



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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August 24, 2023

**Via E-mail Only to: [yvonne.curtis@slane.k12.or.us](mailto:yvonne.curtis@slane.k12.or.us)**

Dr. Yvonne Curtis  
Superintendent  
South Lane School District 45J3  
455 Adams Avenue  
Cottage Grove, Oregon 97424

Re: South Lane School District 45J3  
OCR Reference No. 10231213

Dear Superintendent Curtis:

This letter is to inform you of the disposition of the above-referenced complaint filed against the South Lane School District 45J3 (the District) with the U.S. Department of Education (the Department), Office for Civil Rights (OCR). OCR investigated whether the District failed to appropriately implement its English Learner (EL) program by requiring that elementary students identified as EL “opt out” of all EL services if they decide to attend an elementary school other than XXXXX Elementary.

As explained below, prior to completion of OCR’s investigation, the District expressed an interest in voluntarily resolving the complaint and signed the enclosed Voluntary Resolution Agreement (agreement) to address the complaint allegation.

OCR investigated this case under the authority of Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d–2000d-7, and the regulations that implement that statute at 34 C.F.R. Part 100. This federal civil rights law prohibits discrimination on the basis of race, color, or national origin in programs and activities that receive federal financial assistance. The District receives federal financial assistance from this Department. Therefore, it is required to comply with this law. Additional information about the laws that OCR enforces can be found at <http://www.ed.gov/ocr>.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

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The regulations implementing Title VI, at 34 C.F.R. §§ 100.3(a) and (b), state that recipients 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. The regulation implementing Title VI, at 34 C.F.R. § 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.

Although school districts have an obligation to serve all EL students, parents have a right to decline or opt their children out of a school district's EL program or out of particular EL services within an EL program. If parents opt their children out of an EL program or specific EL services, the children retain their status as EL students, and the school district remains obligated to take the "affirmative steps" required by Title VI to provide these EL students access to the school district's educational programs.

The District is located in Oregon and has approximately 2,800 students. The District operates 4 schools that serve elementary-age students. XXXXX Elementary and XXXXX Elementary each enroll over 400 students, while the XXXXXX and XXXXXX are both small, rural schools that serve grades K-8 with each school enrolling around 80 students.

OCR's investigation to date indicates that the District operates an English Language Development (ELD) Magnet program for elementary EL students at XXXXX Elementary. Data provided by the District to OCR reflects that for the last 3 school years, all elementary-age EL students have attended the ELD Magnet program at XXXXXX Elementary. District records also indicate that approximately 77% (58 students) of the District's EL elementary students reside in the attendance area for XXXXXX Elementary, while the other 23% (17 students) of elementary-age EL students live in the attendance area of XXXX Elementary. There are no EL elementary students living in the attendance zone for either the XXXXX or XXXXX.

The complainant told OCR that the District requires a parent or legal guardian to opt out of *all* EL services if the parent/legal guardian wants their EL student to attend an elementary school other than XXXXX Elementary. The District's EL Director disputed this and told OCR that the District will provide EL services to elementary students who do not want to attend the ELD Magnet program at XXXXX Elementary.

While the District provided OCR with a copy of the District's form for parents and legal guardians who wish to opt their EL student out of the ELD program at XXXXXX Elementary, OCR found the form was ambiguous and could be construed by a parent or legal guardian as waiving all EL services. Further, while no EL students have opted out of the ELD Magnet

program in the past three years, OCR found that the District did not have a written policy or procedure describing how parents are informed of their options, including how a parent may have their student opt-out of all or particular EL services, and how EL students still receive some level of EL service if they do not attend the ELD Magnet program at XXXXX Elementary.

Based on the foregoing, OCR has a concern that the District may not inform parents and legal guardians of their right to have their EL student opt-out of the ELD Magnet program at XXXXX Elementary but still receive some EL services at another elementary school they are attending.

In accordance with Section 302 of the OCR *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the issues under investigation with an agreement during the course of an investigation. In this case, the District requested to resolve the complaint prior to the conclusion of OCR's investigation. In light of the District's willingness to address the concerns identified by OCR comprehensively without further investigation, OCR determined that entering into a Voluntary Resolution Agreement was appropriate. Subsequent discussions with the District resulted in the District signing the enclosed agreement, which when fully implemented, will address the issues raised on the complaint.

The actions the District will take under the agreement include: the review and revision the District's policy and forms relating to elementary EL students opting out of the District's ELD Magnet program and/or EL services; notice to District staff, parents and legal guardians of the revised policies; and training for District staff on the revised policies.

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.

This concludes OCR's investigation of the complaint. The complainant may have the right to file a private suit in federal court regardless of OCR's determination.

Please be advised that the District may not harass, coerce, intimidate, 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, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

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OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied. The first report under the agreement is due by **September 13, 2023**.

Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions regarding this matter, please contact me by telephone at (202) 987-1250, or by e-mail at [Lauren.Boothe@ed.gov](mailto:Lauren.Boothe@ed.gov).

Sincerely,

Lauren Boothe  
Attorney

Enclosure: Voluntary Resolution Agreement