

**Portland Public Schools  
Resolution Agreement  
OCR Case No. 01-12-1316**

- I. In order to resolve the allegations in the above-referenced complaint pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulation found at 34 C.F.R. Part 100 (Title VI), the Portland Public Schools (District) voluntarily agrees to take the following actions:
  1. By May 31, 2013, the District will develop a plan for implementing the District's LAU Plan in order to provide appropriate educational services for English language learner (ELL) students at the Lyman Moore Middle School (School). The implementation plan (the Plan) will:
    - a) Include specific protocols for identifying ELL students in order to provide them with a program that enables them to acquire English language proficiency, as well as the knowledge and skills that all students are required to master.
    - b) Include procedures to ensure that ELL students at the School, who have not been identified as students with disabilities, are not placed in classes that are designed for students with disabilities receiving specialized (i.e., special education) instruction. The Plan will ensure that ELL students are placed in educational settings that provide educational services within an appropriately designed program that meets their linguistic and academic needs.
    - c) Include a protocol for identifying ELL students who may have learning or other types of disabilities. The protocol will require the use of assessments that effectively measure ELL student's knowledge and skills in the particular content area being assessed. The protocol will address the manner in which the School will provide ELL students with any accommodations necessary so that the tests provide accurate and valid information about the knowledge and skills intended to be measured. The Protocol will require the use of multiple criteria designed to accurately assess the academic and cognitive abilities of ELL students. The District will not use assessments that are administered in English to assess the cognitive or academic abilities of ELL students (unless the test is designed and intended to measure a student's level of English language development or ability). All assessments used to evaluate ELL students' linguistic, academic or learning abilities, shall have been validated for the purpose for which the assessment is being administered.
    - d) Include procedures to ensure that ELL students are placed in age-appropriate classes that are also appropriate to meet both their linguistic and academic needs. The Plan will define what constitutes an "age-appropriate" placement in a classroom and will create parameters that preclude the assignment of ELL students at widely different levels of English language development in the same classroom of instruction (e.g. ELD levels or ACCESS levels 1 and 2 may be placed together but level 1's/2's may not be placed with level 3's for English language development classes).
  2. ELL students at the School who are believed to have a disability, shall be assessed by qualified professionals using appropriate evaluations in which results are not based on a

student's limited English proficiency. All information, including those assessments/evaluations, as well as any academic, social and cultural background information will be considered and documented by the Student's Special Education Team (Team).

3. All special education determinations and placement decisions involving ELL students at the School shall be made by Teams that are comprised of a group of persons who are knowledgeable about the student, the evaluation materials, the placement options as well as the student's level of English language development and language needs. Consideration of whether the student has had interrupted formal education shall also be documented. At least one member of the Team must be familiar with second language acquisition and how to distinguish between ELL student performance on assessments that are attributable to a learning disability, as opposed to the student's level of English language proficiency. All decisions to place ELL students in special education at the School will be carefully considered and documented by the Team, including documentation of the team member(s') background and experience, including certification, and area of expertise regarding second language acquisition programs and services.
4. All parents/guardians of ELL students at the School shall be provided with effective notice (i.e. notice administered in a manner that they can understand) of any/all decisions concerning the placement of ELL students in any programs or course of study that differ from the regular education curriculum, including the Intensive English language Development (IELD) Program, any remedial classes in which ELL students are placed based on the ACCESS test, the Entry Assessment in Mathematics Evaluation (EAME), New England Common Assessment Program (NECAP), Northwest Evaluation Association (NEWA) standards, Academic Improvement Measurement System (AIMS web), or other assessment. The School will document how each assessment or evaluation was used, who administered it, and how it ensured that the results were a valid assessment of the ELL student's abilities in the areas assessed, and not a reflection of the ELL student's level of English language development.
5. The District will reassess each ELL student who has been identified as having a disability in the past three years, using the procedures and protocols described in items 1-4 above, to ensure that those ELL students have been properly identified as having a disability. The District will, consistent with the above-procedures and protocols, document in each student's file, the assessments used, the bases for the Team decisions and evidence of parental notification, in a manner that the parent/guardian can understand, of due process rights.
6. The District will identify a person at the School who will oversee the District's compliance with this agreement, and who will be responsible for ensuring that relevant documentation exists in each ELL student's file.
7. The District will provide training to all staff and administrators at the School on the District's legal responsibilities under Title VI to educate ELL students as well as on the District's Lau plan and the School implementation Plan developed under this agreement.

## II. Reporting:

1. By April 30, 2013, the District will report to OCR the identity of the person who will oversee the District's compliance with the terms of this agreement, in accordance with Paragraph #6 above.
2. By June 30, 2013, the District will submit to OCR, for OCR's review and approval, a copy of its proposed implementation plan for the School in accordance with Paragraph #1 (under Section I above).
3. By June 30, 2013, the District will submit to OCR the School's policies procedures covering the following:
  - a) Identification of ELL students who have disabilities in accordance with Paragraph #2. The procedures will include a list of all assessments, evaluations and other information that is considered in making such determinations, as well as a description of how these assessments have been modified or selected to ensure that they are a valid assessment of the ELL student's abilities in the areas assessed, as opposed to a reflection of the ELL student's level of English language development.
  - b) The composition of Teams making special education determinations and placement decisions involving ELL students, in accordance with Paragraph #3.
  - c) The methods by which parents/guardians of ELL students at the School are notified of decisions concerning the placement of ELL students in any programs or course of study that differ from the regular education curriculum, in accordance with Paragraph #4.
4. By June 30, 2013, the District will provide OCR a report identifying each ELL student who was reevaluated in accordance with Paragraph #5, indicating the results of the reevaluations and subsequent placement determination.
5. By September 15, 2013, the District will provide OCR a report describing the training provided to all staff and administrators at the School regarding the District's legal responsibilities under Title VI to educate ELL students, the District's Lau plan, and the School implementation Plan developed under Paragraph #7. Such report shall identify the trainer(s) and his/her qualifications, include the training materials used, and include a listing of the staff and administrators (by position) who participated in the training.

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, and Section 504 at 34 C.F.R. Part 104.

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 the regulations implementing Title VI at 34 C.F.R. Part 100, and Section 504 at 34 C.F.R. part 104.

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.

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For Portland Public Schools

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Date