i.

The District will disseminate the Policies and Procedures, following OCR's approval, by posting the Policies and Procedures on the School's website; including an announcement about the policies, procedures, and forms in the School's newsletter; sending an announcement about the Policies and Procedures, via email, to all parents/guardians of School students and School staff members; and any other means by which the District standardly distributes information to parents/guardians of School students and School staff members, as determined by the District.

**Reporting Requirement I.1.:** Within 90 calendar days of signing the Agreement, the District will submit to OCR the draft Policies and Procedures developed in accordance with the requirements in Term I. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the Policies and Procedures are approved.

**Reporting Requirement I.2.:** Within 30 calendar days of receiving OCR's approval in response to Reporting Requirement I.1., the District will submit documentation to OCR demonstrating that the approved Policies and Procedures were disseminated as required by Term I (e.g., screenshots, URLs, 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 I.2 or Term I.

**II. Staff Training.** The District will annually train all relevant School staff about the Policies and Procedures, as approved by OCR pursuant to Term I. Relevant School staff will include, at a minimum, School administrators, teachers, counselors, attendance and registration staff, and academic support personnel.

**Reporting Requirement II.1.:** Within 30 calendar days of receiving OCR's approval in response to Reporting Requirement I.1., the District will submit to OCR draft training materials (e.g., agenda, presentation, etc.) prepared in accordance with Term II for training during the 2023-24 SY; the name(s) and qualifications of the proposed trainer(s); and, a list of the relevant School staff to receive training, including the name and job title of each individual. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the proposed training materials are approved.

**Reporting Requirement II.2.:** Within 45 calendar days of receiving OCR’s approval in response to Reporting Requirement II.1., the District will submit documentation to OCR demonstrating that the training has been completed, including, but not limited to: the date(s) of the training; a copy of the final training materials distributed to the attendees; 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 it receives notification from OCR that no further reporting is required for Reporting Requirement II.2.

**Reporting Requirement II.3.:** By September 15, 2024, the District will submit to OCR draft training materials (e.g., agenda, presentation, etc.) prepared in accordance with Term II for the 2024-25 SY; the name(s) and qualifications of the proposed trainer(s); and, a list of the relevant School staff to receive training, including the name and job title of each individual. The District will promptly and fully address OCR’s concerns, if any, until OCR notifies the District that the proposed training materials are approved.

**Reporting Requirement II.4.:** Within 45 calendar days of receiving OCR’s approval in response to Reporting Requirement II.3., the District will submit documentation to OCR demonstrating that the training has been completed, including, but not limited to: the date(s) of the training; a copy of the final training materials distributed to the attendees; 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 it receives notification from OCR that no further reporting is required for Reporting Requirement II.4. or Term II.

### **III. Staffing and Funding Plan for EL Services.**

- a. **Analysis.** The District will conduct an analysis (Analysis), annually, to determine the resources and staffing needed to adequately serve EL students, in alignment with the approved Policies and Procedures, at the School during the upcoming school year. The Analysis will address, at a minimum, the:
  - i. anticipated number of EL students who will attend the School during the upcoming school year (including an estimate of EL students who will enroll mid-year);
  - ii. anticipated needs of EL students, including consideration of known EL students’ ELP and EL students with disabilities;
  - iii. ELD program(s) that will be available at the School (e.g., English as a Second Language, Structured English Immersion, Dual Language Program, etc.);
  - iv. certifications or endorsements needed by School staff, including ELD teachers, special education teachers, and non-ELD teachers who serve EL students in core academic classes (i.e., English language arts, science, social studies, and math);
  - v. responsibilities of the ELD coordinator; and,
  - vi. instructional resources needed by ELD teachers and non-ELD teachers who serve ELs in core academic classes.

- b. **ELD Plan.** Based on the results of the Analysis, and any additional data obtained after submitting the Analysis to OCR, the District will develop and implement a written plan, in alignment with the approved Policies and Procedures, to adequately serve EL students at the School (ELD Plan) in the upcoming SY. The ELD Plan will address, at a minimum, the:
- i. results of the Analysis;
  - ii. effectiveness of the School's EL program during the current SY, including analyzing data (e.g. ACCESS for ELLs, etc.) to determine whether the program goals are being met or whether program modifications are necessary;
  - iii. steps to recruit, hire, and retain an adequate number of qualified staff;
  - iv. steps to procure adequate instructional resources; the timeframe for implementation of the ELD Plan;
  - v. identification of who will implement each step; and,
  - vi. the resources (i.e., funding, materials, etc.) needed to implement the ELD Plan.

**Reporting Requirement III.1.:** By March 31, 2024, the District will submit to OCR a draft 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 III.1.

**Reporting Requirement III.2.:** By June 7, 2024, the District will submit to OCR a draft ELD 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 ELD Plan is approved.

**Reporting Requirement III.3.:** By the first day of the 2024-25 SY, and every 90 calendar days thereafter until the District fully implements the ELD Plan, the District will submit to OCR a report on implementation of the ELD Plan during 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 III.3.

**Reporting Requirement III.4.:** By March 31, 2025, the District will submit to OCR a draft Analysis for the 2025-26 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 III.4.

**Reporting Requirement III.5.:** By June 6, 2025, the District will submit to OCR a draft ELD Plan for the 2025-26 SY. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the ELD Plan is approved.

**Reporting Requirement III.6.:** By the first day of the 2025-26 SY, and every 90 calendar days thereafter until the District fully implements the ELD Plan, the District will submit to OCR a report on implementation of the ELD Plan during the 2025-26 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 III.6. or Term III.

**IV. Remedial Services.** The District will develop and implement a plan to provide compensatory language acquisition services (Compensatory Plan) for all students who attended the School and were identified as an English learner (EL) at any point during the 2022-23 school year (SY), including students who were opted out; are currently designated as non-English proficient (NEP) or limited English proficient (LEP); 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 summer 2024.

The Compensatory Plan will describe, at a minimum:

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

**Reporting Requirement IV.1.:** Within 60 calendar days of this Agreement being signed, the District will submit to OCR a draft of the Compensatory Plan. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that the Compensatory Plan is approved.

**Reporting Requirement IV.2.:** Within 90 calendar days after the date on which OCR approves the Compensatory Plan, and every 90 calendar days thereafter until OCR notifies the District that no further reporting is required for Reporting Requirement IV.2., the District will submit to OCR a report (Quarterly Report) describing the status of implementing the plan. Each Quarterly Report will describe:

- a. for each student who received services during the time following the previous report, the student's full name; the student's grade; the date(s) the student received 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);
- b. Any substantive changes to the provision of compensatory language acquisition services as originally identified/approved in the Compensatory Plan (e.g., changes in staffing, location, 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 IV.2. or Term IV.

The District understands that by signing this Agreement, it 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, 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. Upon completion of the obligations under this Agreement, OCR shall 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 regulations at 34 C.F.R. Part 100, which were at issue in this Complaint.

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 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.

**FOR THE DISTRICT:**

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/s/  
Dr. Chris Fiedler, Superintendent

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08/22/2023  
Date