

## **RESOLUTION AGREEMENT**

Cupertino School District  
OCR Docket No. 09-13-1371

### **I. BACKGROUND**

The U.S. Department of Education, Office for Civil Rights (OCR) initiated an investigation at the Cupertino Union School District (District) to determine whether the District denies equal educational opportunities to national origin language minority students in its schools. The District is subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100 (Title VI) because it receives Federal financial assistance from the Department of Education. Title VI provides, in relevant part, that no program or activity receiving Federal financial assistance from the U.S. Department of Education may discriminate on the basis of race, color, or national origin. Without admitting or conceding any violation of any Federal law with respect to the issues raised in this review, the District agrees to implement the provisions in this Resolution Agreement (Agreement).

### **II. EQUITY CONSULTANT**

- A. The District will retain a consultant (equity consultant) with expertise on the needs of English Learner students and the development of an English Learner program for the District.

The consultant may be an independent contractor for the District and/or an employee of the District. The District, after retaining its consultant(s), will promptly provide the consultant with all appropriate information the consultant believes is necessary to engage in this process.

- B. The District will engage the Equity Consultant for the duration of this Agreement.
- C. By February 28, 2014, the District will provide OCR with the name and contact information of the Equity Consultant/expert that the District engages for the duration of this Agreement.

### **III. MASTER PLAN FOR ENGLISH LEARNER SERVICES**

#### **A. PROGRAM DESIGN AND IMPLEMENTATION**

1. The District will revise its *English Language Development Program Master Plan* (Master Plan) to describe a comprehensive program of English language services and instruction that meets Title VI standards. The revised Master Plan will incorporate the "Program Areas" provisions of this Agreement, and, in pertinent part, will describe goals for its program for English learner ("EL") students, including expectations for EL student progress in English acquisition and academic achievement.

2. If the revised Master Plan includes an English Language Development Center (ELD Center) option, it will describe how the EL program, including English Language Development (ELD) instruction, will be provided at both the ELD Centers and in the regular classroom setting. Parents who do not wish to enroll their students at an ELD Center will not be required to withdraw them from English learner services.
3. The District will ensure that each of its chosen program models is implemented in the least segregative manner consistent with achieving its goals. All students will have an opportunity to interact with non-EL students for at least part of each instructional day.
4. The Master Plan will include a description of a comprehensive system for annually evaluating and monitoring implementation of the EL program. The evaluation will include:
  - a. Analysis of data that addresses EL students' English acquisition and academic achievement based on students' grade levels, English proficiency levels, time in District program, and instructional setting, e.g., ELD Center.
  - b. Provisions for using the data to develop comprehensive plans for improving program implementation, providing necessary professional development, and modifying the District's program as needed to improve EL student success.
5. The Master Plan will describe the EL program accountability of staff at all levels, including the roles and responsibilities of staff at the District and at the school site levels for implementing the delivery of EL services and ensuring compliance with the Master Plan and this Agreement.
6. While the Master Plan is being finalized, the current Master Plan and District policies will remain in effect during the school year 2013-2014.
7. The District will provide OCR with a draft of the revised Master Plan by March 31, 2014. Feedback from OCR will be incorporated prior to submission to the Board for final approval.
8. The revised Master Plan will be fully implemented in all District schools by September 30, 2015.

## **B. PROGRAM AREAS**

### **1. English Language Development**

- a. The District will ensure that all EL students, including those who attend their neighborhood school and those at ELD Centers, receive ELD instruction until they are reclassified as fluent English proficient (FEP).
- b. The District will ensure that EL students at the elementary school level are provided ELD instruction that addresses their level of English proficiency. The Master Plan will describe models for providing ELD instruction by grade level, English proficiency level, and school type, including the minimum duration of ELD instruction.
- c. The Master Plan will describe the ELD instruction to be provided to middle school students, including those (if any) who are not enrolled in designated ELD courses.
- d. All ELD instruction will be provided by appropriately authorized teachers, using standards-based curricula and materials that are specifically designed for the proficiency level and grade levels of the students being instructed.
- e. EL students who are not making expected progress in acquiring English, as defined in the Master Plan with reference to the program goals, will receive designated effective intervention services. The Master Plan will describe the specific interventions that will be provided, the means of reviewing the success of any such interventions, and the steps that will be taken to modify the intervention program at schools where the programs are not successful.
- f. While the Master Plan is being finalized, the District will develop and implement an interim plan that will describe the services to be provided at neighborhood schools until the Master Plan is fully implemented. The interim plan will include the steps that will be taken to ensure that all EL students receive ELD instruction that is targeted to their level of English proficiency. The interim plan will include the following items:
  - i. The District will work with school site administrators to identify the most qualified teachers at their school sites to provide targeted EL instruction;
  - ii. The District will provide any professional development/training to the teachers at the neighborhood schools on EL instruction;
  - iii. Any new EL students at the school sites will be placed in specific classrooms where the instruction will include targeted EL instructional strategies that align with ELA/ELD Common Core Standards;

- iv. EL students who did not receive ELD instruction during the 2013-2014 school years because their parents withdrew them from ELD instruction, and who have not made adequate progress in learning English, pursuant to current District goals, will receive supplemental/compensatory services.
- g. By January 30, 2014, the District will provide OCR with an interim plan for ELD services as described in this Section.

## **2. Access to the Core Content Instruction**

- a. The Master Plan will describe how the District will ensure all ELs, including special education students, have equal access to the core curriculum through instruction that is targeted to their level of English language proficiency.
- b. The Master Plan will describe the use of supplemental materials for EL students at all English proficiency levels that are appropriate to the content area being taught and the English proficiency level of students.

## **2. Reclassification**

- a. The Master Plan will address the following areas:
  - i. The process and criteria for reclassifying EL students as FEP;
  - ii. The District's expectations for continued progress of FEP students toward proficient grade-level academic achievement as measured by grades and CST scores, and methods for monitoring reclassified students' progress toward proficient achievement; and
  - iii. The instructional supports that will be available to students after they reclassify, to ensure that they meet District progress expectations, including the specific intervention and support services that will be provided to reclassified students who do not make expected progress towards grade-level academic proficiency.
  - iv. The information the District will provide to the relevant high school district when the student leaves the District for high school.
- b. By May 31, 2014, the District will provide a report to OCR on services and supports provided to reclassified EL students (RFEP). The report will include the following information:
  - i. The number of EL students who were reclassified during the 2013-14 school year.

- ii. A description of the instructional support that will be available to the newly reclassified students.
- iii. A list of the RFEP students who are not making expected progress and the specific interventions in place for these students.
- iv. The rate of reclassification of the EL students at ELD Center compared to the rate of reclassification of EL students at the neighborhood schools. The District will take steps to review the data and make any necessary changes at the sites.

### **3. Special Education**

- a. The Master Plan will include guidance on the delivery of ELD to each EL student in special education (SPED EL students). The District will provide both special education services and English learner services to each SPED EL student in a manner appropriate to the student's individual needs, regardless of the nature or severity of the student's disability as defined by the SPED EL student's IEP.
- b. The District will provide ELD materials to all special education teachers who are responsible for providing ELD to SPED EL students.
- c. By March 31, 2014, the District will provide OCR with a description of the steps taken to ensure that SPED EL students in receive ELD, and to provide ELD materials to SPED teachers.

### **4. Matriculation**

- a. The Master Plan will include a discussion of the matriculation of EL students in the District to the relevant high school districts. The District will describe the steps that it will take to inform the appropriate parties of the needs of the EL student as he/she progresses to the high school EL curriculum.

### **5. Parent Communication**

- a. The District will develop and implement policies and procedures to ensure that parents/guardians are effectively notified about the District's EL program, participation in the program, academic progress of EL students toward meeting District standards for full English proficiency and achievement in core academic areas.
- b. By September 30, 2014, the District will provide OCR with a description of the policies and procedures to ensure that parents are effectively notified about the District's EL program.

## **6. Use of Technology for EL Students**

- a. The District will ensure that EL students at all school sites have comparable access to technology.
- b. By June 30, 2014, the District will provide OCR with a description of the technology available at the ELD Centers and school sites that EL students are able to access and use for oral language development.

## **7. Professional Development on Master Plan implementation**

- a. The District will provide professional development to relevant District and school site administrators, teachers, parents, paraprofessionals, and other staff regarding the new Master Plan once it is approved.
- b. The District will provide coaching and professional development, as necessary, for teachers on providing ELD instruction in settings that include EL students at multiple English proficiency levels and on identifying students who are not making expected progress in learning English. The professional development will include training on the use of technology to improve EL students' oral language and content knowledge.
- c. Within 60 days of OCR's approval of the District's Master Plan, the District will begin providing professional development District-wide as described in above. The professional development will be completed by August 30, 2015.

## **8. Use of Combination Grade Level Classes for EL Students**

- a. If the revised Master Plan includes an ELD Center option, and should the District decide to create grade level combination classes for EL students at the ELD Center, the District will develop a criteria for the placement of EL students into those combination grade level classes.
- b. By March 31, 2014, the District will provide OCR with a description of the criterion the District will use when it creates combination grade level classes for EL students.

## **IV. MONITORING AND REPORTING**

- A. The District will submit to OCR the documents discussed above for its review and approval by the dates indicated. The documents will be modified as necessary to address OCR's stated comments and concerns. All policies and procedures will be finalized within 45 days of final approval by OCR;

- B. The District will maintain records of all information pertinent to compliance with the terms of this Agreement and will provide such information to OCR upon request.
- C. Revisions to this Agreement must be mutually agreed upon by the District and OCR. Any mutually agreed upon revisions must be set forth in writing. OCR and the District will work collaboratively to resolve any concerns about the implementation of this agreement.
- D. 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 Title VI and the regulation implementing Title VI, at 34 C.F.R. part 100, that were at issue in this case.
- E. The District understands that OCR will not close the monitoring of this Agreement until such time as OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with Title VI and the regulation implementing Title VI, at 34 C.F.R. part 100, that were at issue in this case.
- F. The effective date of this Agreement is the date of the signature below.

For the Cupertino Union School District:

\_\_\_\_\_/s/\_\_\_\_\_  
Wendy Gudalewicz  
Superintendent

\_\_\_\_\_12/13/2013\_\_\_\_\_  
Date