

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

McMinnville School District 40 (the District) enters into this agreement to resolve the allegations in a complaint (OCR Reference No. 10141063) filed with the U.S. Department of Education, Office for Civil Rights (OCR), under title VI of the Civil Rights Act of 1964 (Title VI).

OCR has not made a compliance determination in this case. In signing this Agreement, the District does not admit any wrongdoing or violation of any law, statute, regulation or policy, and is entering into this Agreement solely for the purposes of amicably resolving this complaint.

II. GENERAL PROVISIONS

- A. This agreement resolves the allegations in OCR Reference No. 10141063 and does not constitute an admission by the District of any violation of Title VI or any other law.
- B. OCR agrees to discontinue its investigation of OCR Reference No. 10141063 based upon the District's commitment to take the actions specified in this agreement which, when fully implemented, will resolve the allegations in this case.
- C. The District understands and acknowledges that, if it does not fully implement this agreement, OCR will take appropriate measures within its authority to effect compliance and that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.
- D. The District understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner. Further, the District understands that during the monitoring of this agreement, OCR may visit the District's buildings, 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 the regulation implementing Title VI, at 34 C.F.R. Part 100, which was at issue in this case.

- E. The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI at 34 C.F.R. Part 100.

III. RESOLUTION PROVISIONS

A. Design and Implementation of the Alternative Language Program

Action Items

1. By **December 30, 2014**, the District will review and revise, as necessary, their existing alternative language program plan to ensure that it has in place a comprehensive alternative language program that comports with the requirements of Title VI and its implementing regulation. The District shall ensure that its alternative language program provides for the provision of English language services and instruction to all English Language Learner (ELL) students in all educational settings, including special education and the district's computer-based credit retrieval program. The District's plan will include how the District will serve ELL students by proficiency level and grade.
2. By **December 30, 2014**, the District will ensure that all ELL students obtain English Language services and instruction, including appropriate placement of all ELL students into the alternative language program. Specifically:
 - a. If the District deviates from its established alternative language program plan in providing English language services, the District will document why the ELL student is not provided alternative language services in accordance with its plan.
 - b. The District will review and revise, as necessary, its system of maintaining records for all ELL students to ensure that it includes, by ELL student: name, school, grade level, assessment results, proficiency level, and the provision of appropriate language services, including the type, amount, and time of services to be provided.
3. By **December 30, 2014**, the District will review and revise, as necessary, its policies and procedures, to ensure that all ELL students receive alternative language services until the students meet the criteria to exit the alternative language program.
4. By **June 30, 2015**, the District will provide notification of the placement for each ELL student and the benefits derived from participation in the alternative language program to each ELL student's parent/guardian in a

language the parents/guardians can understand. As an alternative to sending written notification for low incidence language groups, the District may use interpreters to provide program and placement information to LEP parents. However, a student may be removed from the alternative language program upon receipt of a written request from the parent/guardian.

5. By **December 30, 2014**, the District will provide language services to students whose parents/guardians have declined or opted out of the alternative language program, by monitoring students' academic progress and providing other language support services for such students. Specifically:
 - a. The District will develop a policy or procedure to monitor the academic progress of students whose parents/guardians opted them out of the alternative language program to ensure they are able to participate meaningfully in the regular instructional program.
 - b. The policy or procedure developed under 5.a will include a requirement that the District contact the parent/guardian of each of the students who qualifies for but is not being served by the alternative language program because of parent/guardian denials or for other reasons, on an annual basis, to inform the parent/guardian of the student's opportunity to participate in the alternative language program. The District will provide the parent/guardian with information about the results of the assessment of the student and the benefits of the program. The District will conduct a meeting with the parent/guardian, in a language he/she can understand, to explain the goals and objectives of the alternative language program.

Reporting Requirements

1. By **December 30, 2014**, the District will provide to OCR for review and approval a copy of its alternative language program plan which will include how it will meet the needs of ELL students, at all grade levels and proficiency levels, as set out in action items A. 1 and 2.
 - a. **Within 30 days of receiving OCR approval**, the District will incorporate any feedback from OCR and provide to OCR a revised alternative language program plan.
 - b. By **June 30, 2015**, the District will submit to OCR documentation of its implementation of the alternative language program plan in action items A. 1 and 2 during the 2014-2015 school year.

- c. By **June 30, 2016**, the District will submit to OCR documentation of its implementation of the alternative language program plan in action items A. 1 and 2 during the 2015-2016 school year.
 2. By **December 30, 2014**, the District will provide to OCR for review and approval a copy of its policy or procedure developed in accordance with action item A. 3.
 - a. **Within 30 days of receiving OCR approval**, the District will incorporate any feedback from OCR and provide to OCR a revised policy and procedure developed in accordance with action item A. 3.
 - b. By **December 30, 2014**, the District will provide to OCR a written summary of the system it developed to maintain a record for each ELL student in accordance with action item A.3.
 - c. By **June 30, 2015**, the District will submit to OCR documentation of its implementation of the policy or procedure in action item A. 3 during the 2014-2015 school year.
 - d. By **June 30, 2016**, the District will submit to OCR documentation of its implementation of the policy or procedure in action item A. 3 during the 2015-2016 school year.
 3. By **June 30, 2015**, (for the 2014-2015 school year) and by **June 30, 2016**, (for the 2015-2016 school year), the District will submit to OCR the updated roster of all ELL students and the following information:
 - a. The total number of ELL students enrolled in each school, by grade level and proficiency level;
 - b. The total number of ELL students in each school who receive alternative language program services;
 - c. For each ELL student provided alternative language program services, the student's grade level, proficiency level, and services provided (including duration of services, e.g., 45 minutes/5 times a week);
 - d. For each ELL student not included in the alternative language program, the student's grade level, proficiency level, reason for not participating in the alternative language program, a statement of the language support services being provided to the student, and a description of the student's academic progress and whether they are able to participate meaningfully in the regular instructional program. For each student who is not being served in the District's

alternative language program because the parent/guardian opted out, the District will provide to OCR a copy of the information provided to the parent/guardian of the student, documentation of when the District held a meeting with the parent/guardian, and who was present during the meeting.

4. By **June 30, 2015**, the District will provide to OCR a copy of the notification of the placement that was sent to each ELL student's parent/guardian in accordance with action item 4 for the 2014-2015 school year.
5. By **June 30, 2016**, the District will provide to OCR a copy of the notification of the placement that was sent to each ELL student's parent/guardian in accordance with action item 4 for the 2015-2016 school year.
6. By **December 30, 2014**, the District will provide to OCR for review and approval a copy of its policy or procedure developed in accordance with action item A.5.
 - a. **Within 30 days of receiving OCR approval**, the District will incorporate any feedback from OCR and provide OCR a revised policy or procedure in accordance with action item 5.
 - b. By **June 30, 2015**, the District will submit to OCR documentation of its implementation of the policy or procedure in action item A.5 during the 2014-2015 school year.
 - c. By **June 30, 2016**, the District will submit to OCR documentation of its implementation of the policy or procedure in action item A. 5 during the 2015-2016 school year.

B. Staff Development

Action Items

1. By **December 30, 2014**, the District must ensure that there are a sufficient number of certified, trained English as a Second Language (ESL) teachers to implement its selected alternative language program. Additionally, the District will ensure that its ESL teachers are removed to the minimum extent necessary from classroom instruction time to conduct other activities, such as administering assessments. Instead, the District will to the extent possible build in time to ESL teacher schedules for such activities (e.g., a period a day for assessments and conferences).

2. By **December 30, 2014**, to the extent the District does not have the necessary certified, trained ESL teachers for the 2014-15 school year, the District shall identify and describe the interim steps it will take to provide staffing for the alternative language program, including:
 - a. The continuing efforts the District is making to recruit and/or develop certified, trained staff members to implement the alternative language program; and
 - b. The steps the District will take to ensure the availability and placement of certified, trained staff members to implement the alternative language program. This may include using current teaching staff who are ESL certified to teach in the alternative language program.
3. By **December 30, 2014**, the District will develop and implement a procedure to ensure that ESL teachers' classroom performance will be evaluated by a person knowledgeable in ESL methodologies. This will be done to ensure that ESL teachers are providing services that are consistent with the District's alternative language curriculum and academic objectives.
4. By **June 30, 2015**, the District will provide training on its alternative language program methodologies to all individuals identified to evaluate the ESL teachers' classroom performance in the above-referenced procedure.
5. By the start of the 2015-16 school year, the District will ensure that all of its staff providing its alternative language program to ELL students are appropriately certified and trained.

Reporting Requirements

1. By **December 30, 2014**, the District will provide OCR with documentation describing how it will staff its alternative language program. This shall include the names and qualifications of teachers at each school (including their certification and training as ESL teachers), their projected daily schedules, the number of ELL students for each ESL classroom period identified, and the English language proficiency level(s) of the students in each classroom period. Additionally, if the District does not have an appropriate number of certified and trained ESL teachers to adequately staff its alternative language program for the 2014-2015 school year:
 - a. By **December 30, 2014**, the District will provide OCR a written explanation of the interim steps it will take to provide adequate staffing for its alternative language program, in accordance with

action item B.2 and,

- b. **June 30, 2015**, the District will provide OCR documentation indicating the interim steps taken during the 2014-2015 school year, in accordance with action item B.2.
 2. By **December 30, 2014**, the District will submit to OCR for review and approval a copy of the procedure it developed to ensure that ESL teachers' classroom performance will be evaluated by a person knowledgeable in ESL methodologies, in accordance with action item B. 3.
 - a. **Within 30 days of receiving OCR approval**, the District will incorporate any feedback from OCR and provide OCR a revised procedure in accordance with action item B.3.
 - b. By **June 30, 2015**, the District will submit to OCR documentation of its implementation of the policy or procedure in action item B. 3 during the 2014-2015 school year.
 - c. By **June 30, 2016**, the District will submit to OCR documentation of its implementation of the policy or procedure in action item B.3 during the 2015-2016 school year.
 3. By **June 30, 2015**, the District will provide OCR copies of training schedules, a brief description of the training, the name and credentials of the individual(s) responsible for providing the training, and the names and titles of those in attendance at each training session provided in accordance with action item B.4.
 4. By **June 30, 2015**, the District will provide to OCR documentation demonstrating that all of its staff implementing its alternative language program are appropriately trained and certified, including the names and qualifications of teachers at each school (including their certification and training as ESL teachers), their projected daily schedules, the number of ELL students for each ESL classroom period identified, and the English language proficiency level(s) of the students in each classroom period identified in accordance with action item B.4 .

C. **Reclassification and Exit**

Action Items

1. By **December 30, 2014**, the District will identify and describe the criteria that it will use to determine when an ELL student has obtained sufficient proficiency in English to exit the alternative language program. At a minimum, these criteria will provide for the following:

- a. The determination of English language proficiency is based on objective standards by using language proficiency test scores, in which the District can demonstrate that students meeting those standards will be able to participate meaningfully in the regular classroom; and
 - b. The ELL students exiting alternative language services exhibit English reading, writing, speaking, and comprehension skills that indicate they can participate meaningfully in the District's regular education program.
2. By **June 30, 2015**, the District will provide a copy of the exit criteria implemented by the District to the parents/guardians of all current and exited ELL students in a language the parents/guardians can understand. As an alternative to providing a written copy for low-incidence language groups, the District may provide interpreters to assist with describing the exit criteria to LEP parents.
3. By **December 30, 2014**, the District will ensure that exited ELL students are participating meaningfully in the District's program. Specifically, the District will develop policies and procedures to periodically review the academic progress of students exited from the alternative language program throughout the academic school year. The policies and procedures shall include, but not be limited to:
 - a. Formally reviewing the academic progress of each student who exited the alternative language program during the prior two school years, including examining grades, academic achievement scores, interim progress reports, and test scores throughout the school year;
 - b. Distributing a memorandum to instructional staff and campus administrators regarding the monitoring requirements; and
 - c. Providing additional support services to exited ELL students who demonstrate a need for additional support, which may include tutoring or reentry into the alternative language program.
4. By **December 30, 2014**, the District will identify whether any students who have exited the alternative language program during the 2012-2013 and 2013-2014 school years have suffered any academic deficiencies, and take appropriate steps to remediate such academic deficiencies (e.g. provide tutoring). In circumstances where a student is not succeeding academically because of premature exiting or lack of appropriate English language development, the District will consider reentry into the alternative language program as a remedy.

Reporting Requirements

1. By **December 30, 2014**, the District will submit to OCR, for review and approval, the exit criteria being implemented by the District as outlined in action item C.1.
 - a. **Within 30 days of receiving OCR approval**, the District will incorporate any feedback from OCR on the exit criteria being implemented by the District in accordance with action item 1, and provide to OCR a description of the revised exit criteria.
2. By **June 30, 2015**, the District will provide to OCR a copy of the written notice of exit criteria that was provided to the parents/guardians of all current & exited ELL students in accordance with action item C.2.
3. By **December 30, 2014**, the District will submit to OCR its policies and procedures to monitor the progress of students who exited the alternative language program in accordance with action item C.3.
4. By **December 30, 2014**, the District will provide a copy of the memorandum distributed to instructional staff and campus administrators regarding the monitoring requirements in accordance with action item C.3.
5. By **December 30, 2014**, the District will provide to OCR the following regarding the 2012-2013 and 2013-2014 school years:
 - a. A list of students who have exited the alternative language program during the 2012-2013 and 2013-2014 school years and demonstration that the students were able to achieve in the regular educational environment without alternative language program services, including grades and academic achievement data.
 - b. Supporting documentation (i.e., copies of student rosters indicating exit criteria and test scores) for all students reviewed.
 - c. A list of all students who exited the alternative language program during the 2012-2013 and 2013-2014 school years and suffered academic deficits; of these students, identification of students who obtained additional academic supports (e.g. tutoring) or reentered the alternative language program as a result of the evaluation. For those who remain as exited ELL students, provide documentation of the reasons for the placement determination (i.e., a roster with student scores or evidence of success in the regular academic program).

6. By **June 30, 2015**, the District will provide to OCR the following for the 2014-2015 school year:
 - a. A list of students who have exited the alternative language program during the 2014-2015 school year and demonstration that the students were able to achieve in the regular educational environment without alternative language program services, including grades and academic achievement data.
 - b. Supporting documentation (i.e., copies of student rosters indicating exit criteria and test scores) for all students reviewed.
 - c. A list of all students who exited the alternative language program during the 2014-2015 school year and suffered academic deficits; of these students, identification of students who obtained additional academic supports (e.g. tutoring) or reentered the alternative language program as a result of the evaluation. For those who remain as exited ELL students, provide documentation of the reasons for the placement determination (i.e., a roster with student scores or evidence of success in the regular academic program).

D. Program Evaluation and Modification

Action Items

1. By **December 30, 2014**, the District will develop a procedure to measure the effectiveness of its chosen alternative language program. The procedure will include an evaluation of its alternative language program with cohort longitudinal data comparing ELL versus non-ELL students, and ELL students in the program versus ELL students not in the program. Factors to be compared will be, at a minimum, student performance, proficiency levels, attendance, retention, and graduation rates.
2. By **December 30, 2014**, the District will evaluate its alternative language program as implemented during the 2013-2014 school year pursuant to its procedure to measure the effectiveness of its alternative language program.
3. By **December 30, 2015**, the District will evaluate its alternative language program as implemented during the 2014-2015 school year pursuant to its procedure to measure the effectiveness of its alternative language program.
4. By **June 30, 2015**, the District will review the alternative language program at McMinnville High School, including whether the program is carried out in the least segregated manner possible, and will identify modifications that it

will make to eliminate as much segregation as possible at the school in the subsequent school year.

5. By **June 30, 2015**, the District will implement any changes to McMinnville High School's programs deemed necessary under action item D.4.

Reporting Requirements

1. By **December 30, 2014**, the District will submit to OCR for review and approval a copy of its procedure to measure the effectiveness of its alternative language program, pursuant to action item 1.
 - a. **Within 30 days of receiving OCR approval**, the District will incorporate any feedback from OCR and submit to OCR a copy of the revised procedure pursuant to action item D. 1.
2. By **December 30, 2014**, the District will submit to OCR a copy of its evaluation of its alternative language program as implemented during the 2013-2014 school year and a description of any modifications made to its alternative language program for the 2014-2015 school year as a result of the evaluation.
3. By **December 30, 2015**, the District will submit to OCR a copy of its evaluation of its alternative language program as implemented during the 2014-2015 school year and a description of any modifications made to its alternative language program for the 2015-2016 school year as a result of the evaluation.
4. By **June 30, 2015**, the District will provide OCR a report that describes its review and any modifications it plans to make to McMinnville High School's programs to decrease segregation, pursuant to action item D.4.
5. By **June 30, 2015**, the District will provide OCR a written description of any changes it has implemented to decrease the segregation of ELL and non-ELL students in McMinnville High School's programs, pursuant to action item D.5.

E. Special Education

Action Items

1. By **December 30, 2014**, the District will ensure that ELL students with or suspected of having disabilities are appropriately evaluated, placed and provided with special education or related aids and services, and are provided with alternative language services. The District will adapt its disability pre-referral, referral, evaluation, and placement policies,

procedures, and practices to ensure that ELL students are not misidentified and placed as students with disabilities if they do not have disabilities, and that they are not denied appropriate special education services or related aids and services, including appropriate evaluations, because they are ELL students. Specifically, the District will:

- a. Review and revise its procedures to ensure that the requirement in the above action item is incorporated into the District's special education procedures;
 - b. Review and revise its procedures to ensure that the requirement in the above action item is incorporated into the District's alternative language program.
2. By **June 30, 2015**, the District will review all of its ELL students currently identified as students with disabilities under the Individual with Disabilities Education Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1973 (Section 504) to determine whether each student's identification, placement, and services are appropriate, and to ensure that students who require both ELL services and special education receive both.
 3. By **June 30, 2015**, the District will determine what, if any, compensatory services are deemed necessary for each student identified as requiring, but not receiving, both ELL services and special education.

Reporting Requirements

1. By **December 30, 2014**, the District will submit to OCR for review and approval a copy of its revised special education procedures and alternative language program procedures as outlined in action item E.1.
 - a. By **December 30, 2015**, the District will incorporate any feedback from OCR and provide to OCR a copy of its revised special education procedures and alternative language program procedures as outlined in action item E.1.
 - b. By **June 30, 2015**, the District will submit to OCR documentation of its implementation of the procedures in action item 1 during the 2014-2015 school year.
2. By **June 30, 2015**, the District will provide OCR with a list of all of its ELL students currently identified as students with disabilities under IDEA or Section 504, a description of the alternative language services and special education services provided to each student, and description of any compensatory services deemed necessary for each student.

F. Special Programs and Extracurricular Activities at McMinnville High School

Action Items

1. By **June 30, 2015**, the District will review the participation of ELL students in McMinnville High School's specialized programs (such as Advanced Placement, International Baccalaureate, academic academies, and any other specialized programs) and extracurricular activities (including student government, student clubs, athletics, and any other extracurricular activities). The District's review will include, at a minimum:
 - a. Participation rates in each of the school's specialized programs and extracurricular activities, disaggregated by ELL status (including current ELL students, exited ELL students, and non-ELL students);
 - b. The methods used to disseminate information about the school's specialized programs and extracurricular activities, including the languages in which the information is provided;
 - c. The methods used to recruit participants for the school's specialized programs and extracurricular activities; and
 - d. A student survey of current and exited ELL students at McMinnville High School regarding student interest in the school's specialized programs and extracurricular activities.
2. By **December 30, 2015**, in consultation with OCR, the District will develop a plan to address any disproportionately low participation rates in, any inequities in the dissemination of information about, and any inequities in the recruiting for the school's specialized programs and extracurricular activities.
3. By **Within 30 days of receiving OCR approval**, the District will implement the OCR-approved plan developed pursuant to action item F.2.

Reporting Requirements

1. By **June 30, 2015**, the District will provide OCR a written description of the district's review of the participation of ELL students in McMinnville High School's specialized programs and extracurricular activities. The description will include:
 - a. A description of the information gathered pursuant to action items F.1.a. through 1.c.; and

- b. Results of the student survey conducted pursuant to action item F.1.d.
2. By **December 30, 2015**, the District will provide to OCR for review and approval a copy of its plan to address any disproportionately low participation rates in, any inequities in the dissemination of information about, and any inequities in the recruiting for the school's specialized programs and extracurricular activities, pursuant to action item 2.
 - a. **Within 30 days of receiving OCR approval**, the District will incorporate any feedback from OCR and provide to OCR a copy of its revised plan as outlined in action item F.2.
3. By **June 30, 2016**, the District will provide OCR documentation indicating that it has implemented the OCR-approved plan developed pursuant to action item F.2. The documentation will include but is not limited to:
 - a. A description of all methods used to disseminate information about the school's specialized programs and extracurricular activities, including the languages used;
 - b. Copies of written methods of disseminating information about the school's specialized programs and extracurricular activities;
 - c. A description of all methods used to recruit participants for the school's specialized programs and extracurricular activities; and
 - d. Recent participation rates in each of the school's specialized programs and extracurricular activities, disaggregated by ELL status (including current ELL students, exited ELL students, and non-ELL students).

Signed:

_____/ S / _____
Ms. Maryalice Russell
Superintendent
McMinnville School District 40

_December 2, 2014_____
Date