



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

March 8, 2019

**VIA ELECTRONIC MAIL**

Thomas Rooney  
Superintendent  
Lindsay Unified School District  
371 E. Hermosa St.  
Lindsay, CA, 93247

(In reply, please refer to OCR Docket Number 09-19-1197.)

Dear Superintendent Rooney:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the Lindsay Unified School District. The Complainant alleged that the Recipient discriminated against a student (Student) and his parent on the basis of national origin. Specifically, OCR initiated an investigation into the following issue:

Whether the District failed to provide important information to the Student's parent regarding the Student's expulsion in a language the parent could understand, by:

- a. Failing to translate written materials about the expulsion proceedings; and
- b. Failing to provide full and adequate interpretation of verbal communications about the expulsion, including during an administrative hearing on December X, 2018.

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.

OCR initiated its investigation by interviewing the Complainant, reviewing documents provided by the Complainant and the District, and discussing the current status of the Student's attendance with District counsel. Prior to OCR completing its investigation, the District voluntarily agreed to address the areas of concern identified by OCR with respect to the issues investigated.

This letter summarizes the applicable legal standards, the relevant facts obtained during the initial investigation, and the terms of the resolution reached with the District.

### Legal Standard

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 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 Student was a XXXXXX at a District high school (School) during the 2018-19 school year. According to the Complainant, the Student's mother is a monolingual Spanish speaker (she does not speak or read any English) and the District has communicated with her in Spanish in the past.

On November XX, 2018, the District mailed a letter to the Student's mother stating that School administrators were recommending that the Student be expelled. The letter, which was in English, stated that the District would be conducting a hearing on December X, 2018. The letter explained the Student's rights at the hearing, including the right to inspect and obtain copies of all documents to be used at the hearing, and gave other directions about deadlines pertaining to the hearing. The Student's sister (who speaks English and Spanish) informed OCR that the letter was not translated into Spanish, and that she first saw it after the hearing. She stated that that her mother was unaware of her right to receive copies of documents until that time.

On December X, 2018, the District conducted the expulsion hearing for the Student. The Complainant told OCR that the interpreter at the hearing was the secretary of one of the district staff. The Complainant said that the secretary interpreted statements made by administrators to the Student's mother directly, but did not always interpret other statements made during the hearing. She stated that the Student's mother had brought a friend with her to the hearing who spoke both Spanish and English, and that she relied on the friend for interpretation for parts of the hearing.

The hearing resulted in a recommendation to expel the Student for the remainder of the 2018-19 school year. On December XX, 2018, the District's School Board met and voted to expel the Student. On December XX, 2018, the District sent the Student's mother a letter in Spanish that confirmed that the Student had been expelled.

The Student's mother appealed the expulsion to the Tulare County Board of Education (County Board). On February XX, 2019, the County Board remanded the matter to the District to re-hear the matter after providing new notice to the Student, and required the District to reinstate the Student to an educational setting while the expulsion proceedings were pending. The District provided OCR with a copy of a February XX, 2019, letter, in Spanish and English, to the Student's mother providing notice of a new expulsion hearing, set for March X, 2019.

## Analysis and Resolution

Title VI and the May 25<sup>th</sup> Memorandum require school districts to communicate with parents in a language they understand, and to provide parents who are not proficient in English with adequate notice of information brought to the attention of English-speaking parents. It is especially important that parents whose English proficiency is limited receive communications about decisions concerning their children's right to attend school, including discipline notices, in

a language they understand. It is also essential that oral communications on these matters be fully and accurately interpreted by trained individuals.

The information provided by the Complainant raised concerns that the Student's mother may not have received important information about her son's expulsion in a language she understood, and that she may not have been fully aware of her rights until after his expulsion hearing was completed.

Early in the investigation of this complaint, the District informed OCR of its interest in resolving the complaint. The District informed OCR of the County Board's decision and of its plans to translate documents used in the March X hearing and to employ a neutral interpreter during the hearing. The District also informed OCR that it was in the process of reviewing and updating its policies and procedures concerning translation and interpretation.

Prior to the conclusion of OCR's investigation, and to address the issues alleged in the complaint, 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 preliminary investigation.

Under the agreement, the District agreed to ensure that all documents related to the Student's expulsion would be translated into Spanish, and that documents relied upon during the expulsion hearing would be translated prior to the hearing. The District also agreed to provide a qualified Spanish interpreter at the expulsion hearing and at any related proceedings. Finally, the District agreed to develop procedures for translation and interpretation of communications with parents that ensure that parents receive information in a language they understand. OCR concluded that the agreement, when implemented, will resolve the compliance concerns raised by this complaint.

In her initial complaint, the Complainant also alleged that after he was expelled, the Student had been excluded from the District's Community Day School because of his age. Before OCR determined whether this allegation should be investigated, the District informed OCR that the Student was receiving educational services through an independent study agreement with the School, and that he would be permitted to attend the Community Day School if he was expelled. The District confirmed this commitment in the attached resolution agreement. OCR concluded that the allegation has been resolved.

### Conclusion

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 Blake Thompson, Civil Rights Attorney, at (415) 486-XXXX or at [Blake.Thompson@ed.gov](mailto:Blake.Thompson@ed.gov), or Katherine Riggs, Civil Rights Attorney at (415) 486-XXXX or at [Katherine.L.Riggs@ed.gov](mailto:Katherine.L.Riggs@ed.gov).

Sincerely,

/s/

Zachary Pelchat  
Team Leader

Enclosure

Cc: XXXXXXXXXXX XXXXXXXXXXX (Counsel for District)