

**Ohio Department of Education
Resolution Agreement
OCR Docket No. 15-15-1148**

The Ohio Department of Education (ODE) voluntarily submits the following Resolution Agreement to the U.S. Department of Education (Department), Office for Civil Rights (OCR), to ensure compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, and to resolve the above-referenced complaint.

ODE agrees to take the following actions:

- A. By August 30, 2018, ODE will notify the Student, in writing, that he may retake the XXXXXXXX Ohio Graduation Tests (OGTs), with a dictionary, extended time, and a language translator who will translate the allowable portions of the OGTs into XXXXXXXX and translate the allowable portions of the Student's answers on the OGTs into English¹, at ODE expense, at or near his current residence, at dates of the Student's choosing, but no later than June 2022. ODE will also offer to provide the Student with OGT preparation services for the OGTs at ODE's expense, at or near his current residence in Ohio. ODE may advise the Student that he must accept the offer within 90 days of the date of the written offer. ODE's written offer will include contact information for an ODE staff person who can answer the Student's questions about the available options, including any available alternate pathways to obtaining an Ohio high school diploma. ODE will ensure that its communications with the Student include any appropriate language assistance (e.g., interpretation or translation services), if necessary.
- B. If the Student notifies ODE that he elects to retake the OGTs pursuant to Item A above, ODE will:
1. Within 14 calendar days of the Student notifying ODE of his election, contact the Student to make arrangements for the Student to receive OGT test preparation services for the XXXXXXXXXXXX OGTs at ODE's expense, at or near his current residence. ODE will ensure that the person responsible for providing OGT test preparation services to the Student contacts the Student within 45 calendar days of the Student notifying ODE of his election and that it provides appropriate language assistance (e.g., interpreter or translation services) for its communication with the Student, if necessary.
 2. If the Student does not attend (in-person, or via any available electronic or telephonic method) three consecutive preparation classes without a valid excuse, neither ODE nor its vendor will be responsible to provide preparation services to the Student.
 3. Within 21 calendar days after the conclusion of the OGT test preparation services, as determined by the Student and ODE, or the termination if appropriate under B.2.,

¹ By "allowable portions," this Agreement refers to the chart published by ODE in its *Ohio's State Tests Rules Book* (Rules Book) dated September 29, 2017, at page 114. ODE will not apply a three-year cut-off rule to the Student with respect to the accommodations to be provided to the Student on the OGTs.

contact the Student to make arrangements for the Student to retake the XXXXXXXXXX OGTs with the above-listed accommodations at ODE's expense, at or near his current residence.

4. Within 28 calendar days after the final OGT is administered to the Student, ensure that the Student's OGTs are scored, and that the scores are reported to the Student.
5. Within 35 calendar days after the final OGT is administered:
 - a. If the Student achieves a passing score on each of the OGTs, contact the school district the Student attended, inform the school district of the Student's passing scores, and take any other action necessary to ensure that the Student is provided with his high school diploma, provided that the Student met all of the attending district's requirements, including the necessary number of credits.
 - b. If the Student does not achieve a passing score on any of the OGTs, notify the Student that he may continue to retake the OGTs until June 2022 during any test administration at any Ohio public school district (not necessarily the district he attended), community school, or chartered nonpublic school with appropriate accommodations, and of available resources to help him prepare to retake the OGTs and of any alternative pathways to obtain an Ohio high school diploma.

Reporting Requirements:

- By August 30, 2018, ODE will provide OCR with a copy of its communication with the Student pursuant to Item A.
- Within 7 calendar days of the Student responding to ODE's offer, ODE will provide OCR with documentation evidencing the Student's election. If the Student does not respond to ODE within 90 calendar days of ODE's communication with the Student, ODE will notify OCR in writing of the Student's failure to respond. Documentation should include a transcription of any oral communications ODE has with the Student and any additional written communication.

If the Student accepts ODE's offer:

- Within 28 calendar days of the Student notifying ODE of his election, ODE will submit to OCR documentation showing its implementation of Item B.1. Documentation should include a description of how and when OGT test preparation services for the XXXXXXXXXX OGTs will be made available to the Student at ODE's expense, at or near his current residence. Documentation should also include a copy of the letter or e-mail the person responsible for providing OGT test preparation services to the Student sent to the Student, or a narrative description of their oral communication, and the qualifications and credentials of the tutors or service providers ODE plans to use to provide the OGT test preparation services.

- Within 21 calendar days after the conclusion of the OGT test preparation services, ODE will submit to OCR documentation showing its implementation of Item B.2. Documentation should include a copy of ODE’s letter or e-mail to the Student or a narrative description of ODE’s oral communication with the Student, including the name and title of the person who spoke with the Student, regarding arrangements for the Student to retake the XXXXXXXXXX OGTs at ODE’s expense, at or near his current residence. Documentation should also include the qualifications and credentials of the tutors or service providers of the OGT test preparation services, a list of the hours of tutoring received in each of the subjects: XXXXXXXXXXXXX, the location where services were provided, and documentation evidencing that the Student received the appropriate test preparation services at ODE’s expense. If the Student does not attend (in-person, or via any available electronic or telephonic method) three consecutive preparation classes without a valid excuse, and ODE or its vendor ceased providing preparation services to the Student, ODE will submit documentation related to the Student not attending three consecutive preparation classes without a valid excuse and a copy of the communication sent to the Student regarding the cessation of preparation services.
 - Within 35 calendar days after the final OGT is administered to the Student, ODE will submit to OCR documentation showing its implementation of Items B.3 and B.4. Documentation should include a copy of the Student’s scores on the OGTs, a copy of any documentation sent to the Student notifying him of his scores, the date and location of each OGT (XXXXXXXXXXXXXXXXXX), a description of what accommodations the Student received during the OGTs, and documentation showing that the Student was provided with accommodations on the OGTs (e.g., invoice and receipt indicating that an oral translator was provided to the Student during the tests). If the Student achieved a passing score on each of the OGTs, documentation should also include a copy of ODE’s letter to the school district the Student attended, informing the school district of the Student’s passing scores, and a copy of any other documentation related to any action ODE takes to ensure that the Student is provided with his high school diploma. If the Student did not achieve a passing score on any of the OGTs, documentation should also include a copy of ODE’s letter to the Student.
- C. By September 30, 2018, ODE will cease application of any limitations on language-related accommodations permitted for English Language Learner (ELL) students on the OGTs that are based on reasons unrelated to the students’ actual English language proficiency level. This includes, but is not limited to, limitations based on the time the students have been enrolled in U.S. schools or which month the students are taking the OGTs. ODE will also ensure that, as long as it is providing standardized audio CDs for each administration of the OGTs, it will provide the CDs in all of the languages that are the most frequently spoken languages other than English in Ohio, based on objective data and consistent with the most frequently encountered languages reported by ODE in other contexts, including but not limited to ODE’s implementation of a resolution agreement in OCR Docket #15-15-1426 and ODE’s Every Student Succeeds Act (ESSA) plan. This provision will not apply to sections of the OGTs that actually assess the students’ English language proficiency (i.e., the OGT reading test reading passages and the OGT writing test responses).

Reporting Requirements: Within 90 calendar days of signing this Resolution Agreement, ODE will submit to OCR documentation verifying its implementation of Item C above, including but not limited to a copy of its revised Rules Book. By June 30, 2019, ODE will submit to OCR documentation verifying its continued implementation of Item C above.

- D. Within 30 calendar days of this Resolution Agreement being signed, ODE will draft and submit to OCR for review and approval notifications regarding the following, which ODE will post on its website and distribute after OCR approval:
1. ODE’s commitment to providing national origin minority ELL students an equal opportunity to obtain an Ohio high school diploma.
 2. The availability of accommodations appropriate to ELL students’ language proficiency for high-stakes assessments, where the assessments are not designed to test English language proficiency, to ensure that the students are afforded a meaningful opportunity to demonstrate their knowledge of the academic content standards being tested.
 3. All changes ODE is making concerning ELL student accommodations for the OGTs, pursuant to Item C above.
 4. The opportunity for any ELL student enrolled in grade 9 before July 1, 2014, who is eligible to retake the OGTs to contact any Ohio public school district (not necessarily the district they attended), community school, or chartered nonpublic school to arrange to sit for the OGTs; notification that testing opportunities are provided in October, March, and June for a paper version of the OGT and also are available at all times for an online version of the OGT; and notification that accommodations appropriate to their level of language proficiency are available.

ODE will also submit for OCR review and approval where on its website it intends to post the notifications, and the languages into which it will translate the notice for distribution and posting.

- E. Within 28 calendar days of OCR’s approval of ODE’s notification pursuant to Item D above, ODE will post the notifications on its website, including translated versions in the most frequently encountered languages in the state, and will distribute the notification to all Ohio public school districts, community schools, and chartered nonpublic schools.

Reporting Requirement: By September 30, 2018, ODE will submit to OCR for its review and approval the notifications that ODE proposes to post on its website and a list of the web page(s) where ODE intends to post the notifications and the languages in which it intends to translate the notification. Within 28 calendar days of OCR’s approval of the notification, ODE will provide OCR with documentation verifying it has posted the notification at its website, including the translated versions, and that it has distributed the notification to all Ohio public school districts, community schools, and chartered nonpublic schools. The documentation will include a link to the notification on ODE’s website, a copy of the notice,

and a list of all Ohio public school districts, community schools, and chartered nonpublic schools to whom the notice was sent, and verification that the notice was sent to each entity on the list.

General Requirements

ODE 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 the Agreement.

Further, ODE understands that during the monitoring of this Agreement, if necessary, OCR may visit the recipient, interview staff, and request such additional reports or data as are necessary for OCR to determine whether ODE has fulfilled the terms of the Agreement. Upon ODE’s satisfaction of the commitments made under the Agreement, OCR will close the case.

ODE 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 will give ODE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

8/7/18

Superintendent of Public Instruction or Designee
Ohio Department of Education

Date