



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION IX
CALIFORNIA

August 29, 2019

Via Electronic Mail

tritter@tvud.k12.ca.usd

Mr. Tom Ritter
Superintendent
Temecula Valley Unified School District
31350 Rancho Vista Road
Temecula, CA 92592

(In reply, please refer to case no. 09-19-1320.)

Dear Superintendent Ritter:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the Temecula Valley Unified School District (District). The Complainant alleged that the District discriminated against the Student on the basis of national origin.¹ Specifically, OCR investigated whether the District denied the Complainant, a limited English proficient (LEP) parent, the opportunity to participate meaningfully in the special education process for the Student by failing to provide adequate oral interpretation and written translation of important information and documents in her primary language.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d-2000d-7, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin under any program or activity receiving Federal financial assistance. The District receives funds from the Department and is therefore subject to Title VI and the regulation.

To investigate this complaint, OCR gathered evidence by reviewing documents provided by the District and the Complainant. OCR also interviewed the Complainant and a Witness who was present during an IEP meeting in 2018. Prior to the conclusion of OCR's investigation and before OCR made a compliance determination, the District expressed interest in a voluntary resolution pursuant to section 302 of OCR's Case Processing Manual (CPM), and OCR

¹ OCR previously provided the District with the identity of the Complainant and Student. We are withholding their names from this letter to protect their privacy.

determined it was appropriate to do so. The, legal standards, facts gathered, and resolution of the issue are summarized below.

Legal Standards

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.

School districts must adequately notify national origin minority group parents of information that is called to the attention of other parents; 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 Gathered

The Student is XX years old and receives special education services for a disability. During the 2018-2019 school year, the Student was in the XXXXXXXX grade and was in the Home and Hospital Instruction Program (Home/Hospital). During the previous school year (2017-2018), the Student attended X XXXXXXXX school in the District (School).

The Complainant stated that she speaks Arabic with XX XXXXXXXXX dialect and that she can understand some English. The Complainant met or was scheduled to meet with the Student's IEP team five times during the 2018-2019 school year and told OCR that she requested an

Arabic interpreter for each meeting. The Complainant stated that an interpreter was provided for each meeting, but that the interpretation was ineffective at all of the meetings. The Complainant also told OCR that she requested, but that the District did not provide her with, an Arabic translation of all of the Student's IEP documents. The Complainant further stated that she has another child with a disability (Student 2) in the District, and that the interpretation at his IEP meetings during the 2018-2019 school year was ineffective as well.

Interpretation

With regard to the interpretation at the Student's five scheduled IEP meetings during 2018-2019, the Complainant told OCR that the interpretation was inadequate for the reasons stated below:

August XX, 2018; September XX, 2018; April X, 2019; May X, 2019 IEP meetings: The District provided Interpreter 1 for these meetings. According to the Complainant, Interpreter 1 spoke and understood XXXXXXXXX Arabic. However, the Complainant reported that the District's IEP members talked at the same time as Interpreter 1, which impeded the Complainant's comprehension of the interpretation. Additionally, the Complainant stated that Interpreter 1 did not interpret everything she said to the IEP team members, and that Interpreter 1 apologized to the District for some of the Complainant's negative comments. The Complainant further stated that Interpreter 1 did not interpret word-for-word all of the information the District provided, and that as a result the Complainant was not aware of important information related to the implementation of the Student's IEP.

March X, 2019 IEP meeting: The District provided Interpreter 2 for this meeting. The Complainant stated that Interpreter 2 had interpreted at an IEP meeting for Student 2 during the previous year, and that the interpretation was ineffective because Interpreter 2's knowledge of English was not sufficient. The meeting was postponed and a new interpreter was provided at the next meeting.

The Complainant stated that the behavior of the District's IEP team members during meetings also impeded her ability to understand the interpretation. For example, according to the Complainant, during the May X, 2019 IEP meeting, IEP team members whispered among themselves while the interpreter was interpreting, and refused to stop, even when the Complainant asked them to do so. The Complainant told OCR that as a result of these interruptions, she could not understand the information that was being interpreted. She stated that she had encountered similar problems over a period of several years.

The Complainant provided OCR with copies of two MP3 recordings from an IEP meeting for the Student that took place on May X, 2019. The District identified Interpreter 1 as the interpreter. OCR listened to portions of the recordings and confirmed that at times during the meeting District staff members were talking to the Complainant or to each other while the interpreter was interpreting, and that conversations between IEP team members were not always interpreted. Additionally, OCR heard the Complainant twice state (through Interpreter 1) to the District that she wanted to provide input during the meeting and that she was not being allowed to do so. A witness who attended an IEP meeting during 2018 informed OCR that she observed similar behavior during that meeting.

The District told OCR that it contracts with an outside agency to provide interpreters for languages other than Spanish, and that the District had always requested an Arabic interpreter with the XXXXXXXXX dialect to interpret during the Complainant's IEP meetings. The District also told OCR that the Complainant was inconsistent as to whether a specific interpreter was ineffective, but that it responded to the Complainant's notice of ineffective interpretation by requesting a new interpreter.

Translation

The Complainant told OCR that the District provided her with translated copies of some of the Student's assessments, but not of his IEP documents. The Complainant also told OCR that in September 2018, the District provided her with only an English-language copy of the Student's Functional Behavior Analysis (FBA) and that she had to arrange for the FBA to be translated into Arabic.

The District provided OCR with documents showing that a triennial IEP was held for the Student on April XX, 2018, with amendment meetings on August XX and September XX, 2018, and on March X, 2019. An annual IEP meeting was held on April XX, 2019, and a follow-up meeting was held on May X, 2019. The document indicated that the District had translated five assessments conducted in spring 2018 and provided the translations to the Complainant. It also indicated that the FBA referenced by the Complainant, a completed IEP from April XX, 2019, and a completed IEP from April XX, 2019 had been sent for translation but, as of June XX, 2019, had not yet been translated. The District's Assistant Director of Special Education Services told OCR that, as of August X, 2019, all of the Student's IEP and related documents had been translated into Arabic and provided to the Complainant.

The Complainant told OCR that although she had received translations of the completed IEPs, she had not received notes from IEP amendment meetings, nor had the District provided translated documents from a May X, 2019 IEP meeting for the Student, or from the May X-XX IEP meetings for Student 2.

Analysis

Under Title VI and its implementing regulations, national origin language minority parents are entitled to equal access to information that is brought to the attention of non-LEP parents and an equal opportunity to participate in their students' education. In order to enable LEP parents to participate in the process of developing an IEP for a student with disabilities, a District may need to provide interpretation of meetings and translation of important IEP documents.

OCR's preliminary investigation of this complaint raised concerns about the Complainant's ability to participate equally in the process of developing her son's IEP. The evidence raised a concern that District-provided interpreters may not have interpreted IEP meetings fully, and that during IEP meetings with the Complainant, District staff may not have given interpreters an opportunity to interpret relevant information before continuing with their discussion. As a result, the Complainant may not have received information that is available to English-proficient parents during IEP meetings. The evidence gathered to date also raised concerns that the District may not have timely provided the Complainant with translated copies of all important IEP-related documents for both the Student and Student 2, as well as may not have translated interim IEP documents that were available to non-LEP parents.

Prior to the conclusion of OCR's investigation, and before OCR had interviewed any District participants in the Student's IEP meetings, the District expressed interest in voluntarily resolving the concerns raised by OCR's investigation to date. On August 26, 2019, the District entered into the enclosed resolution agreement (Agreement).

Under the Agreement, the District has agreed to develop a policy/protocol for interpretation and translation for LEP parents who speak a language other than Spanish that includes the following: procedures for identifying parents who require interpretation and/or translation; the process by which school or district staff or parents will request oral interpretation and the process by which the District will provide an interpreter; the process for responding to notice from that interpretation is ineffective; the process for how the District identifies and provides written translation of documents for LEP parents, and the mechanisms through which it ensures that translated documents are provided promptly, including a timeline for translating documents; and information about how the District ensures that all interpreters and translators are appropriately qualified, proficient in English and the language of interpretation/translation. In addition, the District agreed to provide to interpreters an information sheet that includes a glossary of terms that are used frequently in IEP and Section 504 plan meetings, and to provide training to all special education staff and site administrators on conducting IEP and Section 504 plan meetings with an interpreter. Finally, the District has agreed to translate into Arabic and provide to the Complainant copies of all documents related to IEP meetings that took place on May X-X, 2019.

Overall Conclusion

Based on the commitments made in the enclosed 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 Agreement is intended to address the complaint allegations. OCR will monitor the implementation of the Agreement until the District is in compliance with the terms of the Agreement. Upon completion of the obligations under the 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, please contact OCR Civil Rights Attorney Matthew Wood at (415) 486-XXXX and Matthew.Wood@ed.gov.

Sincerely,

/s/

Joseph W. Wheeler
Team Leader

Encl.