

**Resolution Agreement  
Union County Public Schools  
OCR Compliance Review No. 11-14-5002**

Union County Public Schools (the District) agrees to fully implement this resolution agreement (Agreement) to resolve Office for Civil Rights (OCR) Compliance Review No. 11-14-5002.

**I. Communication with Limited English Proficient Parents and Guardians**

The District acknowledges that, under Title VI, it has an obligation to "adequately notify" national origin-minority limited English proficient parents and guardians of school programs and activities that are called to the attention of other parents. The District further acknowledges that, under Title VI, it has the responsibility to ensure "meaningful access" to its programs and activities by parents and guardians with limited English proficiency. Based on the foregoing, the District agrees to take the following actions:

1. By January 30, 2017, the District will develop a written plan with policies and procedures to provide language assistance services to LEP parents/guardians (LEP parents) which ensures that they have meaningful access to information about the District's programs and activities. The written plan will include the following:
  - a. A process for notifying LEP parents of the availability of free language assistance services with respect to information about school programs and activities (e.g., parent-teacher conferences, meetings with the school principal, special education meetings, etc.). The notification will include information about how to access the services and identify a District contact person who can answer any questions regarding parental communication and assist parents in accessing interpreter services or translated documents. The notification will be provided in the language understood by the LEP parents. The notice will, at a minimum, be published on the District's website, in student and parent handbooks, and in any District-wide or school-based newsletters. The notification will also provide parents with a contact person who can answer any questions regarding parental communication and assist parents to access interpreter services or translated documents.
  - b. A process for identifying LEP parents who may need language assistance, including, at a minimum:
    - Creating opportunities for parents, students and staff to interact in ways that can facilitate identification of LEP parents and ensuring that communications with LEP parents, whether oral or in writing, should be in a language the parent can understand; and
    - Asking parents in a language they understand (in writing and/or orally, as appropriate) if they need written translations or oral interpretation of communications and, if so, to specify the language; and
    - A revised Home Language Survey that requests that parents indicate their preferred language and whether they require translation and/or interpretation services as specified above.

- c. A statement that the District will accept a parent's assertion that he or she needs language assistance without requiring additional corroboration.
- d. A process that ensures that each school building has a centralized list of LEP parents identified as needing language assistance services, the type of language assistance services that they need, and a log of the language assistance services provided to them by date of service, type of service (e.g., translation or interpreter services for special education, disciplinary proceedings), and service provider (including name, position, and qualifications). The process will ensure that the list is available to all staff in the building that may interact with LEP parents, as well as to the central administration. Staff for purposes of this Agreement will include all relevant administrators, teachers, counselors, and support staff.
- e. A process that ensures that the central administration maintains a District-wide list of LEP parents identified by each building as needing language assistance services, the type of language assistance services that they need, and a log of the language assistance services provided to them by the central office by date, type of service, and service provider.
- f. A process to ensure that, when the children of LEP parents transfer from one school/program to another within the District, information regarding the language assistance needs of the parents is transferred to the school/program to which their children transfer.
- g. A process by which District staff that are likely to interact with an identified LEP parent are advised of the parent's potential need for language assistance services, the circumstances under which they may need assistance (e.g., parent-teacher conferences, documents related to disciplinary actions, disciplinary hearings, documents related to Individualized Education Programs (IEP) or Section 504 Plans, and IEP team meetings), the type of language assistance that they may need (e.g., translation services or interpreter services), the means by which they may timely obtain such assistance for the parent, and the available translated documents.
- h. A process by which District staff may obtain in a timely manner appropriate, qualified translators or interpreters as needed. The process will also notify appropriate staff of the applicable recordkeeping procedures and reporting requirements. The District's means for providing these services must be well publicized and accessible to staff. An interpreter or translator will be considered "qualified" if his/her interpreter/translator skills are supported by an objective measure of proficiency in the language domain he or she is interpreting/translating (e.g., reading, writing, speaking) or through professional interpreter/translator certification.
- i. A process by which the District ensures that its interpreters and translators are trained on the role of an interpreter and translator, the ethics of interpreting and translating, and the need to maintain confidentiality. The District will maintain documentation to support that the interpreters and translators have the skills and proficiency to interpret and translate in English and the applicable primary language of LEP parents.

- j. A process to ensure that interpreters have knowledge, in English and the parents' native language, of any specialized terms or concepts peculiar to the Division program or activity for which they are providing services, including, but not limited to interpreters of IEP meetings having knowledge of special education (SPED) terminology.
- k. A process to ensure that translators understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology. The process should require, as deemed appropriate and necessary, consultation with relevant community organizations, who are engaged by the District to provide qualified translation or interpretation services, to help determine whether a document is written at an appropriate level for the intended audience.
- l. A process for notifying relevant District staff, on an annual basis, that the use of family members and friends for the provision of language assistance is generally not encouraged. The notice shall state that the use of such individuals may raise issues of confidentiality, privacy, or conflict of interest, and that, in many circumstances, such persons are not competent to provide quality, accurate interpretations. The process will also include notification to relevant District staff that they should not rely on such individuals to provide LEP parents meaningful access to important programs and activities and a caution that, even when LEP parents have voluntarily chosen to provide their own interpreter or translator, the District may still need, depending upon the circumstances of the encounter, to provide its own interpreter or translator to ensure accurate interpretation or translation of critical information, especially in, but not limited to, situations where the competency of the LEP parents' chosen interpreter is not established. Additionally, the notice shall state that the use of minor children raises particular concerns about competency, quality, and accuracy of interpretations and that it is never advisable to use such children to convey information about their own education and/or complex information.
- m. A process for identifying and translating, to the extent feasible, written documents that are routinely sent to other parents into the language of each predominant language group. For languages that are less predominant or where translations are not feasible, the District will ensure that students and parents have been advised, in a language they understand, of whom to contact in the District if they need assistance in understanding notices or communications with staff members. The District will notify staff members that these translations are available. These documents will include:
  - Public notification materials (e.g., Division fact sheets, informational flyers, school brochures, pamphlets)
  - Registration/enrollment forms
  - Emergency notification cards
  - Home language surveys
  - Field trip permission forms
  - Privacy policies
  - Health services registration forms
  - Report cards and progress reports
  - Student and Parent handbooks, including the student discipline code and the Program of Studies

- Disciplinary forms and notices, including narratives
  - Class schedules
  - Bus schedules and other schedule information
  - Special Education forms
  - Section 504 forms, including notification of due process rights
  - Requests for parent conference
- n. A process for providing on an annual basis training to appropriate staff (including school level personnel who are likely to interact with parents) on District procedures for effectively communicating with national origin-minority LEP parents. Staff training will consist of: when and how to obtain qualified language assistance, use of interpreters when staff receive or make calls to national origin-minority LEP individuals, and applicable record-keeping and reporting requirements.

**REPORTING REQUIREMENT:** By January 30, 2017, the District will submit to OCR, for review and approval, a copy of the language assistance plan with the policies and procedures it has developed pursuant to the requirements of Action Step 1 above.

2. Within 30 days of receipt of the OCR-approved language assistance plan, the District will adopt and implement the plan.

**REPORTING REQUIREMENT:** By March 1, 2017, the District will submit to OCR documentation demonstrating adoption and implementation of the language assistance plan developed pursuant to Action Step 1, above, and approved by OCR, including, but not limited to:

- a. The notification issued pursuant to Action Step 1 (a).
  - b. Information that the District has maintained at the central office, pursuant to Action Step 1 (f); a list of LEP parents (including name and buildings in which their children are enrolled), their language background, types of services that they require, and information as to any services provided to the parents by the central administration (including date of services, type of services, and name and qualifications of service provider).
  - c. The annual notice issued to staff; and copies of the documents the District has translated, pursuant to Action Step 1(k).
  - d. A list of employees (including the employee's title and site location) who have received this training and a copy of the training materials used.
3. By January 30, 2017, the District will develop a written plan for the annual evaluation of the effectiveness of its language assistance plan, developed pursuant to Action Step 1, above. The written evaluation plan will include the following:
- a. Identification of staff responsible for evaluating the language assistance plan on an annual basis.
  - b. Identification of the date by which the evaluation will be completed on an annual basis.

- c. A list of information and items to be examined when evaluating the effectiveness of the language assistance plan, which will include, at a minimum, the following: identification of the current LEP parent groups encountered by the District; the frequency of encounters with LEP parents; the nature and importance of activities to LEP parents; the availability of resources, including technological advances and sources of additional resources, and the costs imposed; whether existing assistance is meeting the needs of LEP parents; whether staff knows and understands the language assistance plan and how to implement it; and whether identified sources for language assistance are timely available and viable.
  - d. A process for determining whether new documents, programs, services and activities need to be made accessible for LEP parents, and whether the District needs to provide notice of any changes in services to LEP parents and to district staff.
  - e. A procedure for tracking and reviewing parent/guardian requests for interpreters/translators. At a minimum, the procedure will include a system for staff to access a list of qualified translators/interpreters; a specific protocol for school staff to make requests for translators/interpreters; a system for recording and tracking the number, type, and location (i.e., home school or District office) of each request and the response time and confirmation of the completed request. Staff will periodically review the requests to identify the need for additional interpreters/translators and/or additional training on how to request and obtain interpreters/translators.
4. Within 30 days of receipt of the OCR-approved evaluation plan, the District will adopt and implement the evaluation plan.

**REPORTING REQUIREMENTS:** By January 30, 2017, the District will submit to OCR, for review and approval, a copy of the plan it has developed pursuant to the requirements of Action Step 3, above. By September 1, 2017, the District will submit to OCR documentation demonstrating the results of its evaluation of the District's implementation of its language assistance plan during the 2016-2017 school year, consistent with the evaluation plan approved by OCR, including documentation of any changes resulting from the evaluation.

## **II. Alternative Language Program**

1. The District recognizes that it can select Alternative Language Program (ALP) models that are appropriate for its use based upon sound educational theories and practices. The District commits to implementing such models in its schools to ensure meaningful educational opportunities for all of its LEP students. OCR does not require or endorse the use of any particular program model to serve LEP Students. The District may select approaches, standards, and procedures for its local needs based upon sound educational judgments and practices that ensure equal educational opportunities for its LEP students.
2. By January 30, 2017, the District shall develop a plan to serve all LEP Students. The District will develop a written Plan with District-wide policies and procedures to ensure that LEP students have equal access to the District's educational program. The plan will include:

- a) A description of the program model, including how students will enter the program, receive instruction, access specialized programs such as gifted and talented programs, and the staff person(s) who will be responsible for implementing the program.
- b) A description of the exiting criteria that will be used to determine when a student no longer requires language-based services and can fully transition to the general education program. This will include a process for monitoring students who have exited the ALP.

For each Plan item, the plan will specify the appropriate policies and procedures, corresponding activities, the dates for these activities, the persons responsible, and the supporting documentation. The District's plan will address the following educational services for LEP students:

A) Identification of LEP Students.

- (1) The District will ensure, and incorporate specific procedures to ensure that all LEP students are identified at each school. These procedures will:
  - (a) Ensure home language surveys (HLS) are consistently distributed at all schools and in Spanish and English, and also will provide the HLS in as many other languages known to be spoken in the community, as practicable;
  - (b) Identify the procedures for distributing, collecting, maintaining, and reviewing the home language survey, including a description of the survey responses that will trigger an English language proficiency assessment of a student;
  - (c) Describe a program of staff (including those involved in special education referrals, evaluation, and placement decisions) training on how to accurately identify students with a primary or home language other than English (PHLOTE) and LEP students;
  - (d) Include timelines and procedures to ensure that the English proficiency assessments (measuring proficiency of oral, reading, comprehension, and writing domains, as appropriate to grade level) are conducted and results are available and documented in a timely and accurate manner, and
  - (e) Specify the objective criteria for determining whether a student is LEP (including objective assessment measures showing proficiency in oral, speaking, reading and writing domains, as appropriate to grade level).

B) Placement of LEP Students. The District will ensure, and incorporate into the plan procedures to ensure, appropriate placement of all LEP students into an alternative language program. The procedures will be designed to ensure that all LEP students receive appropriate English language acquisition services, including English language development services, and will include in all LEP students' files the District's documentation of placement decisions.

- (1) Delineate what educational services (including English language development services) will be provided to all LEP students, based on their respective English- language and academic needs.

- (C) Staffing. The District will ensure, and incorporate into the plan procedures to ensure, that it has assigned a sufficient number of adequately trained staff members to properly implement the ALP models and services at each school.
- (1) The District will describe the staffing resources it needs to effectively implement the ALP model(s), including the training and qualifications of staff that provide services in the program.
  - (2) The District will determine how many certified and endorsed/qualified teachers and other staff members are necessary to fully implement the ALP model(s) at each school. In making this determination, the District will consider the training and qualifications of staff needed to implement each service model. The District agrees that the primary providers of ALP instruction are to be licensed teachers who are sufficiently trained and qualified to deliver ALP instruction.
  - (3) The District will determine whether there are a sufficient number of adequately trained staff members assigned to properly implement the ALP models and services and, if not, how many additional staff members need to be trained, hired, or assigned to the ALP program to fill those staffing needs.
  - (4) The District will describe any interim steps it will take to provide staffing for the ALP, including: efforts to recruit certified, trained staff members to implement the ALP and the steps the District will take to ensure the availability and placement of certified and/or trained staff members to implement the ALP. This may include using current staff members who are certified to teach in the ALP or current teachers who are working toward obtaining credentials as a condition of employment in the ALP and are receiving interim training to enable them to function adequately in the classroom and/or assistance from qualified teachers or aides.
  - (5) The District will implement a plan to fully and timely meet its ALP staffing needs (i.e., fully qualified staff teaching all LEP students). The District will describe any specific training program for its staff, and include supporting documentation regarding its development and implementation (including educational experts and or state approvals).
  - (6) The District will implement the staffing plan described in the preceding paragraphs to meet its staffing needs. The District will monitor the staffing plan's benchmarks or timelines to ensure adequate and timely progress in meeting the District's staffing needs.
- (D) Materials. The District will provide sufficient instructional materials to implement its ALP. The materials will be comparable in quality, availability, and age or grade level to those provided for non-LEP students.
- (1) The District will survey staff members (ALP, regular education, and special education teachers serving LEP students) at least annually to determine the availability and need for additional ALP materials and staff training needs related to using the ALP-designed materials;
  - (2) The District will take necessary steps to respond to needs identified in the survey for ALP materials; and

- (3) The District will notify staff members of the availability of existing ALP-related resources, and train them about the use of the materials as necessary.

(E) Reclassification and Monitoring. The District will adopt objective criteria it will use to determine whether a LEP student has obtained sufficient proficiency in English to be reclassified or to exit the ALP. At a minimum, these criteria will ensure that:

- (1) The determination of English-language proficiency will be based on, in whole or in part, English language proficiency assessment objective standards or test scores. Where a "body of evidence" is used to determine exit, the District will identify the evidence (type and baseline scores), and identify the person(s) by title (including a certified teacher with an ALP endorsement) who will make the reclassification decision. The District will explain to OCR how the chosen standards will ensure students' meaningful participation in the general curriculum;
- (2) Prior to the decision to exit a student from the ALP, the District will assess each student for English proficiency in speaking, reading, writing, and comprehension relative to grade level. The District will use English language proficiency assessments according to the publisher's instructions on properly normed and validated assessments developed for determining English language proficiency. Students will be reclassified when proficient in the four skill areas (oral, reading, writing, and comprehension), as appropriate to their grade level.
- (3) Re-designated students will continue to be formally monitored at least once per semester for a minimum of two years after exit from the ALP. Documentation of monitoring of each student will be consistently maintained and address academic performance;
- (4) The District will timely remediate academic deficiencies identified in students who have exited the ALP. A description of the remediation steps will be included in the plan; and
- (5) Students will not be exited from monitoring unless documentation consistently demonstrates an ability to meaningfully access the curriculum and District programs;;

(F) Program Evaluation and Modification. Based upon the District's goals and objectives for ensuring equal educational opportunities for LEP students, the District will incorporate into its Plan its procedures for evaluating the effectiveness of its ALP and services for LEP students. The District will collect longitudinal data annually for use in its evaluations. The District will include an analysis of the evaluation data according to each factor used for determining the effectiveness of the District's ALP. The District will also describe steps to modify or improve its ALP programs and services for LEP students, where necessary, based upon the results of its program evaluation. The District agrees it will not continue indefinitely with programs and services that, despite soundness of design and implementation, do not satisfy its goals and objectives for providing educational services to its LEP students.

- (1) For the first self-evaluation due by September 1, 2017, the District will provide:

- (a) The total number of PHLOTE students and LEP students, by school, for school year 2015-2016.
  - (b) An assessment of the ALP placement and services for LEP students;
  - (c) A description of staff training needs and the District's response to identified needs; and
  - (d) Its policies and goals for providing educational services to LEP students, This will include the District's objectives for providing educational services to LEP students, including the objectives of the ALP models selected; and a list of specific, measurable language acquisition and performance goals for LEP students.
- (2) The District's Plan will provide, for school year 2016-2017 and all subsequent program evaluations (to be conducted at least once every two years):
- (a) A description of the factors used to determine the effectiveness of the District's programs and services. Some factors to include in the self- evaluation are:
    - (i) Whether current LEP students are satisfying established goals and objectives for student participation and achievement;
    - (ii) Whether the District's staff training program is sufficiently training teachers to meet LEP students' English language development and access to content curriculum needs, and meeting the stated intent of the training program's design as described in Staffing, above;
    - (iii) Whether current LEP students are gaining in English language proficiency in speaking, reading, writing, and comprehension;
  - (b) LEP and former LEP students' academic progress and dropout, graduation, and grade retention rates, as compared to their non-LEP peers; and
  - (c) Whether LEP students are statistically over-represented or under- represented in special education referrals and placements or the gifted and talented program. This analysis includes considering the LEP students with their general representation in the District and comparing them with former LEP and non-/never LEP students.
  - (d) The procedures used to determine the extent to which staff hiring, training, or development is needed to ensure a full contingent of qualified teachers for the ALP to fully implement the Plan; and
  - (e) The specific steps the District will take, including time frames and persons responsible, to ensure that program modifications or improvements are implemented when necessary to ensure program effectiveness for LEP students.

**REPORTING REQUIREMENT:** By January 30, 2017, the District will develop and submit to OCR for review and approval an initial draft plan for providing meaningful educational services to all its LEP students. The District will continue to submit draft plans until OCR approves a final plan for the District's full and timely implementation.

**REPORTING REQUIREMENT:** By January 30, 2017 the District will submit to OCR for review and approval a description of its staffing program, requirements, and any related plans for filling identified staffing needs pursuant to Section III(2)(C), above.

**REPORTING REQUIREMENT:** Within 30 days of OCR's approval of the complete plan, the District will submit a final copy of the plan to OCR, and begin implementing all terms of the plan. The District will implement the specific plan provisions in accordance with the policies, procedures, and time frames specified in the plan. The District will begin fully implementing the approved plan by DATE.

**REPORTING REQUIREMENT:** Within 60 days of OCR's approval of all terms of the plan, the District will:

- (1) Provide documentation to demonstrate that all school site administrators have received a copy of the Plan;
- (2) Provide a training agenda for administrators and staff regarding the implementation of the Plan (including training dates and training responsibilities); and
- (3) Provide a copy of a newsletter or other similar document, where the District notifies parents and guardians of all District students (in a language they understand) that the District has developed a plan to ensure that national-origin minority LEP students have equal and meaningful access to the District's educational services.

### **III. LEP Student with Disabilities**

- (1) By January 30, 2017, the District will develop or revise draft policies and procedures to:
  - (a) Implement special education identification, and special education referral processes that take into consideration the linguistic and cultural background of students;
  - (b) Ensure that current objective assessments of proficiency in English and the primary or home language are available prior to or upon referral of PHLOTE students for testing, evaluation, or placement in special education services. The procedures will ensure that consideration of language proficiency is documented;
  - (c) Require disability-related testing or evaluation using only the language modalities in which the student is objectively known to be proficient, if feasible;
  - (d) Provide for disability-related testing or evaluation by staff persons who are qualified to conduct special education tests in the languages required (whenever appropriate).
  - (e) Establish objective criteria by which the District determines which staff members are qualified to administer special education testing and evaluations in languages other than English.

- (f) Require that disability-related diagnostic reports for LEP students include:
    - (1) Analysis of the effect of linguistic and cultural factors on educational history and learning,
    - (2) Whether (and how) diagnostic instruments or procedures were altered for the student,
    - (3) Documentation of the use of translation or interpretation in the administration of diagnostic instruments or procedures, and the effect on the validity and reliability of the results;
    - (4) Evaluation of the validity and reliability of test results, considering the effect of differences in criteria related to language proficiency, and
    - (5) Cross-validation of formal diagnostic measures with other data available about the student.
  - (g) Require that the process of making disability-related placement decisions includes at least one person who is knowledgeable about the student's culture and language, documents consideration of language and culture on the evaluation, and considers the validity and reliability determinations noted in the diagnostic report;
  - (h) Require that disability-related placement decisions are based on a variety of factors, such as a review of existing records, the results of pre-referral interventions and curricular adaptations, work samples, formal and informal assessments, and observations; and
  - (i) Ensure that LEP students with disabilities participate in both ALP instruction and special education services or related aids and services, unless it is inappropriate to provide dual services due to the documented nature of the student's disability. Delivery of ALP services should be noted to the student file. Personnel providing ALP instruction for LEP students with disabilities will be qualified in accord with the District's ALP.
- 2) Reevaluation of LEP Students Receiving Special Education Services:
- a) Beginning July 1, 2017, the District will use the approved procedures to ensure that LEP students (included in this section as non-English proficient, limited-English proficient, and former-LEP students) already receiving special education or related aids and services have not been placed in that program on the basis of criteria that essentially measured English language skills. The District will:
    - i) Review the initial and subsequent placement records of each LEP student receiving special education services to determine whether such placement was based on test data or other diagnostic data that is unreliable or invalid because:

- (1) The student was (or is) not proficient in the language skills required for reliable and valid assessment results, or
- (2) The procedures documented were not consistent with the safeguards and procedures in Paragraph IV for identifying LEP students with disabilities.

**REPORTING REQUIREMENT:** By January 30, 2017, the District will submit to OCR for review and approval its LEP special education plan for ensuring that LEP students with disabilities are properly evaluated and receive any necessary special education services identified through the District's evaluation. The LEP special education plan will also include the District's plan for ensuring that LEP students with disabilities receive both the special education services they are entitled to, as well as those services they require to address their language needs.

**REPORTING REQUIREMENT:** By September 1, 2017, the District will provide documentation to OCR that it has reviewed all evaluation records for each student identified in the immediately preceding paragraph. The District will identify every LEP student whose initial or subsequent evaluation included an instrument that required the use of an English language modality (i.e., speaking, reading, writing, or comprehension) in which the student is not proficient. The District will provide the name (by school and grade) of each student.

**REPORTING REQUIREMENT:** By September 1, 2017, the District will provide documentation to OCR that it has identified every LEP student whose initial or subsequent evaluation included an instrument that was administered, in whole or in part, by a staff person(s) who was not qualified to conduct the assessment (e.g., not bilingual where the student should have been tested by a bilingual evaluator).

**REPORTING REQUIREMENT:** By January 30, 2017, the District will provide documentation to OCR of how it will ensure that staff members who evaluate LEP students for disability related programs and services will be knowledgeable and understanding of testing requirements and the students' language needs.

### **General Requirements**

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 regulation implementing Title VI at 34 C.F.R. §§ 100.3(a) and (b), which were at issue in this case.

The District understands that, by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, 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 34 C.F.R. §§100.3(a) and (b).

The District understands and acknowledges 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.

By: \_\_\_\_\_  
Superintendent or Designee

Date: 10/05/2016