

Garfield Academy, Inc.
Resolution Agreement
Compliance Review #15-11-5004

BHA Canton, LLC, as educational management organization for Garfield Academy, Inc., (Academy) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), on behalf of itself, for the purpose of resolving the above-referenced compliance review and ensuring 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. This Agreement should not be interpreted as an admission by Academy that it is not in compliance with any federal or state law. This Agreement should not be interpreted as an admission by Academy that it is a public entity or that the OCR has jurisdiction over the Academy. Academy voluntarily submits this Agreement prior to the completion of OCR's investigation and any issuance of findings. Accordingly, Academy agrees to implement the actions described below.

English Language Learner Program

1. By January 1, 2015, Academy will develop a comprehensive plan (the comprehensive plan) outlining how it will provide English language services and instruction to English language learner (EL) students enrolled in Academy. The approach/methodology must be recognized as sound by some experts in the field or recognized as a legitimate educational strategy. The comprehensive plan will include the following:
 - A. Regarding identification of EL students, the Academy will continue to complete Home Language Surveys for all students who enroll. Academy will review completed Home Language Surveys, as well as teacher input to identify all students who have a primary or home language other than English. Academy will distribute the Home Language Survey in English and in Spanish. For those languages that are less prominent, Academy will have translated versions of the survey available or will advise national origin minority limited English proficient (LEP) parents, in a language they understand, of whom to contact at Academy if they need assistance in understanding and completing the survey.
 - B. Regarding assessment of potential EL students, Academy will continue to promptly and objectively assess students identified as having a primary or home language other than English to determine their proficiency in reading, writing, speaking, and understanding English. Academy will articulate what level of performance on the assessments qualifies students for EL services, the placement determination regarding the EL student's participation in the EL program and the EL services provided by Academy to the EL student. Academy will promptly notify EL students' parents of the assessment results in

a language they understand and the EL services to be provided in a language they understand.

- C. Academy will develop a system to maintain records for all EL students that will include information that allows them to track the services provided to their EL students, such as student, name, school, grade level, assessment results, proficiency level, and the type, amount, and time of language services to be provided.
- D. Regarding EL program staffing, Academy will ensure that EL program staff and providers are qualified for their positions. Additionally, Academy will ensure that EL program staffing is sufficient to provide EL students the EL services necessary to meet their needs.
- E. Regarding EL program instructional materials, Academy will ensure that the instructional materials that it provides to the EL program are appropriate to the EL program and grade level of the students it serves. Academy will also ensure that the instructional materials are comparable in quality and scope to the materials provided to all students.
- F. Regarding EL program facilities, Academy will ensure that the facilities and locations in which it delivers EL instruction and services are both adequate to program needs and comparable in size and quality to the facilities and locations in which all students are educated.
- G. Regarding EL student progress, Academy will monitor EL student progress in order to identify EL students not making adequate progress toward meeting Academy's identified EL program goals. Academy will identify the specific interventions that it will provide to EL students who do not exhibit adequate progress. Academy will document the monitoring as well as the special interventions that it provides to individual EL students.
- H. Regarding peer integration, Academy will continue to ensure that it does not separate EL students from their non-EL peers, except to the extent such separation is necessary to the stated goals of the EL program.
- I. Regarding EL students with disabilities or suspected disabilities, Academy will ensure that it appropriately identifies EL students who need or are believed to need special education or related services. Additionally, it will obtain input from relevant EL program staff when a group of knowledgeable person evaluates, reevaluates or makes making placement decisions for EL students with disabilities.
- J. Regarding special programs (e.g., advanced placement, honors) and extra-curricular activities, if available, Academy will ensure that EL students have the same opportunity to participate in such programs as their non-EL peers.
- K. Regarding exit criteria and monitoring of students exited from the EL program, Academy will articulate appropriate criteria for determining when they should exit an EL student from the EL program. Academy will also ensure that EL program personnel monitor the academic and English language proficiency of students exited from the EL program for at

least two years after their exit from the EL program. Academy will ensure that EL personnel monitoring the exited student will consider, at a minimum, report cards, progress reports, teacher input, and standardized test scores to determine to place the EL student back in EL program. Academy will assess whether each student exited from the EL program is able to achieve without EL program services (including by reviewing grades and academic achievement data) and if an exited student is unable to achieve without EL program services, Academy will determine the EL services to be provided to the EL student. Academy will promptly notify EL students' parents of the assessment results in a language they understand and the EL services to be provided in a language they understand.

- L. Regarding EL program evaluation, Academy will establish and implement a program and criteria for periodically evaluating the effectiveness of its EL program in providing EL students a meaningful opportunity to develop English-language skills and benefit from their overall educational programs. Academy will ensure that it makes prompt and appropriate changes to their EL programs based on the evaluation.
2. Within 60 calendar days of receipt of the OCR-approved comprehensive plan, Academy will adopt and implement the plan.

Reporting Requirements:

1. By January 31, 2014, Academy will submit to OCR, for review and approval, a copy of the comprehensive plan it has developed pursuant to Item 1 above.
2. Within 60 calendar days of receipt of written notification from OCR of approval of the comprehensive plan, Academy will submit to OCR documentation demonstrating adoption and implementation of the comprehensive plan developed pursuant to Item 1. In addition, Academy will submit documentation, including but not limited to, its Home Language Survey, including any translation copies and information about the provision of interpreter services for parents to complete the survey, any data collected pursuant to the development of the comprehensive plan, such as a list of instruction materials used with EL students and documentation demonstrating that the materials are appropriate, documents demonstrating the monitoring of EL student progress, staffing information, a list of all students who exited the EL program during the 2011-2012 and 2012-2013 school years and indication of whether each student was able to achieve without EL program services, including grades and academic achievement data, and statements describing where EL students are receiving EL services. If a student was unable to achieve without EL program services, provide documentation that the student was again provided with EL services and appropriate notice provided to the student's parents.
3. By June 30, 2014, Academy will submit to OCR documentation demonstrating the results of each Academy's evaluation of the implementation of the comprehensive plan during the 2013-2014 school year, pursuant to Item 1(L), consistent with the OCR-approved evaluation plan, including documentation of any changes Academy took as a result of the evaluation.
4. By June 30, 2014, Academy will submit to OCR documentation showing the total number of EL students enrolled, by grade level and proficiency level; the total number of EL students who

receive alternative language program services; and the EL program services provided to each student including information about the students' grade and proficiency levels. For each EL student not included in the EL program, provide documentation showing the student's grade level, proficiency level, reason for not receiving services, and a statement of the language support services being provided to the student and description of the student's academic progress and whether the student was able to participate meaningfully in the regular instructional program. For any student who is not being provided services because the parent opted out, Academy will provide to OCR a copy of the information provided to the parent/guardian of the unserved student.

5. By June 20, 2015, Academy will submit to OCR documentation of its implementation of Items 1 and 2 during the 2014-2015 school year.

6. By June 30, 2016, Academy will submit to OCR documentation of its implementation of Items 1 and 2 during the 2015-2016 school year.

Limited English Proficient (LEP) Parent Communication

3. By January 1, 2014, Academy will develop a written plan to provide language assistance to LEP parents that ensures that national origin minority LEP parents are notified, in a language understood by the parents, of school activities and other information and matters that are called to the attention of other parents. The written plan will include:

- A. A process for notifying LEP parents and all staff of the availability of free language assistance services with respect to information about Academy programs and activities (e.g., orientation sessions, 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 Academy contact person who can assist parents in accessing interpreter services or translated documents. The notification will be in a language understood by the LEP parents. The notice will be published on Academy's website, in student and parent handbooks, and in any Academy newsletters, but only if such mediums are used by Academy.
- B. A process for identifying LEP parents who may need language assistance, including, at a minimum:
 - 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
 - Using home language surveys to ask parents if they need written translations or oral interpretation of communications and, if so, to specify the language(s) needed.
- C. A process that ensures that Academy 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). Academy will ensure that the list is available to all staff in the building that may interact with LEP parents.

- D. A process by which Academy 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.
 - E. A process by which Academy staff may obtain in a timely manner appropriate, qualified translators or interpreters as needed (this could include the use of various services such as onsite translators/interpreters, telephonic translators/interpreters services, and translation programs); Academy's means to provide the services must be well-publicized and accessible to staff.
 - F. A process by which Academy ensures that the interpreters and translators it uses are proficient in the languages spoken by students and parents of students who attend Academy and competent to provide interpretation and translation services. Academy will also ensure that all 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.
 - G. 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, Academy will ensure that student and parents have been advised, in a language they understand, of whom to contact at Academy if they need assistance in understanding notices or communications with staff members. Academy will notify staff members that these translations are available.
4. Within 60 days of receipt of the OCR-approved LEP language assistance plan developed pursuant to Item 3, Academy will adopt and implement the plan.

Reporting Requirements: By January 31, 2014, Academy will submit to OCR, for review and approval, a copy of the language assistance plan it has developed pursuant to Item 3 above. Within 60 calendar days of receipt of written notification from OCR that the language assistance plan is approved, Academy will submit to OCR documentation demonstrating adoption and implementation of the LEP language assistance plan developed pursuant to Item 3 above. In addition, Academy will submit documentation including, but not limited to, copies of: the notification issued pursuant to Item 3(A); information that it has maintained, pursuant to Item

3(D); a list of LEP parents, their language background, types of services that they require, and information as to any services provided to the parents (including date of services, type of services, and name and qualifications of service provider); the annual notice issued to staff; and copies of the documents Academy has translated.

- a. By June 30, 2014, Academy will submit to OCR documentation demonstrating the results of its evaluation of its implementation of the OCR-approved language assistance plan during the 2013-2014 school year, consistent with the evaluation plan described above in Item 1.L. approved by OCR, including documentation of any changes Academy took as a result of the evaluation.
 - b. By June 21, 2015, Academy will submit to OCR documentation of its implementation of Items 3 and 4 during the 2014-2015 school year.
 - c. By June 21, 2016, Academy will submit to OCR documentation of its implementation of Items 3 and 4 during the 2015-2016 school year.
5. By March 31, 2014, Academy will ensure that all written materials publicizing or advertising Academy prominently include a statement that the materials are available in other languages.

Reporting Requirement: By September 30, 2014, Academy will provide OCR with written confirmation, including copies of any written materials, as applicable, that it has complied with Item 5 above.

Policies and Procedures relating to Students with Disabilities

6. By January 31, 2014, Academy will submit for OCR's approval, policies and procedures that, at a minimum, provide for the proper and prompt identification, evaluation, and placement of students with disabilities in conformance with the regulation implementing Section 504 at 34 C.F.R. §§ 104.3 (definitions), 104.33 (free appropriate public education), 104.34 (educational setting), 104.35 (evaluation and placement), 104.36 (procedural safeguards/impartial due process hearing), and with Title II and the ADA, and a procedure to ensure that all staff responsible for implementing provisions of Section 504 plans and IEPs for students with disabilities are notified of the students' plans and their responsibilities each school year. The policies will include a Section 504 coordinator position who will be responsible for coordinating compliance with Section 504 and Title II. For any student evaluated for a Section 504 plan, the team will consider whether the student has been denied a free and appropriate public education (FAPE) as a result of not being identified earlier, and if so will determine, what, if any, compensatory education is necessary to make up for time period the student was denied a FAPE.

Section 504/Title II Grievance Procedures

7. By January 31, 2014, Academy will adopt a Section 504/Title II grievance procedures to comply with the requirements of the Section 504 regulation at 34 C.F.R. § 104.7(b) and the Title II regulation at 28 C.F.R. § 35.107(b). The grievance procedures will incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 or Title II, including disability harassment. At a minimum, the grievance procedures will:
 - A. include notice of the position title and contact information for the Section 504 coordinator designated to coordinate compliance with Section 504 and Title II;
 - B. include notice to students, parents and employees of the procedure for filing a complaint, including how, where and with whom complaints maybe filed;
 - C. apply to complaints alleging disability discrimination carried out by employees, other students or third parties;
 - D. provide for the adequate, reliable and impartial investigation of complaints including the opportunity to present witnesses and other evidence;
 - E. contain designated and reasonably prompt timeframes for the major stages of the complaint process;
 - F. provide written notice to the parties of the outcome of the complaint;
 - G. contain assurance that steps will be taken to prevent recurrence of discrimination if it occurs and to correct its effects on the complaint and others, if appropriate;
 - H. contain a prohibition against retaliation which prohibits Academy or others from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Section 504 or Title II or because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under those laws; and
 - I. clearly state that any informal resolution process is voluntary and not required before making a formal complaint.
8. Within 60 calendar days of receipt of the OCR-approved Section 504 policies and procedures and grievance procedures, Academy will adopt, implement, and publish the policies and procedures. Academy will notify, in writing, all parents, students, and employees of the policies and procedures and where copies can be obtained and post the policies and procedures on their website.
9. Within 60 calendar days of receipt of the OCR-approved Section 504 policies and procedures and grievance procedures, Academy will schedule training on the revised procedures. The

mandatory training will be provided to Academy administrators and staff. The training will provide an overview of the applicable regulatory requirements of Section 504 and Title II. Thereafter, Academy will continue to provide annual staff training on the Section 504 policies and procedures and grievance procedures.

Reporting Requirements: By January 31, 2014, Academy will submit to OCR for review and approval the Section 504 policies and procedures and grievance procedures developed pursuant to Items 6 and 7 above. Within 30 calendar days of receipt of the OCR-approved Section 504 policies and procedures and grievance procedures, Academy will submit information to OCR documenting the implementation of Items 8 and 9, including copies of the written notification issued to Academy staff and parents or guardians; the link to the procedures on Academy’s website; the date(s) of the trainings and the name and job title of all persons who attended the training(s). If OCR does not provide the training, Academy also will provide a copy of the training materials used and any materials distributed to attendees.

- a. By September 30, 2015, Academy will submit to OCR documentation of its implementation of Items 6, 7, 8, and 9 during the 2014-2015 school year.
- b. By September 30, 2016, Academy will submit to OCR documentation of its implementation of Items 6, 7, 8, and 9 during the 2015-2016 school year.

General Requirements

Academy understands that OCR will not close the monitoring of this agreement until OCR determines that Academy has fulfilled the terms of this agreement and is in compliance with Title VI, 42 U.S.C. §§ 2000d *et. seq.*, and its implementing regulation at 34 C.F.R. §§ 100.3(a) and (b); Section 504 and its implementing regulation at 34 C.F.R. §§104.3, 104.33, 104.34, 104.35 and 104.36, and Title II and its implementing regulation at 28 C.F.R. §§ 35.106, 35.107, and 35.130(a) and (b), which were at issue in this case.

Academy 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, Academy understands that during the monitoring of this agreement, if necessary, OCR may visit Academy, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether Academy has fulfilled the terms of this agreement and is in compliance with Title VI and its implementing regulation at 34 C.F.R. §§ 100.3(a) and (b), Section 504 and its implementing regulation at 34 C.F.R. §§104.3, 104.33, 104.34, 104.35 and 104.36, and Title II and its implementing regulation at 28 C.F.R. §§ 35.106, 35.107, and 35.130(a) and (b).

Academy 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 Academy written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

/s/ Andrew
Administrator or Designee of Academy

 8/6/14
Date

 Andrew
Print Name