

**Pickerington Local Schools  
Resolution Agreement  
OCR Docket #15-19-1137**

Pickerington Local Schools (the District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to address the District's compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, and to resolve the above-referenced complaint.

The District agrees to take the following actions:

**District-level Remedies**

- A. By December 31, 2021, the District will provide training by a competent authority on Section 504 and Title II on the District's obligations to students with disabilities under Section 504. The District will provide this training to, at a minimum, the District's special education director and building administrator(s) and staff member(s) at the District's [redacted] School involved in referring students for evaluation, and/or evaluating and making determinations regarding student eligibility under Section 504. The training will address, at minimum, the procedural requirements of Section 504 and its implementing regulation to provide a free appropriate public education (FAPE) to students with disabilities, including Section 504's requirements with respect to the timely identification, evaluation, and placement of students suspected of having a disability at 34 C.F.R. §§ 104.33-104.35, and the District's responsibility to provide the procedural safeguards available under 34 C.F.R. § 104.36, including notice and the right to challenge determinations through an impartial due process hearing. The training will also clarify the following:
1. while the District may use regular education intervention strategies to assist students with difficulties in school, Section 504 requires the District to timely refer a student for an evaluation for possible special education or related aids and services or modification to regular education if a student, because of disability, needs or is believed to need such services and to complete the evaluation within a reasonable period. In case of English Learner (EL) students, the District will provide staff clarification on the use of its document "Special Education Evaluation Matrix for ELs" to ensure EL students suspected of having disabilities are evaluated without delay;
  2. in evaluating the student to determine if he/she has a physical or mental impairment that substantially limits one or more major life activities under Section 504, the District will: consider whether a particular mental or physical impairment substantially limits one or more major life activities; consider all possible major life activities, including, but not limited to, caring for oneself, performing manual tasks,

seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working, and the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulator, endocrine, and reproductive functions ; and construe the definition of disability broadly; and

3. the District must determine if team members have enough information and information of the appropriate type to make a knowledgeable decision as to whether the student has a disability and what special education and/or related aids and services the student needs in order to receive a FAPE.

**REPORTING REQUIREMENTS:** By August 31, 2021, the District will submit for OCR’s approval pursuant to Item A a copy of the proposed training materials. Within six weeks of the date the District receives OCR approval of the training material, the District will submit information to OCR documenting implementation of Item A, including: the date(s) of the training(s); a copy of the training agenda(s); copies of training materials used; the name of the person(s) who provided the training(s); and a record showing the names and job titles of all persons who received the training(s).

By June 30, 2022, the District will provide OCR information regarding any students who were either referred for an evaluation or for whom an evaluation was requested at [redacted] School during the 2021-2022 school year. For each student identified, information should include: 1) documentation of the evaluation request and/or referral (e.g., copies of all correspondence, electronic mail messages, or other communication between District staff and or between District staff and the student’s parent(s) regarding any referrals or requests made on behalf of the student for an evaluation to determine if he or she is a student with a disability or in need of special education and/or related services); 2) whether the student is identified as an EL student (and, if so, the number of years that the student was in the U.S. at the time of referral/request and the student’s level of English language proficiency); 3) if the student was not evaluated under Section 504 or the Individuals of Disabilities Education Act (IDEA), the reason(s) why the evaluation was not conducted; 4) if the student was evaluated, the date the student was evaluated, the evaluators, by name and title, who participated in the evaluation, and the outcome of the evaluation (e.g., documentation related to all meetings held to discuss the student’s possible disability, evaluation, and/or Section 504 plan, Individualized Education Program (IEP), or behavior plan, including the date(s) of the meetings, the names and titles of all those in attendance at the meetings, and the outcome of the meetings); and 5) if applicable, a copy of Section 504 plans, IEPs, behavioral plans, or other plans, if any, developed for the student.

- B. By October 30, 2021, the District will develop a written plan to provide language assistance to LEP parents/guardians (LEP parents) that ensures they have meaningful access to the District’s programs and activities. “Staff,” for purposes of this plan, will include all relevant administrators, teachers, counselors, and support staff employed by the Board of Education. The written plan will include the following:

1. A process for notifying LEP parents of the availability of free language assistance with respect to school programs and activities. The notice will, at a minimum, be published on the District's website. In addition, a copy of such written notice shall be provided in the language of each frequently-encountered LEP parent group as described in paragraph 14 below in any student and parent handbooks, the Code of Conduct, and in a District-wide and building-based document sent out twice a year. A copy will also be posted at the District enrollment center and/or District administration office in the District's frequently-encountered languages as described in paragraph 14 below.
2. A statement that a parent need only be of limited English proficiency in one of the areas of speaking, reading, writing, and/or comprehending English in order to be considered in need of language assistance and to be eligible to receive free language assistance.
3. A statement that, generally, the District will accept a parent's assertion that he or she needs language assistance without requiring additional corroboration.
4. A process for identifying LEP parents who may need language assistance through, at a minimum: (i) a home language survey 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(s) needed; (ii) interaction between parents and staff; and (iii) using information about LEP students identified by the District to determine if those students have parent(s) in need of language assistance.
5. A process for creating and maintaining in each school in the District a centralized list of LEP parents identified as needing language assistance services and the type of language assistance services they need. The list will be provided to all staff in the building that may interact with LEP parents during regular school hours as well as after school activities and programs, as well as to the central administration. The information will be readily available for reference as a part of the District's regular protocol for contacting parents during emergency situations. Each school will also maintain a log of the language assistance services provided to parents 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).
6. A process for creating and maintaining a District-wide list of LEP parents with student names identified by each school building as needing language assistance services, the type of language assistance services they need, and a log of the language assistance services provided to parents by the District administration office by date, type of service, and service provider. To the extent that the information can be maintained and accessed electronically, the District will investigate those methods.

7. A process for timely updating the centralized lists described in paragraphs 5 and 6 above to reflect a child's new school when the children of LEP parents transfer from one school to another within the District.
8. 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, the circumstances under which they may need assistance (e.g., parent-teacher conferences, documents related to disciplinary actions, disciplinary hearings, documents related to IEP or Section 504 plans, and IEP team meetings), the type of language assistance they might need (e.g., translation services or interpreter services), and the means by which they may timely obtain such assistance for the parent. Information will be accessible from the LEP lists provided to schools and the District administration offices.
9. A process by which District staff may obtain appropriate, qualified translators or interpreters in a timely manner as needed.
10. A process by which the District will ensure 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.
11. A process to ensure that interpreters have knowledge, in English and a language the parent can understand, of any specialized terms or concepts peculiar to the District program or activity for which they are providing services, including but not limited to interpreters of IEP meetings having knowledge of special education terminology.
12. A process to ensure that translators, 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 the District or relevant community organizations to help determine whether a document is written at an appropriate level for the intended audience.
13. 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 acceptable. 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 family members and friends 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.

14. A process for the District to identify and translate vital written documents into the language of each frequently-encountered LEP parent group eligible to be served and/or likely to be affected by the District's program or activities. In determining which written documents are vital, the District will consider the importance of the program, information, encounter, or service involved, and the consequence to the LEP parent if the information in question is not provided accurately or in a timely manner. At a minimum, the following vital written documents will be translated into the language of each frequently-encountered LEP parent group:

- i. notice of procedural safeguards in the context of providing children with disabilities with a FAPE under Section 504 and IDEA;
- ii. documentation related to eligibility and placement decisions under Section 504 and IDEA;
- iii. disciplinary notices, manifestation determinations (if applicable), and disciplinary procedures;
- iv. registration/enrollment forms, emergency notification forms and other forms most commonly used by the district to communicate with parent(s);
- v. report cards and other formal reports of student progress to the extent they are used;
- vi. notices of parent-teacher conferences or meetings;
- vii. District/building student/parent handbooks and related fact sheets to the extent that they exist;
- viii. documentation regarding the availability of academic options and planning, including gifted and talented programs, alternative language programs, and counseling and guidance services; and
- ix. screening procedures that request information from parent(s) about the child's language background and the parent's(s') preferred language for communication with the school.

**Reporting Requirement:** By October 30, 2021, the District will submit to OCR, for review and approval, a copy of the language assistance plan it has developed pursuant to the requirements of Item B.

- C. Within 60 calendar days of receipt of the OCR-approved language assistance plan, the District will adopt and implement the plan.

**Reporting Requirement:** Within 180 calendar days of receipt of the OCR-approved language assistance plan, the District will submit to OCR documentation demonstrating adoption and implementation of the language assistance plan developed pursuant to Item B, including but not limited to: the notification issued pursuant to Item B.1; the annual notice issued to staff pursuant to Item B.13; information that the District has maintained at the central office pursuant to Item B.6; a list of LEP parents (including name and schools in which their children are enrolled), types of services that they require, and information as to any services provided to the parents by District administration (including date of services, type of services, and name of service provider and copies of any logs kept pursuant to the Item B.6); and copies of the documents the District has translated, including links to any translated communications available on the District's website. Within 365 calendar days of receipt of the OCR-approved language assistance plan, the District and OCR will schedule an on-site visitation by OCR staff to individual school buildings identified by OCR, to occur when the District has been in plan implementation for at least six months. During the visitation, OCR will evaluate the schools' implementation of the terms of this agreement through interviews with District staff and review of documentation maintained by the school pursuant to Item B.5.

- D. By October 30, 2021, the District will develop a written plan for the annual evaluation of the effectiveness of its language assistance plan developed pursuant to Item B above. The written evaluation plan will include the following:
1. Identification of staff responsible for evaluating the language assistance plan on an annual basis.
  2. Identification of the date by which the evaluation will be completed on an annual basis.
  3. 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:
    - i. identification of the current LEP parent groups encountered by the District;
    - ii. the nature and importance of District programs, activities and information to LEP parents and the availability and accessibility of such information to LEP parents and the need for assistance District-wide and at schools;
    - iii. the frequency of encounters with LEP parents;
    - iv. the availability of resources (e.g., translation and interpreter services), including technological advances and sources of additional resources, and the costs incurred;
    - v. whether existing language assistance is meeting the needs of LEP parents;

- vi. whether District staff are aware of and understand the language assistance plan and how it is implemented, including their role, if any; and
  - vii. whether identified sources for language assistance are provided in a timely, meaningful, and effective manner.
- 4. A process for determining whether new documents, programs, services and activities need to be made accessible for LEP parent(s), and whether the District needs to provide notice of any changes in services to LEP parent(s) and to District staff.
  - 5. A quality control system designed to periodically assess the quality of the interpreter and translation services being provided by the District and to ensure that the interpreters and translators used by the District are qualified. This assessment system will include, at a minimum, a method for gathering feedback from students and parent(s) on whether they understand the information they have received via interpreters and translators provided by the District and whether they are receiving the translation and interpretation of essential information on a consistent and timely basis.

**Reporting Requirement:** By October 30, 2021, the District will submit to OCR, for review and approval, a copy of the evaluation plan it has developed pursuant to the requirements of Item D above.

- E. Within 60 calendar days of receipt of the OCR-approved annual evaluation plan, the District will adopt and implement the plan.

**Reporting Requirement:** Within 90 calendar days of receipt of the OCR-approved annual evaluation plan, the District will submit documentation verifying it adopted and implemented the plan. Within 365 calendar days of receipt of the OCR-approved annual evaluation plan, the District will submit documentation demonstrating the results of its evaluation of the District's implementation of its language assistance plan through the first 365 days after OCR approved the plan, including documentation of any changes resulting from the evaluation.

### **General Requirements**

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 the 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 and obligations of the Agreement. Upon the District's satisfaction of the terms and obligations of the Agreement, OCR will close the case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or applicable statute(s) and regulation(s).

Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the District’s representative below.

/s/

7-19-21

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Superintendent or Designee

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Date