



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

July 21, 2014

Ms. Lisa Bennett  
123 E. Broad Street  
Richmond, VA 23219

Re: OCR Complaint No. 11-14-1093  
Resolution Letter

Dear Ms. Bennett:

The purpose of this letter is to inform you of the outcome of the complaint that you filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on January 23, 2014, against Richmond City Public Schools (the Division). The complaint was filed on behalf of limited English proficient (LEP) parents and guardians in the Division. Specifically, the complaint alleges that the Division discriminates against LEP parents and guardians on the basis of national origin by failing to ensure that they have meaningful access to information that is provided to parents and guardians in English.

OCR initiated an investigation of this allegation pursuant to its authority to enforce certain federal civil rights statutes and regulations, including Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in activities or programs that receive federal financial assistance. The Title VI regulations also prohibit school divisions from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color, or national origin. See 28 C.F.R. § 42.104(b)(2) and 34 C.F.R. § 100.3(b)(2). Because the Division is a recipient of federal financial assistance and is a public entity, it is subject to the provisions of Title VI.

On May 25, 1970, pursuant to its authority under Title VI, the Department of Education issued a memorandum entitled "Identification of Discrimination and Denial of Services on the Basis of National Origin" (35 Fed. Reg. 11,595). The memorandum clarified OCR policy under Title VI on issues concerning the responsibility of school agencies to provide equal educational opportunity to limited English proficient national origin minority students. The May 25th memorandum states that school divisions must adequately notify national origin minority group parents of information that is called to the attention of other parents, and that such notice may have to be provided in a language other than English in order to be adequate.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness  
by fostering educational excellence and ensuring equal access.*

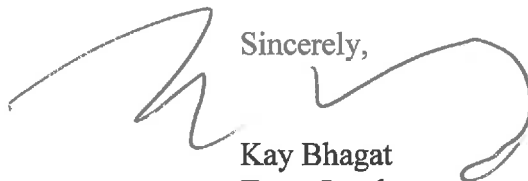
On March 8, 2014, pursuant to its authority under Title VI, the Department issued a “Dear Colleague Letter” explaining that school divisions may not bar students from enrolling in school because they lack a birth certificate or have records that indicate a foreign place of birth, such as a foreign birth certificate. The letter also clarifies that while the Department -requires school divisions to collect and report information including the race and ethnicity of their student population, school divisions cannot use this acquired data to discriminate against students. Additionally, the letter states that while many school divisions request a student’s social security number at enrollment for use as a student identification number, schools divisions may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number (See 5 U.S.C. §552a), and that if school divisions choose to request social security numbers, they shall provide the statutory or other basis upon which they are seeking the number, inform individuals that the disclosure is voluntary, and explain what uses will be made of the data.

During the course of OCR’s investigation, the Division expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR’s Case Processing Manual, OCR discussed resolution options with the Division. On July 21, 2014, the Division signed the enclosed agreement to resolve the complaint. The provisions of the agreement are aligned with the issues raised in the complaint, with information obtained during the course of OCR’s investigation, and are consistent with the applicable regulations. OCR will monitor implementation of the agreement.

Please be advised that the Division may not retaliate against an individual who asserts a right under a law enforced by OCR or who files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR. Also, under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law. This letter sets forth OCR’s determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR’s formal policy statements are approved by a duly authorized OCR official and made available to the public. You may have the right to file a private suit in federal court whether or not OCR finds a violation.

We appreciate your cooperation and patience during the resolution of this complaint. If you have any questions, feel free to contact Sebastian Amar at (202) 453-6023 or [Sebastian.Amar@ed.gov](mailto:Sebastian.Amar@ed.gov) and Guy Johnson at (202) 453-6567 or at [Guy.Johnson@ed.gov](mailto:Guy.Johnson@ed.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Kay Bhagat', written over a white background.

Kay Bhagat  
Team Leader

Enclosure

**Voluntary Resolution Agreement  
Richmond Public Schools  
OCR Complaint No. 11-14-1093**

Richmond Public Schools (the Division) agrees to fully implement this voluntary resolution agreement (Voluntary Agreement) to resolve Office for Civil Rights (OCR) Complaint No. 11-14-1093.

**I. STUDENT REGISTRATION PROCEDURES**

A. By **August 31, 2014**, the Division will review all its publications related to registration and enrollment to make sure they do not have a chilling effect on the willingness of parents/guardians to enroll their children. The Division will specifically ensure that:

1. Any request for a student's, parent's, or guardian's social security number clearly states that the disclosure is voluntary, provides the statutory or other basis upon which the Division is seeking the number, explains what uses will be made of it, and explains that a child cannot be denied enrollment for failure to provide a social security number; and
2. Registration and enrollment forms shall not solicit or include any information regarding a student's, parent's, or guardian's immigration, migrant, refugee, or citizenship status, including the date of entry into the United States.

**Reporting Requirement:** By **August 31, 2014**, the Division will provide OCR a copy of all revised registration forms, documents, and publications related to student registration and enrollment for OCR's review and approval. The Division will provide written translations to national-origin minority limited English proficiency (LEP) parents/guardians of the approved registration/enrollment forms that are provided to other parents.

**II. COMMUNICATION WITH LIMITED ENGLISH PROFICIENT PARENTS/GUARDIANS**

A. The Division acknowledges that, under Title VI, it has an obligation to "adequately notify" national origin-minority group parents of school programs and activities that are called to the attention of other parents. The Division further acknowledges that, under Title VI, it has the responsibility to ensure "meaningful access" to its programs and activities by persons with limited English proficiency. The Division understands that the terms "adequately notify" and "meaningful access" mean that a parent who is considered to be LEP -- based on his or her ability to read, speak, write, or understand spoken English -- is not to be excluded from, or denied the benefits of, the Division's programs and activities. Based on the foregoing, the Division agrees to take the following actions:

1. By **November 21, 2014**, the Division will review all instances where a Limited English Proficient ("LEP") parent/guardian was provided notice of his/her student's disciplinary hearing and appeal rights during the 2012-2013 and 2013-2014 school years. For each instance, the Division will determine whether notice was provided in the LEP parent/guardian's primary home language. For each LEP parent/guardian who was not provided with notice in his/her home language, the Division will assess whether the student or parent/guardian was harmed (e.g., whether the parent/guardian meaningfully participated in the hearing and the appeal with appropriate language assistance, the student did not receive any discipline as a result of the hearing officer level (i.e., sent back to school), or, in hearings to determine whether to expel a student, the hearing did not result in an expulsion, etc.). For all LEP parents/guardians or students who were harmed by the failure to receive notice, the Division will provide notice in the parent/guardian's home language and provide

the parent/guardian an opportunity to request a new disciplinary hearing, including appropriate language assistance. If a parent/guardian opts for new disciplinary hearing, it is agreed that the only relevant and admissible mitigating circumstances presented at the new hearing will be those that were in existence at the time the original hearing should have been held or was held without appropriate language assistance.

2. By **January 30, 2015**, the Division will develop a written plan to provide language assistance to LEP parents/guardians (LEP parents) which ensures that they have meaningful access to the Division's programs and activities. The written plan will include the following:
  - a. A process for notifying LEP parents, in a language that the parents will understand, of the availability of free translation and interpretation services with respect to school programs and activities (e.g., parent-teacher conferences, meetings with the school principal, special education meetings, etc.). The notice will, at a minimum, be published on the Division's website, in student and parent handbooks, and in any Division-wide or school-based newsletters.
  - b. A process for identifying LEP parents who may need language assistance, including, at a minimum:
    - Ensuring that communications with LEP parents, whether oral or in writing, should be in a language the parent can understand
    - 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
    - Taking into account that LEP students, whom the Division has an obligation to identify, also may have LEP parents, and acknowledging that English speaking students may also have LEP parents.
  - c. A statement that a parent does not have to be of limited English proficiency in speaking, reading, writing, *and* comprehending English in order to be considered LEP but, rather, that it is only necessary that a parent be limited in at least one of these areas in order to be eligible to receive language assistance as needed.
  - d. A statement that, generally, the Division will accept a parent's assertion that he or she needs language assistance without requiring additional corroboration.
  - e. A process that ensures that each school building 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). The process will ensure that the list is available to all staff in the building that may interact with LEP parents, as well as to the central administration. Staff for purposes of this Agreement will include all relevant administrators, teachers, counselors, and support staff.

- f. A process that ensures that the central administration maintains a Division -wide list of LEP parents identified by each building 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 the central office by date, type of service, and service provider.
- g. A process to ensure that, when the children of LEP parents transfer from one building to another within the Division, information regarding the language assistance needs of the parents is transferred to the building to which their children transfer.
- h. A process by which Division 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 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), and the means by which they may timely obtain such assistance for the parent.
- i. A process by which Division staff may obtain in a timely manner appropriate, qualified translators or interpreters as needed. An interpreter or translator will be considered "qualified" if his/her interpreter/translator skills are supported by an objective measure of proficiency in the language domain he or she is interpreting/translating (e.g., reading, writing, speaking) or through professional interpreter/translator certification.
- j. A process by which the Division ensures 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.
- k. A process to ensure that interpreters have knowledge, in English and the parents' native language, of any specialized terms or concepts peculiar to the Division program or activity for which they are providing services, including, but not limited to interpreters of IEP meetings having knowledge of special education (SPED) terminology.
- l. A process to ensure that translators understand the expected reading level of the audience and, 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 relevant community organizations, who are engaged by the Division to provide qualified translation or interpretation services, to help determine whether a document is written at an appropriate level for the intended audience.
- m. A process for notifying relevant Division 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 Division staff that they should not rely on such individuals 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 Division 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 if, 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.

- n. A process for identifying and translating 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 Division's program or activities. In determining which written documents are vital the Division 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. Typical vital written documents include:

- Public notification materials (e.g., Division fact sheets, informational flyers, school brochures, pamphlets)
- Field trip permission slips
- Privacy policies
- Health services registration forms
- Class schedules
- School bus schedules and other school schedule information
- Notice of procedural safeguards in the context of providing children with disabilities with a free appropriate public education (FAPE) under Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Individuals with Disabilities Education Act (IDEA);
- Documentation related to eligibility and placement decisions under Section 504 and IDEA;
- Notices of disciplinary hearings;
- Disciplinary procedures;
- Registration/enrollment forms, emergency notification forms and other forms most commonly used by the Division to communicate with parents;
- Report cards and student progress reports;
- Notices of parent-teacher conferences or meetings;
- Parent handbooks and fact sheets;
- Documentation regarding the availability of academic options and planning, including gifted and talented programs, alternative language programs, and counseling and guidance services; and
- Screening procedures that request information from parents about the child's language background and the parents' preferred language for communication with the school.

**Reporting Requirement:** By December 31, 2014, pursuant to the requirements of Action Step 1, above, the Division will provide OCR with: (1) documentation that it has conducted its review of the disciplinary actions, including whether LEP parents/guardians were provided notice of disciplinary hearings and appeals and if not, whether the LEP parents/guardians or students were harmed, for OCR's review and approval and; (2) if any parents/guardians requested a new hearing, documentation showing the hearing has been held and/or scheduled, including a copy of the notice provided to each parent and the date of the hearing and documentation of the language assistance provided at the hearing.

**Reporting Requirement:** By February 28, 2015, the Division will submit to OCR, for review and approval, a copy of the language assistance plan it has developed pursuant to the requirements of Action Step 2, above.

3. Within fifteen (15) school days of receipt of the OCR's review and approval of the language assistance plan, the Division will adopt and implement the plan.

**Reporting Requirement:** Within six (6) months of approval from OCR and adoption, the Division will submit to OCR documentation demonstrating adoption and implementation of the language assistance plan developed pursuant to Action Step 2, above, and approved by OCR, including, but not limited to:

- a. the notification issued pursuant to Action Step 2(a);
  - b. information that the Division has maintained at the central office, pursuant to Action Step 2(f); a list of LEP parents (including name and buildings in which their children are enrolled), their language background, types of services that they require, and information as to any services provided to the parents by the central administration (including date of services, type of services, and name and qualifications of service provider); and
  - c. the annual notice issued to staff; and copies of the documents the Division has translated, including samples of individualized documents, including disciplinary referrals provided to LEP parents and Section 504/IEP documents, including meeting notes, provided to LEP parents.
4. By January 30, 2015, the Division will develop a written plan for the annual evaluation of the effectiveness of its language assistance plan, developed pursuant to Action Step 2, above. The written evaluation plan will include the following:
    - a. Identification of staff responsible for evaluating the language assistance plan on an annual basis.
    - b. Identification of the date by which the evaluation will be completed on an annual basis.
    - c. 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: identification of the current LEP parent groups encountered by the Division; the frequency of encounters with LEP parents; the nature and importance of activities to

LEP parents; the availability of resources, including technological advances and sources of additional resources, and the costs imposed; whether existing assistance is meeting the needs of LEP parents; whether staff knows and understands the language assistance plan and how to implement it; and whether identified sources for language assistance are timely available and viable.

- d. A process for determining whether new documents, programs, services and activities need to be made accessible for LEP parents, and whether the Division needs to provide notice of any changes in services to LEP parents and to Division staff.
- e. A procedure for tracking and reviewing parent/guardian requests for interpreters/translators. At a minimum, the procedure will include a system for staff to access a list of qualified translators/interpreters; a specific protocol for school staff to make requests for translators/interpreters; a system for recording and tracking the number, type, and location (i.e., home school or Division office) of each request and the response time and confirmation of the completed request. Staff will periodically review the requests to identify the need for additional interpreters/translators and/or additional training on how to request and obtain interpreters/translators.

**Reporting Requirement:** By February 28, 2015, the Division will submit to OCR, for review and approval, a copy of the plan it has developed pursuant to the requirements of Action Step 4, above.

5. Within fifteen (15) school days of receipt of the OCR-approved evaluation plan, the Division will adopt and implement the plan.

**Reporting Requirement:** By July 31, 2015, the Division will submit to OCR documentation demonstrating the results of its evaluation of the Division's implementation of its language assistance plan during the 2014-2015 school year, consistent with the evaluation plan approved by OCR, including documentation of any changes resulting from the evaluation.

The Division understands that OCR will not close the monitoring of this agreement until OCR determines that the Division has fulfilled the terms of this agreement and is in compliance with the regulation implementing the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d and its implementing regulation, at 34 C.F.R. Part 100, which was at issue in this case. The Division 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 Division understands that during the monitoring of this agreement, if necessary, OCR may visit the Division, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Division has fulfilled the terms of this agreement and is in compliance with the regulation implementing the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d and its implementing regulation, at 34 C.F.R. Part 100, which was at issue in this case.

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



By: Dana J. DeStefano 7/21/14  
Superintendent Date  
Richmond Public Schools