

**Settlement Agreement  
Between the  
United States  
and  
Union Public Schools**

## **PURPOSE**

Union Public Schools (the District) agrees to the terms of this Settlement Agreement (Agreement) and to comply fully with its provisions to address and resolve the asserted noncompliance issues raised by the United States Department of Justice (United States) regarding the District's legal obligations under the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1701 et seq. (EEOA).

The District has chosen to educate its English Learner students (ELs) through two programs described in its "District English Learner Plan": a Structured English Immersion program on the elementary level and a Sheltered English Instruction program at the secondary level. In the elementary program, the District relies on teachers certified in English as a Second Language (ESL) who provide some direct instruction to ELs and coach some general education teachers on how to teach ELs. The secondary program provides ESL through newcomer and Academic Language Acquisition (ALA) classes to help ELs achieve proficiency in English and sheltered content classes to help ELs access their grade-level core curricula.

After conducting a thorough review of the District's EL programs, the United States notified the District of the conditions that, in its judgment, violate Section 1703(f) of the EEOA. Specifically, the United States identified that the District: (a) failed to show that its "Mainstream with Consultation" model was educationally sound; (b) did not provide adequate ESL services to hundreds of elementary and secondary ELs; (c) lacked enough ESL-certified teachers; (d) did not adequately train elementary and secondary teachers of ELs on how to implement the EL programs; (e) failed to provide hundreds of secondary ELs with sheltered instruction; (f) segregated some secondary ELs for an unreasonable amount of time; (g) lacked a curriculum for its newcomer and ALA classes; (h) lacked sufficient materials to implement its EL programs; (i) did not ensure meaningful communication with some limited English proficient (LEP) parents; (j) did not adequately train its school administrators to implement its EL programs; (k) did not adequately evaluate its EL programs; and (l) did not ensure the timely identification of ELs with disabilities.

The parties undertake this Agreement as a means of alternative dispute resolution to avoid litigation and for the purposes of judicial and governmental economy. The District agrees to implement the remedial measures enumerated in this Agreement but admits to no violations of the EEOA by entering into this Agreement. To the extent the District has already started undertaking measures to rectify some of the issues raised by the United States, this Agreement memorializes

those remedial measures. This Agreement will be in effect from the date of signature by the United States, and will remain in effect for three full school years following that date subject to the terms of Paragraphs 38 and 40 below.

The District representative, by signing this document, gives assurances that he has the authority to bind the District, including successor administrators and members of the Union Public Schools Board of Education, in their official capacities only, for the Agreement's duration.

### **DEFINITIONS**

- **English Learners or ELs** are students who require assistance to overcome language barriers that impede their equal participation in the District's instructional programs.
- **EL Curriculum Specialist** refers to the District-level employee responsible for overseeing implementation of the District's EL Plan and monitoring the District's compliance with this Agreement and Section 1703(f) of the EEOA.
- **EL Lead** is the District's designation for the teacher at each elementary school who is responsible for coordinating EL program services for students.
- **EL Plan** is the "District English Learner Plan" which describes the District's chosen programs for ELs.
- **EL Services** consist of English as a Second Language instruction (defined below) and instructional services that provide ELs meaningful access to the core curricula through Structured English Immersion (defined below) in elementary schools and Sheltered English Instruction (defined below) in secondary schools.
- **English Language Proficiency** refers to a student's ability to read, write, speak, and understand the English language as determined by the student's scores on a valid and reliable English language proficiency assessment of each of the four language domains of speaking, listening, reading, and writing.
- **English as a Second Language or ESL** is direct, explicit instruction about the English language that provides a systematic and developmentally appropriate approach to teaching language. Oklahoma has adopted the World-Class Instructional Design and Assessment (WIDA) English Language Development Standards. ESL instruction addresses these standards and is taught by an ESL-certified teacher through (1) supplemental push-in or pullout English acquisition services within the structured English immersion program at the elementary level and (2) newcomer and ALA classes at the secondary level.
- **ESL-Certified Teacher** refers to teachers who have earned the add-on certification recognized by the Oklahoma State Department of Education for teachers of ESL.
- **Former EL** refers to a student who was formerly an EL but subsequently met valid and reliable criteria for exiting the EL program, including demonstrating proficiency on a valid and reliable assessment of English language proficiency in all four language domains (reading, writing, speaking, and listening).

- **English Learner Academic Plan or ELAP** is a state-generated document completed by school-level officials that describes the instructional modifications, strategies, and accommodations an EL will receive. The District maintains a copy of the ELAP in the student's file and it is updated at least annually.
- **Sheltered English Instruction** refers to the District's method for teaching secondary ELs grade-level core content (i.e., English/Language Arts, math, science, and social studies) in English by integrating English language and literacy development into content area instruction. Effective sheltered English instruction makes core content classes more comprehensible and accessible to ELs while promoting their English language development, through the use of teaching strategies such as scaffolding, differentiating instruction for ELs, grouping ELs by English language proficiency level, using adapted materials, texts, and visual displays, cooperative learning and group work, offering primary language support, and providing clarification.
- **Structured English Immersion** refers to the District's method for teaching elementary ELs by providing all grade-level core content (i.e., English/Language Arts, math, science, and social studies) in English with their native-English-speaking peers and providing supplemental push-in or pull-out ESL services to promote English language development.
- **Teachers of Core Content Classes for ELs** refers to all elementary core content teachers of ELs who do not have an ESL certification and all secondary teachers of sheltered core content classes who do not have an ESL certification. *See* Paragraphs 14 through 16 below.

### **GENERAL REQUIREMENTS**

1. The District will take appropriate action to overcome language barriers that impede equal participation by ELs in its instructional programs. *See* 20 U.S.C. § 1703(f).

### **SPECIFIC REQUIREMENTS**

#### **IDENTIFICATION OF EL STUDENTS**

2. The District will request that all parents complete the home language survey identified in Exhibit A during the student registration process. To ensure that ELs are properly identified, the District will administer a valid and reliable grade-appropriate English language proficiency assessment in all four language domains to all students in grades K-12 whose home language survey indicates that a language other than English is spoken at home or by the student, or if there is any other reason to believe that the student is not proficient in English, except that the District may assess incoming kindergarteners' English language proficiency only in listening and speaking in the fall semester. Consistent with WIDA guidelines, students participating in the child development program will be assessed no earlier than six months prior to the start of their kindergarten year.

3. The District will administer English language proficiency assessments and place ELs in an appropriate EL program within the first 20 school days of the school year, and if the student enrolls thereafter, within ten school days from the date of the student's enrollment. In the event that a student withdraws from the District for at least a semester to attend school elsewhere and then re-enrolls in the District without a current English language proficiency score, the District may re-administer the initial English language proficiency assessment for placement purposes.

### **PROVISION OF EL SERVICES**

4. The District provides EL services through a Structured English Immersion program on the elementary level and a Sheltered English Instruction program at the secondary level. The District will provide EL services to all students who do not demonstrate proficiency in English on the English language proficiency assessment, unless the student's parent makes an informed decision, in writing, to waive<sup>1</sup> EL services. The District will monitor the academic progress of each waiver EL at the end of each semester to assess his/her ability to participate meaningfully in the regular education program without EL services. When a waiver EL is not progressing as expected, the District will inform the student's parents in a language they understand and recommend EL services.
5. As part of the District's Sheltered English Instruction program, all non-waiver secondary ELs will receive a daily period of ESL through an ALA class. As part of the District's Structured English Immersion program, each day, all non-waiver elementary ELs will receive the equivalent of at least a daily period of ESL.<sup>2</sup> At the elementary level, the District will use ELs' current domain-specific English language proficiency levels and English Language Development goals on their ELAPs to inform ESL instruction and will document, at least once per semester, on the ELAP when those goals are achieved and replaced with new goals. The District shall ensure that ESL instruction for all non-waiver ELs is explicit and addresses the WIDA ELD standards across the four language domains. The District may provide ESL instruction in a pull-out or push-in setting. The District may group ELs for ESL instruction by

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<sup>1</sup> "Waiver" students do not receive direct ESL services; however, they remain entitled to all appropriate accommodations on classroom and standardized assessments and may not opt out of the annual English language proficiency assessment.

<sup>2</sup> A "period" equals the time allocated for core content subjects.

(a) their English language proficiency level within a single grade or vertically across two consecutive grades or (b) two comparable, consecutive English language proficiency levels within a single grade.

6. By the start of the 2018-2019 school year, the District will prioritize placing the least proficient ELs and ELs with limited or interrupted formal education with ESL-certified classroom teachers or teachers of core content classes of ELs who have received the most training in instructing ELs required by Paragraphs 14 and 15.
7. As part of the District's Structured English Immersion program and to ensure meaningful access to the regular curriculum, all elementary ELs will receive core content classes where instruction is primarily in English and classroom teachers have an ESL certification, have been trained to use effective strategies for teaching ELs as set forth in Paragraph 14 of this Agreement, or are on track to complete such training per Paragraph 15. To further support ELs with the greatest language needs, the District will prioritize the assignment of elementary ELs at Levels 1 and 2 and ELs with limited or interrupted formal education to ESL-certified classroom teachers or teachers of core content classes of ELs who have received the most training in instructing ELs required by Paragraphs 14 and 15 below.
8. As part of the District's Sheltered English Instruction program, the District will provide each EL at Levels 2.0 through 3.0 with two to four sheltered core content classes (which may be integrated with non-ELs), depending on the student's need, and ELs at Levels 3.1 to 4.7 with at least one sheltered core content class (which may be integrated with non-ELs) in the subject where the EL most needs language support. To ensure meaningful access to the regular curriculum, the District will review the English language proficiency of all secondary students currently designated as "Mainstream with Consultation." For each of these students who does not meet valid and reliable exit criteria, including demonstrating proficiency on a valid and reliable assessment of English language proficiency, the District will enroll the student in an ALA class, based on their English language proficiency level, and one or more sheltered content classes consistent with this paragraph and the EL Plan. All sheltered content classes will be taught by teachers who have an ESL certification, have completed the training set forth in Paragraph 14 of this Agreement, or are on track to complete such training per Paragraph 15.
9. So that teachers know which students need language assistance, all current and former ELs will have their English language proficiency level and status (e.g., active, waiver, or in

monitoring) noted on all electronic databases and electronic class rosters and their EL services and accommodations recorded in their ELAP. The District agrees to monitor class rosters and ELAPs at least once each semester to ensure that all ELs receive the EL services described in this Agreement. If the District learns that a non-waiver EL is not receiving EL services consistent with this Agreement, the District will take reasonable steps to ensure that the EL receives appropriate EL services within ten school days, consistent with the timeline in the EL Plan.

#### **STAFFING AND PROFESSIONAL DEVELOPMENT**

10. The District will actively recruit ESL-certified individuals for relevant teaching and administrative positions. Within 90 calendar days of the effective date of this Agreement, the District will provide a plan for recruitment of such staff to the United States for review and approval. The District's notices regarding vacancies will express a preference for candidates with an ESL certification. District employees responsible for the recruitment and hiring of teachers for the EL programs will meet annually to discuss ways to improve the recruitment, hiring, and assignment of applicants who are certified in ESL.
11. By the beginning of the 2018-19 school year, the District will actively attempt to employ a sufficient number of ESL-certified teachers to provide the ESL components of its EL programs consistent with this Agreement. Thereafter, the District will make necessary adjustments to the assignments of ESL-certified teachers based on changes to the numbers of ELs at its schools.
12. By the beginning of the 2019-2020 school year, the District will ensure that the ESL components of its EL programs are taught by ESL-certified teachers, and that teachers of Structured English Immersion and Sheltered English Instruction courses are adequately trained to provide those services to ELs. All Structured English Immersion and sheltered content classes will be provided by one of the following: a teacher dually certified in ESL and the content area; or a content-certified teacher who has completed the training outlined in Paragraph 14 or who is "on track" to complete the training per Paragraph 15.
13. Within 90 calendar days of the effective date of this Agreement, and at least annually thereafter, the District agrees to advertise to all of its current teachers any incentives it determines it can offer to encourage core content teachers to obtain an ESL certification. These incentives may include, but are not limited to, reimbursement of up to 1/3 of the tuition expense

for an advanced language-acquisition degree (prior approval required), reimbursement of certification costs for those teachers who pass the ESL-certification exam, and professional development sessions to assist those teachers who are preparing to take an ESL-certification exam. By August 31, 2018, the District will provide to the United States evidence that it has disseminated this information to all current teachers.

14. Within 90 calendar days of the effective date of this Agreement, the District will develop and provide to the United States for review and approval a professional development plan that, over the course of this Agreement, will provide all teachers of core content classes of ELs, and reading and special education teachers of ELs with adequate training on effective strategies for teaching ELs and promoting their English language development in all four language domains. The professional development plan will provide each teacher of core content classes for ELs, annually, with at least twelve hours of professional development on effective EL teaching strategies<sup>3</sup> that may include up to four hours of online training and will include district-led and/or school-led professional development, contracted professional development led by a qualified consultant, and between five and ten hours of on-site application of those strategies (e.g., coaching) as set forth in Paragraph 16. This professional development will give teachers practical instructional strategies appropriate for planning, delivering, and adapting content for ELs within the context of standards-based lesson planning, instruction, and assessment and sufficient opportunities for modeling, practicing, and receiving feedback regarding such strategies.
15. By June 30, 2019, June 30, 2020, and June 30, 2021, the District will require all teachers of core content classes for ELs, and reading and special education teachers of ELs to have completed the training outlined in Paragraph 14.
16. To secure enough teachers who can implement its Structured English Immersion and Sheltered English Instruction classes, the District will require all core content teachers who are new to the District and not ESL-certified to become ESL-certified or to complete the training required by Paragraphs 14 and 15. In addition, the District will continue to expand its instructional coaching model. By the beginning of the 2018-19 school year, the District will designate for each school at least one ESL-certified teacher to serve as an instructional coach who will have

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<sup>3</sup> These training requirements reflect the unique circumstances of the District, and teachers who received District training or District coaching on effective, research-based EL instructional strategies within the last three years may credit these hours of training and/or coaching toward these training requirements.



completed 15 hours of training on instructional coaching and supervise any other on-site application required by Paragraph 14 for teachers at that school. Beginning with the 2018-19 school year, and annually thereafter, each teacher of core content classes for ELs will receive at least five hours of on-site application (e.g., coaching) that includes: training on effective strategies for teaching ELs, including those taught in the training that these teachers receive each year under Paragraphs 14 and 15; opportunities to observe the coach use these strategies; opportunities to implement the strategies under the coach's supervision; support in developing and implementing lessons that promote English language development in the four language domains that is targeted to the ELs' English language proficiency levels; and constructive feedback on whether the teacher is using the strategies appropriately, and if the teacher is not, additional modeling and coaching.

17. The District will provide principals, and any other administrators who evaluate teachers of ELs, with annual training regarding their responsibilities under this Agreement, in addition to training on how to identify EL teaching strategies and provide constructive feedback during classroom walkthroughs. The District will provide its proposed administrator training for the United States' review and comment within 90 calendar days of execution of this Settlement Agreement.
18. The District will ensure, to the extent practicable, that EL leads and other teachers of ESL are not pulled out of their ESL services to administer English language proficiency assessments.

#### **CURRICULUM AND RESOURCE ALLOCATION**

19. The District will provide adequate resources, instructional materials,<sup>4</sup> and dedicated classroom/office space at all schools to implement its EL programs. This will include providing ELs with access to ESL and core content materials appropriate to their age and English language proficiency levels. Within 90 calendar days of this Agreement, the District will complete an inventory of its existing materials and a review of its policies for selecting textbooks and other instructional materials. The District also will consider EL needs in its annual textbook review process and all curriculum working groups.
20. The District agrees that ESL is a core class for ELs that warrants a curriculum similar to that of other core courses. To that end, the District will develop or adopt a curriculum for its

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<sup>4</sup> Materials shall include age- and grade-appropriate ESL materials, core content materials that include an EL component or supplement, and native language materials.

newcomer and ALA classes over the course of this Agreement. The District will incorporate training on the new curricula and materials into ESL teacher professional development days.

21. ALA and sheltered English instruction teachers who are assigned to the same group of ELs will have common planning time at least twice per month to ensure that ALA classes reinforce the vocabulary and language expectations in the ELs' core class instruction (e.g., how to write a persuasive essay, draft a lab report, or conduct historical research).
22. In an effort to avoid unreasonable segregation in the secondary EL program, the District will evaluate its EL Plan and determine whether the English language proficiency range assigned to each class in its secondary EL program is appropriate. Within 90 calendar days of the effective date of this Agreement, the District will provide its evaluation and a proposed policy for scheduling ELs in secondary classes to the United States for review and approval. The policy will include, at a minimum, the District's proposed EL classes and practice of assessing each EL's academic and language development progress for appropriate mid-year assignment changes to increase EL's access to the regular, integrated classes, and allowing hybrid schedules that include some EL-only sheltered classes and some regular, integrated classes with non-EL peers. The United States will review and provide any feedback on this policy within 60 days. Once the United States approves the District's policy, the District will disseminate it within 30 days to all individuals responsible for scheduling secondary ELs.

#### **PROGRAM MONITORING AND EVALUATION**

23. The District will monitor the EL services and English language proficiency progress of current ELs and the academic performance of current and former ELs through its electronic student information system(s). To facilitate its monitoring of current and former ELs and consistent with current practice, the District will maintain the following in hard copy and electronically in each student's permanent educational record: home language survey, ELAP, and initial and annual English language proficiency assessment scores in all domains.
24. The District will monitor former ELs (once each semester) for at least two years by reviewing their standardized test scores and progress reports for grades, attendance, preparation, and behavior to determine if the student needs any academic support services (e.g., tutoring) or needs to be retested for possible reentry into the District's EL programs. If a former EL fails to make academic progress and a school-based team familiar with the student determines that

this failure is due to a lack of English proficiency, the District will notify the student's parents and offer EL services.

25. The District will monitor all schools for compliance with this Agreement. To that end, the District will ensure its existing school-level audit procedures evaluate the quality and effectiveness of the EL programs, based on students' EL services, students' English language proficiency and academic performance, teacher evaluations, and staffing and resources allocations. The District will provide the EL Curriculum Specialist and school administrators sufficient time to perform their monitoring duties and to confer with other employees, including the EL leads and EL students' core content teachers, concerning the academic progress of current and former ELs, and to update ELAPs as necessary.
26. The District will evaluate the effectiveness of its EL program district-wide to determine whether it is overcoming language barriers within a reasonable period of time and enabling students to participate meaningfully and equally in its educational programs. To that end, the District agrees to conduct a four-year longitudinal cohort analysis of its EL programs at the elementary, middle, and high school levels by disaggregating and monitoring the following data by current, former, and never ELs: standardized test scores, English language proficiency assessment scores, exit rates, dropout rates, graduation rates, retention-in-grade rates, and enrollment in special education and enrichment programs (e.g., gifted, honors, and Advanced Placement classes). In conducting the analysis, the District will track a cohort of ELs who were enrolled in kindergarten, third grade, sixth grade, and ninth grade in SY 2017-18 (the baseline year) and who remain enrolled in the District over the term of this Agreement. The District will use the results of its longitudinal study to inform EL program decisions and ensure its EL services are effective.

### **COMMUNICATIONS**

27. To identify limited English proficient parents who need language assistance, the District will continue to ask parents to indicate on the home language survey whether they need school- and district-level communications in a language other than English through interpreters and/or translations. The District will make this information readily accessible to administrators and teachers through the electronic student information system. The District will train its employees to review this information before scheduling meetings with parents and sending out

notices to parents, and explain how to obtain qualified interpreters and translations of essential information into languages other than English.

28. The District agrees to provide limited English proficient parents access to the school-related information provided to other parents as follows:
- A. For Spanish, the District will provide written translations of notices or documents containing essential information.<sup>5</sup> The District will provide timely written translation or oral interpretation as set forth below in Paragraph B, of documents to other language groups, upon request or if the need for such interpretation becomes apparent from the District or a school's interactions with the parent.<sup>6</sup>
  - B. Oral interpretation of essential information will be provided in a language the parent understands by means of an interpreter without undue delay. The District will provide oral interpretation of non-essential school-related information upon receiving a reasonable, specific request for such information from a limited English proficient parent.
29. All District or school-provided interpreters, whether paid District employees, contractors, or volunteers, will be: bilingual and demonstrably qualified and competent to interpret; trained in providing the interpretation they are asked to provide or sufficiently knowledgeable in both languages of any specialized terminology needed to provide the requested interpretation accurately; and trained in the ethics of interpretation (e.g., the need for accuracy and confidentiality in interpretation). Except in an emergency, the District will not use students, family, or friends of limited English proficient parents for interpretation of District- or school-generated documents or for any other translation or interpreter services. If there is an emergency and no District interpreter is available, the District will follow up with the parent

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<sup>5</sup> "Essential information" includes, but is not limited to: (a) report cards and other academic progress reports; (b) documents concerning academic options and planning; (c) documents concerning enrollment or registration; (d) documents concerning screening procedures requesting a student's language background, a parent's preferred language of communication, and the process for refusing all or only specific EL services; (e) requests for parent permission for student participation in District/school-sponsored programs and activities; (f) promotional materials and announcements distributed to students that contain information about school and District activities for which notice is needed to participate in such activities (e.g., testing, co-curriculars activities requiring an application, parent-teacher conferences, open houses); (g) special education documents; (h) information about student discipline; (i) parent handbooks; (j) information related to public health and safety; and (k) any other written information describing the rights and responsibilities of parents or students and the benefits and services available to parents and students.

<sup>6</sup> The District will translate essential information on its website into Spanish. Further, it will post documents containing essential information that have previously been translated into other languages if such documents are posted on the website in English.

in a timely manner to communicate, through a qualified interpreter, the information that the family or friends orally interpreted. If instructional staff are asked to provide translation or interpreter services, the District will ensure that such duties do not interfere with the staff member's instructional and monitoring duties with respect to ELs and former ELs.

30. To ensure that all schools have access to already translated information, the District will provide central office and school-based employees with electronic access to an accurate and current inventory of translated District-level and school-specific documents, as well as instructions for requesting translations of additional documents. The District will continue to expand the inventory to include translations of all district-level and school-level essential information in Spanish. To assist all schools in communicating with limited English proficient parents, and consistent with current practice, the District will provide principals with a list of the names, languages, and contact information for all District employees, contractors, and others who provide translation and interpretation services. Policies and procedures regarding access to translation and interpretation services will be included in the District's annual training for administrators and teachers.

#### **EL ACCESS TO SPECIAL SERVICES**

31. All provisions of this Agreement apply equally to ELs with disabilities. No EL with a disability will be denied EL services solely due to the nature or severity of the student's disability; nor will that student be denied special education services due to his/her EL status.<sup>7</sup> The District will notify parents of ELs with disabilities in writing in a language the parents understand that their child is entitled to both EL services and special education services.
32. By November 1, 2018, the District will assess its U-BEST process and review all ELs in Tiers 2 and 3 of the U-BEST process to determine whether the duration of time each EL spent and the progress the student made in each tier prior to being assessed for a disability was appropriate. This assessment will identify all aspects of the process that contribute to delays in evaluating and identifying ELs with disabilities, and propose revisions to such aspects. This review will include a consultation with the core content teachers for each EL in tiers 2 and 3 who has not been identified as having a disability to determine whether the teachers believe

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<sup>7</sup> Under no circumstances shall the District deny EL services entirely, unless, in rare cases, the student's IEP team determines and documents in a student's IEP that the student's disability is so severe that it would be unreasonable to expect that the student will ever be capable of using or understanding language.

the student should be evaluated for a disability. If the teachers do, the District will consider this teacher input in deciding whether to move the student from Tier 2 to Tier 3 or to seek consent to evaluate the EL from the student's parents in a language they understand.

33. To provide ELs with equal opportunities to participate in its advanced and gifted programs, the District will ensure that a student's EL status and the duration of time the student receives EL services is not a barrier to enrollment in its advanced, accelerated, or gifted courses or services. The District will provide written notice to all teachers and notify all LEP parents in a language they understand how ELs may be referred for gifted services.

### **REPORTING**

34. The District will provide to the United States annual reports in native electronic format detailing its efforts to comply with the provisions of this Agreement. An initial report will be provided by November 1, 2018, and annually thereafter on November 1 during the period covered by this Agreement, which will contain the information in sections A and B below for the school year in which the report is made. The District will provide an initial report on July 1, 2019, and annually thereafter on July 1 during the period covered by this Agreement, which will contain the information in sections C, D and F below for the prior school year, unless a different reporting date is specified for a particular provision.<sup>8</sup> Information in section E, for the prior school year, will be provided by November 1 of each reporting period. If any of the information required for the annual reports in a particular school year is available in a document that the District already has prepared to comply with federal or state laws or regulations, the District may include the document in its reports and indicate the section of the report to which the document applies:

- A. *Student Identification.* For each individual EL: student ID number; school; grade level; language background; English language proficiency level; EL status (i.e., Active, Monitored, Former, Waiver, Exchange Student); type of ESL instruction (e.g., push-in, pull-out, newcomer, ALA); amount of ESL instruction per day; name of ESL teacher(s); whether ESL teacher(s) has the ESL certification (Y or N); the subject of each sheltered core content class; name of the teacher of the sheltered core content class; and whether the sheltered content teacher is ESL-certified, has completed the training required by

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<sup>8</sup> Notwithstanding this requirement, the information requested in section C(1) will be reported prospectively, as the text of the requirement indicates, in the District's July report.

Paragraph 14, or is “on track” to do so as required by Paragraph 15; years in EL program; reentry date into the EL program (if applicable); referral to alternative placement, if any; receiving special education (Y or N); gifted status (Y or N); student with interrupted formal education (Y or N); and long-term EL (i.e., identified as EL for six years or more) (Y or N).

B. *EL Services.* For each school, the number of ELs in total and by English language proficiency level who:

1. are not receiving ESL instruction;
2. are not receiving a daily period of ESL;
3. are not grouped in accordance with the requirements of Paragraph 5;
4. are not receiving ESL instruction from an ESL-certified teacher; and
5. are not receiving core content instruction from a teacher who has an add-on ESL certification, has completed the training required by Paragraph 14, or is “on track” to complete it as required by Paragraph 15.

C. *Staffing and Professional Development*

1. The District’s professional development plans for the upcoming school year related to the implementation of this Agreement (e.g., training teachers to use instructional strategies appropriate for planning, delivering, and adapting content for ELs and principals to evaluate teachers of ELs), including each training’s date, title, target audience, hours, mandatory/voluntary status, and facilitator. The United States will review these plans and provide the District with any feedback within 60 days.
2. A report that includes the name of each ESL teacher, long-term substitute, their school assignment(s), hiring date, ESL certification status (i.e., has it or is “on track” to earn it) and the anticipated date by which the teacher is expected to earn the endorsement (if applicable). The District will note any certified assignment changes, new hires, or departures since the prior report;
3. A training report that includes for each school the teachers, by name and subject, who have started, completed, or are expected to complete by the end of the current school year the training (including the onsite application) program per Paragraphs 14 and 15;
4. A training report that includes for each school the teachers, by name and subject, who have started, completed, or are expected to complete by the end of the current school year the training for the on-site application requirement per Paragraph 16.

5. A training report that includes for each school the certified administrators, by name and position, who completed the training program and the date of completion per Paragraph 17.

#### *D. Curriculum, Resource Allocation, and Communications*

1. An inventory of EL instructional materials required by Paragraph 19, by school, grade, book title, and author, and annually thereafter, a list of any new EL materials acquired since the prior year's inventory;
2. The District's policy related to individualized scheduling options for secondary ELs required by Paragraph 22. The District will note any changes made to the policy in each subsequent report; and
3. An updated list of District employees, contractors, and others who provide translation and interpreter services, consistent with Paragraph 30.
4. A list of translated District-level and school-specific documents by title<sup>9</sup> of the document and the languages in which it was translated, and annually thereafter, an updated list of such documents, pursuant to Paragraph 30.

#### *E. Monitoring & Program Evaluation*

1. A list of all students who have exited the EL program and are under monitoring. For each student: student ID; school; number of years in the EL program; English language proficiency assessment scores (composite and domain scores); and exit date.
2. The District will complete the longitudinal study described in Paragraph 26 by the end of the 2020-2021 school year and provide the results of that study to the United States by November 1, 2021.

#### *F. Access to Special Services*

1. The number of ELs by grade and native language who (i) were referred for special education services, (ii) were evaluated for a disability; (iii) found eligible for special education services, and (iv) received such services;
2. Each EL by student ID number, grade, and native language who is or was in tier 2 or 3 of the U-BEST process since the last report, including (i) the length of time spent in each tier, (ii) the services or interventions provided at each tier; (iii) whether and when

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<sup>9</sup> Where all documents in a category are translated into a particular language (e.g., all report cards, all field trip permission slips, all back-to-school night notices, all information about college entrance exams, etc.), the list need only reflect the category, rather than the individual titles, of documents.



the student has been evaluated for a disability or is scheduled to be evaluated; and (iv) whether the evaluation was in English (with or without an interpreter), in the student's native language, or both languages.

3. For each school, the number of special education teachers and paraprofessionals with EL training and language skills; and
  4. A list of names, contact information of, and languages spoken by, qualified professional bilingual special education evaluators.
35. The District will notify the United States of all proposed substantive changes to its EL programs. If the United States objects to any of the proposed changes, the United States will notify the District in writing within 60 days.

#### **ENFORCEMENT**

36. The District will, for the duration of this Agreement, preserve, and maintain all records and documents, including all electronically stored information, used to compile the above-referenced reports, and all other documents pertinent to its compliance with the Agreement, and will provide such information to the United States upon request.
37. 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 for purposes of monitoring this Agreement, the United States, through its representatives and any consultant or expert it may retain, has the right, with at least 30 days' advance notice, to conduct site visits, interview staff and students, and request such additional reports, information, or data as are necessary for the United States to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the EEOA. The District will honor any such requests by making the requested reports, information, or data available to the United States for its review within 30 days. The United States also may speak directly, without District counsel, with District employees who are not administrators and have questions, concerns, or other information to raise with the United States regarding the District's obligations under the EEOA and this Agreement, provided, however, that each District employee who is not an administrator will be informed of the right to have the District's counsel present upon the employee's request.
38. The District understands and acknowledges that, in the event of a breach by the District of this Agreement, the United States may initiate judicial proceedings to enforce the EEOA and the

specific commitments and obligations of the District under this Agreement, provided, however, that the parties agree to negotiate in a good faith effort to resolve the breach for 30 days or until an impasse is reached. If any part of this Agreement is for any reason held to be invalid, unlawful, or otherwise unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of any other part of the Agreement. The District and United States shall meet within fifteen days of any such decision to determine whether the Agreement should be revised or supplemented in response to the court's decision.

39. This Settlement Agreement shall be binding upon the successor members of the Union Public Schools Board of Education and successor District Superintendents, in their official capacities only. The District understands and acknowledges that this Agreement does not relieve the District from its other obligations under the EEOA or other federal laws. The United States, consistent with its responsibility to enforce the EEOA, retains the right to investigate and, where appropriate, initiate judicial proceedings concerning any future alleged violations of the EEOA by the District.
40. The Agreement shall remain in effect until the United States determines that the District has complied fully with its provisions and its obligations under the EEOA, provided that the parties may, upon mutual written agreement, amend this Agreement to address changed circumstances and/or to improve the delivery of services to ELs. The parties anticipate that the District will achieve compliance with the Agreement after it provides its longitudinal study on November 1, 2021. The United States will notify the District of any compliance-based objections within 90 days of receiving the November 2021 longitudinal study.

The following signatures indicate the consent of the parties to the terms of this Agreement, which is effective upon its mutual execution.

SO AGREED,

*For Union Public Schools:*

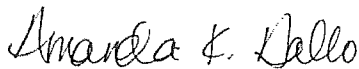


KIRT HARTZLER  
Superintendent

DATE: 6/26/18

*For the United States:*

JOHN M. GORE  
Acting Assistant Attorney General



SHAHEENA A. SIMONS, Chief  
EMILY H. MCCARTHY, Deputy Chief  
AMANDA K. DALLO, Trial Attorney  
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(202) 616-2679  
amanda.dallo@usdoj.gov

DATE: June 11, 2018