



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGION IX
CALIFORNIA

50 UNITED NATIONS PLAZA
MAIL BOX 1200; ROOM 1545
SAN FRANCISCO, CA 94102

July 27, 2018

VIA ELECTRONIC MAIL

Tom Pritchard
Superintendent
Woodland Joint Unified School District
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

(In reply, please refer to OCR Docket Number 09-18-1172.)

Dear Superintendent Pritchard:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the Woodland Joint Unified School District (District). The Complainant alleged that the District discriminated against her on the basis of national origin.¹ Specifically, OCR investigated whether the District denied the Complainant the opportunity to meaningfully participate in her child’s special education process by failing to provide her with written translation of important information and documents in her primary language.

OCR investigated the complaint under the authority of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, and its implementing regulation, 34 C.F.R. Part 100. Title VI prohibits discrimination on the bases of race, color, or national origin in programs and activities operated by recipients of Federal financial assistance. The District receives funds from the Department and is subject to Title VI and the regulation.

To investigate this complaint, OCR conducted interviews and reviewed documents and other information provided by the Complainant and the District. Prior to OCR completing its investigation and making a compliance determination, the District expressed an interest in voluntary resolution pursuant to section 302 of OCR’s Case Processing Manual (CPM), and OCR determined it was appropriate to do so. The legal standards, facts gathered, and the reasons for OCR’s determinations are summarized below.

Legal Standard(s)

The Title VI implementing regulations, at 34 C.F.R. §100.3(a) and (b), provide that a recipient of Federal financial assistance may not, directly or through contractual or other arrangements, on the ground of race, color or national origin, exclude persons from participation in its programs, deny them any service or benefits of its programs, or provide any service or benefit which is

¹ OCR previously provided the District with the identity of the Complainant. We are withholding the Complainant’s name from this letter to protect the Complainant’s privacy.

different or provided in a different manner from that provided to others. Section 100.3(b)(2) provides that, in determining the types of services or benefits that will be provided, recipients may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin.

On July 17, 1970, pursuant to its authority under Title VI, the Department of Education issued a memorandum entitled "Identification of Discrimination and Denial of Services on the Basis of National Origin" (May 25, 1970), reprinted in 35 Fed. Reg. 11,595 (July 18, 1970) (hereinafter May 25th memorandum). The May 25th memorandum clarified OCR policy under Title VI on issues concerning the responsibility of school agencies to provide equal educational opportunity to limited English proficient national origin minority students.

The May 25th memorandum states that school districts must adequately notify national origin minority group parents of information that is called to the attention of other parents, and that such notice may have to be provided in a language other than English in order to be adequate. School districts have an obligation to ensure meaningful communication with Limited English Proficient (LEP) parents in a language they can understand and to adequately notify LEP parents of information about any programs, service, or activity of a school district that is called to the attention of non-LEP parents.

School districts must develop and implement a process for determining whether parents are LEP and identify their language needs. The process should be designed to identify all LEP parents, including parents or guardians of children who are proficient in English and parents and guardians whose primary language is not common in the district. It is important for schools to take parents at their word about their communication needs if they request language assistance. School districts must provide language assistance to LEP parents effectively with appropriate, competent staff – or appropriate and competent outside resources. School districts should ensure that interpreters and translators have knowledge in both languages of any specialized terms or concepts to be used in the communication at issue and training in their role of an interpreter or translator, the ethics of interpreting and translating, and the need to maintain confidentiality.

Facts

The following facts are relevant to OCR's analysis:

The Complainant is the parent of a student with a disability who is enrolled in a District school. Her primary language is Japanese. The Complainant informed OCR that she is the primary contact for issues related to her student's individualized education program (IEP).

By emails dated August XX and XX, 2017, the Complainant's spouse requested Japanese translations of the following school records for their child because the Complainant is not a native English speaker: (1) IEP document, dated August XX, 2016; (2) IEP document, dated January XX, 2016 and signed by parents on March X, 2016; (3) IEP document, dated March X, 2016, Annual Goals and Objectives; and (4) the Revised October 2016, Yolo County SELPA, Special Education Rights of Parents and Children, Notice of Procedural Safeguards. The Complainant told OCR that the family requested that IEP documents be translated into Japanese

in order for her to understand procedural safeguards and what is in her child's IEP, since technical English, such as that used in IEPs and related documents, is hard for her to understand.

According to emails, on August XX, 2017, the District told the Complainant's spouse that it would provide Japanese translations of the requested IEP documents and Notice of Procedural Safeguards, and on September XX, 2017, the District told the Complainant that the four documents were with a translating agency and would be provided as soon as they were ready.

On January XX, 2018, the Complainant filed this complaint with OCR.

On March X, 2018, the Complainant's spouse notified the District that the family was still awaiting the requested Japanese translations, which would assist them with an upcoming IEP assessment and meeting, and asked when the family would receive the translated documents, and on March X, 2018, the District asked the Complainant's spouse to clarify what documents needed to be translated.

The District attempted to provide the Complainant with Japanese translations of the four documents. The District used an outside translation service provider to translate the documents into Japanese, and the Complainant received those translated documents on April XX, 2018. However, three of the four translated documents – all except for the Notice of Procedural Safeguards – were missing content and/or contained significant typographical errors (for example, mistakes in dates and as to whether the response to an item is yes or no). In addition, the English versions of document numbers 2 and 3, which the District previously had provided to the Complainant and which served as the basis for the Complainant's translation request, did not correspond with the English versions of the documents that the District had translated into Japanese. The District attempted to address these issues by consulting school records and having the three documents translated a second time. The District then provided to OCR copies of these three documents in both Japanese and English on June X and XX, 2018. A cursory review of these documents by a non-Japanese speaker revealed that some of the same issues remained. For example, the English version of document number two that was provided to the Complainant and the one that was translated have substantive differences, and significant typographical errors continue to appear in document numbers 2 and 3, though these errors are fewer in number compared to the first translated versions.

Analysis

Under Title VI, school districts have an obligation to ensure meaningful communication with LEP parents in a language they can understand, and they must provide language assistance to LEP parents effectively, with appropriate, competent staff or appropriate and competent outside resources. Here, the evidence shows that by August XX, 2017, the District knew that the Complainant was not a native English speaker, and for that reason, her spouse had requested Japanese translations of four IEP-related documents for their child from 2016. The evidence also shows that the District promptly agreed to provide those translations, but several months later, still had not done so. Additionally, the evidence shows that the District made two attempts to obtain Japanese translations for the Complainant in April and June 2018; however, these attempts were unsuccessful due to problems with the documents submitted for translation by the District and the quality of the Japanese translations provided. This evidence raises a concern that

the District's communication with the Complainant regarding her child's IEP-related needs and services was ineffective due to unaddressed language needs, and the translation services provider with whom the District contracted for Japanese translation services may not have been appropriate or sufficiently competent to provide such services in this instance.

Overall Conclusion

To address the concerns raised in this investigation, the District, without admitting to any violation of law, entered into the enclosed resolution agreement which is aligned with the complaint allegation and the information obtained by OCR during its investigation. Under the Resolution Agreement, the District will (1) provide the Complainant with complete and accurate Japanese translations of document numbers 1-3 within 30 days of the Resolution Agreement; and (2) in response to any future requests for translated documents, the District will provide the requested translation within 30 days of receiving the request and will check the translated documents for completeness and general accuracy before providing them to the Complainant. If the Complainant finds any problems with the translated documents and notifies the District within 14 days of receiving the translated documents, the District must provide a response to the Complainant within 7 days of learning about the Complainant's concerns.

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the Complainant concurrently. When fully implemented, the resolution agreement is intended to address the complaint allegations. OCR will monitor the implementation of the resolution agreement until the District is in compliance with the terms of the resolution agreement. Upon completion of the obligations under the resolution agreement, OCR will close the case.

OCR's determination in this matter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the District may not harass, coerce, intimidate, retaliate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by the law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Monique Raco Fuentes at Monique.RacoFuentes@ed.gov or 415.486.XXXX.

Sincerely,

/s/

MaryBeth McLeod
Program Manager

cc: Giovanni Linares, Executive Director of Education Services and Title IX/Compliance
Coordinator at the District via email

Enclosure