

**RESOLUTION AGREEMENT**  
**Portland Public Schools**  
**OCR Complaint No. 01-17-1094 & 01-20-1098**

The Portland Public Schools (District) has voluntarily entered into this agreement to resolve the allegation in the above-referenced complaints. The District assures that it will take the following actions. Unless otherwise specified, all Action Items pertain to Deering High School (School). Nothing herein shall be deemed to be an admission or acknowledgement by the District that it has violated Title VI or any other law that OCR enforces, or any other federal or state law.

The District agreed to resolve these complaints prior to the completion of OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*.

**Action Item 1: Lau Plan for the District's English Language Development Program**

- A. The District will revise its *Lau* Plan in accordance with Title VI to describe in reasonable detail its chosen English Language Development Program (ELD Program) for English Learner (EL) students in the District and at the School. The ELD Program will provide all EL students eligible for EL language services those services (i.e., reading English, writing English, vocabulary development) from a qualified EL teacher. The ELD Program must also include a specific curriculum for students who have limited or interrupted formal education (SLIFE) and therefore are not prepared to take EL 1 or its equivalent. To the extent that general education and/or special education teachers will provide instruction to EL students, the District will describe in reasonable detail how those teachers will make course materials accessible to EL students.
- B. The District will implement its ELD program for the 2021-2022 school year and adjust its ELD program as necessary in accordance with Action Item 4.
- C. The District will develop a plan for the School to find and use appropriate assessment tools for SLIFE students, and for how the School will build expertise to develop programming for literacy and numeracy.

**Reporting Requirements:**

1. By July 1, 2021, the District will submit to OCR for its review and approval its *Lau* Plan. OCR shall provide the District with its approval or disapproval within 30 days from the date the *Lau* Plan is submitted to OCR. The District will consider and respond to any feedback from OCR with respect to the draft *Lau* Plan until OCR is able to approve them.
2. Within 21 calendar days of OCR's approval of the District's *Lau* Plan, the District will adopt and implement the *Lau* Plan. The District will provide OCR with documentation showing that the *Lau* Plan has been implemented,

including with live links to the District website and copies of emails to District EL staff announcing the implementation of the revised *Lau* Plan.

3. By September 30, 2021, the District will provide to OCR a list of all students at the School who (a) have limited or interrupted formal education and therefore are not prepared to take EL 1; and (b) EL students at Level 3 and 4 Program Level according to the District's *Lau* Plan. For each student, the District will provide sufficient information for OCR to determine whether each student is receiving adequate ELD services. The District may provide the students' course schedules, to the extent the schedules make clear the provision of ELD services; if necessary the District may provide other reasonable documentation describing the ELD services the student receives.
4. For any students opting out of ELD services during the 2021-2022 school year, by September 30 the School will provide a list of those students; documentation of the decision to opt out; and a description of the efforts the School made to explain to the students and their families the benefits of ELD programming.

**Action Item 2: Evaluating and Providing Services to English Language Learners with Disabilities**

- A. By July 1, 2021, the District will conduct a review of its special education and ELD policies and procedures and modify them as necessary to ensure that the language abilities and needs of EL students with disabilities are considered so that their Section 504 or Individualized Education Program (IEP) teams can determine an appropriate educational placement. Specifically, the District will create policies and procedures that:
  - i. Ensure that current objective assessments of proficiency in English and the primary or home language are available prior to or upon referral of students with a primary or home language other than English (PHLOTE students) for testing, evaluation, or placement in special education or related services. The procedures will ensure that consideration of language proficiency is documented by the IEP or Section 504 Team;
  - ii. Require testing or evaluation for special education services using only the language modalities in which the student is objectively known to be proficient, if feasible, and develop criteria for determining when translation and/or interpretation services will be used in conjunction with a trained diagnostician, or a bilingual diagnostician will be used, to conduct the evaluation of EL students with potential disabilities;

- iii. Provide for testing or evaluation for special education services by staff persons or contractors who are qualified to administer special education tests in the languages required, whenever appropriate;
- iv. Establish objective criteria by which the District will determine which staff members are qualified to administer special education testing and evaluations in any language other than English;
- v. Require that special education placement decisions for EL students based on special education evaluation reports include: an analysis of the effect of linguistic and cultural factors on educational history and learning; whether (and how) diagnostic instruments or procedures were altered for the student; 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; an evaluation of the validity and reliability of test results, considering the effect of differences in criteria related to language proficiency; and cross-validation of formal diagnostic measures with other data available about the student;
- vi. Require that any group of persons making special education evaluation or placement decisions for EL students includes at least one person who is knowledgeable about the EL students' culture and language, discusses and understands the effects of language and culture on the evaluation, and considers the validity and reliability determinations noted in the diagnostic information being considered;
- vii. Require that special education placement decisions be based on a variety of information sources, such as a review of existing records, the results of pre-referral interventions, curricular adaptations, work samples, formal and informal assessments, and observations;
- viii. Ensure that the "consult model" as a methodology is not relied upon to satisfy the requirements of Title VI with respect to the provision of services to ELL students and clarify that EL students with disabilities participate in ELD instruction and special education services or related aids and services, as each may be appropriate for each student, unless it is inappropriate to provide dual services due to the documented nature of the student's disability;
- ix. Ensure that the parents/guardians of EL students have trained interpreters/translators available at IEP and/or 504 meetings, if appropriate, to ensure meaningful communication during meetings, and that translation of essential information (i.e., IEPs or 504 Plans, notice of due process rights) is provided to parents/guardians of EL students.

- x. Ensure that all EL students with disabilities receive appropriate ELD services; and
- xi. Include in all EL students with disabilities' files the District's documentation of placement decisions as determined by the EL student's IEP or Section 504 team.

**Reporting Requirements:**

1. By July 1, 2021, the District will provide OCR with its draft policies and procedures for review and approval. OCR shall provide the District with its approval or disapproval within 30 days from the date the draft policies and procedures are submitted to OCR. The District will consider and respond to any feedback from OCR with respect to the draft policies and procedures until OCR is able to approve them.
2. Within 21 calendar days of OCR's approval of the draft policies and procedures, the District will adopt and implement the policies and procedures and incorporate them into the District's applicable special education documents and the District's *Lau* Plan. The District will provide OCR with documentation showing that the policies and procedures have been implemented, including with live links to the District website, as applicable, and copies of emails to District EL staff announcing the implementation of the revised policies and procedures.
3. The District will train its personnel on the policies and procedures required by Agreement Item 2(A) by September 15, 2021, provided that such policies and procedures have been approved by OCR and adopted by District at least 14 days before the September 15 training date. If such policies and procedures have not yet been approved and adopted, District shall provide training within 30 days of adoption. Within 14 calendar days of the completion of the training, the District will provide OCR with a list of District personnel at the School who participated in the training and confirmation that all who needed the training received it.

**Action Item 3: Professional Learning and Qualifications of Teachers and Other Personnel**

- A. The District will ensure that all EL personnel at the School are qualified to implement the District's language program for the EL students with whom they work, including (if appropriate) the SLIFE Program, and that the School has an adequate number of EL personnel to implement the District's chosen language program for EL students.

- B. The District will ensure that the person responsible for supervising EL teachers and/or administering or coordinating the School’s ELD program is specifically trained and qualified to (a) supervise and evaluate EL teachers and (b) administer the ELD program.
- C. The District will develop a plan for ensuring that all teachers at the School who have EL students on their rosters are adequately trained to instruct EL students. This plan shall include:
  - i. A timetable for ensuring all teachers at the School who provide core content instruction to EL students receive ongoing, appropriate, and effective professional learning on teaching EL students;
  - ii. A description of each known professional learning session that will be offered, including length, topics, and the trainer; and
  - iii. A plan for conducting periodic, and ongoing, surveys of the teachers to assess their preparation in instructing EL students, and any topics for which they need or want additional professional learning.

**Reporting Requirements:**

- 1. By September 1, 2021, the District will submit to OCR a list of its EL personnel at the School for the 2021-2022 school year, including each individual’s certifications, relevant qualifications, the EL classes they are responsible for teaching, and – if they are a supervisor or administrator, their supervision/administration responsibilities.
  - a. If the District identifies any EL personnel who are not certified or otherwise qualified to implement the District’s chosen language program for EL students, the District shall:
    - i. By September 1, 2021, submit a plan for ensuring all its EL personnel are working toward being qualified; and
    - ii. By January 15, 2022, submit an updated list of its EL personnel’s certifications and relevant qualifications.
    - iii. If OCR determines that any of the District’s EL personnel are not certified or otherwise qualified to implement the District’s chosen language program for EL students, the District shall have 30 days from OCR’s notice of these deficiencies to prepare a professional learning plan for ensuring all its EL personnel are qualified within one year of OCR’s determination. Within 375 days of OCR’s notice, the District shall submit an updated list of its EL personnel’s certifications and relevant qualifications.
- 2. By December 1, 2021, the District will:

- i. Submit to OCR a list of all professional learning sessions regarding instructing EL students that were provided to teachers at the School during the 2020-2021 school year, including the number of attendees and topics covered.

**Action Item 4: Reviewing and Adapting its ELD Program for EL Students**

- A. The District will develop concrete and measurable goals for evaluating the effectiveness of its ELD Program for EL students at the School, and it will annually evaluate its program in accordance with these goals. The goals must include enabling EL students to attain both English proficiency and meaningful participation in the standard educational program of their never-EL peers within a reasonable amount of time.
- B. The District will establish a procedure for modifying its ELD program for EL students if the annual evaluation created in compliance with Action Item 4(A) demonstrates the program is not meeting its goals.

**Reporting Requirements:**

1. By July 1, 2021, the District will provide to OCR evidence and documentation of its annual evaluation of the ELD Program at the School for the 2020-2021 school year, based on the assessment conducted during the annual data retreat pursuant to the pre-existing policies and procedures currently in effect in the District, with the understanding that the format, structure, and content of this evaluation will not reflect the forward-looking requirements in Action Item 4.
2. By August 20, 2021, the District will develop for the School its (i) goals, (ii) plan for annually evaluating its progress towards those goals, and (iii) procedure for modifying its program, in compliance with Action Item 4(A) and (B).
3. By September 1, 2022, the District will submit to OCR evidence of its most recent annual evaluation of its progress with respect to the goals created in compliance with Action Item 4(A) and any modifications, or planned modifications, in accordance with the procedure created in Action Item 4(B).

**Action Item 5: Reviewing ELD Programming for Students 1 and 2**

- A. The District will convene the Multilingual Evaluation Teams (MET), or its equivalent, for Student 1 and Student 2 – which team must include an EL teacher trained in teaching SLIFE students – to review their current ELD programming and planned ELD programming for the 2021-2022 school year to ensure that it is appropriate.
- B. During the review described in Action Item 5A, the team will determine whether compensatory ELD services are appropriate for either student if, the team concludes the student did not receive appropriate ELD services during the 2019-2020 or 2020-2021 school years. If compensatory services are determined to be appropriate, the District will

communicate with the students and their parents/guardians to offer the compensatory ELD services.

**Reporting Requirements:**

1. By August 1, 2021, the District will provide OCR (i) meeting notes and (ii) a summary of the reviews conducted for Student 1 and Student 2. The documentation related to the review will include at least: a list of who participated in the review; what was discussed; whether compensatory services were determined to be appropriate; and if so, what the services are. By September 30, 2021, the District will also provide the planned ELD programming for each student for the 2021-2022 school year.
2. By December 1, 2021, the District will submit to OCR documentation showing that compensatory services, if determined to be appropriate, have been provided. If the District offered compensatory services but the students declined the services, please provide the appropriate documentation demonstrating that the District offered the services but the students declined them.

By: \_\_\_\_\_s/ Xavier Botana\_\_\_\_\_

Date: \_\_\_\_\_4/30/21\_\_

Xavier Botana, Superintendent