



U.S. DEPARTMENT OF JUSTICE

*United States Attorney's Office  
District of Rhode Island*

**Civil Rights Division  
Educational Opportunities Section**

USAO DJ 2016V256

CRT DJ 169-66-10

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September 15, 2021

**By Electronic Mail**

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Re: Extension of 2018 Settlement Agreement Regarding English Learner Programs in the Providence Public Schools

Dear Attorneys Ruggerio, Lombardo, and Phelps:

As you know, on August 9, 2018, the United States Department of Justice ("the United States") and Providence Public Schools ("the District") (collectively, the "Parties") executed a Settlement Agreement ("the Agreement"), which aims to resolve noncompliance issues identified by the United States with respect to the District's English Learner ("EL") programs and practices under Section 1703(f) of the Equal Educational Opportunities Act of 1974, 20

U.S.C. § 1703(f).<sup>1</sup> Since that time, the District has made some significant progress in meeting its obligations under the Agreement. Specifically, the District has devoted resources toward the identification of ELs, oral and written communications with parents, professional development for teachers and staff, curriculum for English Language Development classes, and English as a Second Language (“ESL”) certification for its teachers.

Despite the noteworthy changes implemented by the District and subsequently RIDE, the District has not yet met all of the obligations and deadlines set forth in the Settlement Agreement. *See, e.g.*, United States’ Monitoring Letters to the District dated February 21, 2019, February 21, 2020, and March 5, 2021. In discussions with the District and RIDE, including our discussion with RIDE Commissioner Angélica Infante-Green and PPSD’s former Superintendent Harrison Peters on April 16, 2021, the United States shared concerns about ongoing areas of noncompliance. Those concerns include, but are not limited to, the District’s failure to provide all ELs with adequate and appropriate ESL and Sheltered Content Instruction services from teachers who are ESL-Certified or on track to fulfill the professional development and in-classroom support hours required by the Agreement. *See* Agreement ¶¶ 8-10, 13, 18, 20-22; *see also* United States’ Letter to the District dated December 3, 2020 (agreeing to extend the Agreement’s deadlines for teachers to complete the remaining professional development and in-classroom support hours required by Paragraph 21 of the Agreement through School Year (“SY”) 2021-22 and to give the District time to rectify its noncompliance).

To ensure that the District fulfills all of its obligations, the Parties agree that the Agreement should be extended through at least SY 2022-23. The Parties also agree that extending the timeframe of the Agreement, and modifying a limited number of definitions and paragraphs as reflected below, should enable the District to come into compliance with the Agreement’s terms. The revised definitions and paragraphs in this letter accordingly supersede the corresponding definitions and paragraphs in the original Agreement.<sup>2</sup> All other definitions and paragraphs in the original Agreement remain binding on the District.

### **Revised Definitions**

**English as a Second Language or ESL** is direct, explicit instruction about the English language that provides a systemic and developmentally appropriate approach to teaching language. ESL instruction addresses the listening, speaking, reading, and writing standards in the World-Class Design and Assessment (“WIDA”) English Language Development Standards adopted by the Rhode Island Department of Education (“RIDE”). ESL is taught by a teacher with an ESL certificate from RIDE.

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<sup>1</sup> On November 1, 2019, the Rhode Island Department of Education (“RIDE”) took control over the Providence Public Schools and, among other changes, announced that the Providence Superintendent would report directly to the RIDE Commissioner. During our December 19, 2019 meeting with Commissioner Infante-Green and representatives of RIDE and the District, all parties agreed that the Agreement was binding upon both the District and RIDE. *See* Agreement ¶ 48. Accordingly, all references to the District’s obligations under the Agreement include RIDE.

<sup>2</sup> For consistency and clarity, the Parties retained the paragraph numbering, the paragraph cross-references, and many of the original dates from the 2018 Agreement.

**Major Languages** refers to the District's most commonly spoken languages among ELs other than English, including Spanish, Arabic, Swahili and Khmer, and includes any languages spoken by 100 or more current and former ELs who are still enrolled in the District.

### **Revised Paragraphs**

#### **Paragraph 9**

The District agrees that ESL is a core subject for ELs and will provide ESL in addition to other core subjects, except that the District may provide ESL through the core literacy class only for ELs with English Language Proficiency levels of 4-4.8 if the class is (a) taught by an ESL-Certified Teacher who is also certified in English Language Arts or (b) co-taught by an ESL-Certified Teacher and a teacher certified in English Language Arts who have co-planning time together, and the ESL-Certified Teacher provides the ELs explicit ESL. The District may group ELs for ESL and for ESL embedded in ELA by (a) their English Language Proficiency level within a single grade or vertically across grades (limited to two consecutive grades at the elementary level) or (b) two comparable, consecutive English Language Proficiency levels within a single grade. The parties agree that the grouping provisions under Paragraph 9 should be implemented in accordance with the District's final SY 2021-22 and 2022-23 scheduling guidance documents for its elementary, middle, and high schools.<sup>3</sup>

Any middle or high school EL student whose overall English Language Proficiency level did not advance to the next level from the prior school year (e.g., a student who had an Overall English Language Proficiency level of 1.0 on the ACCESS and still has an English Language Proficiency level of less than 2.0), but who passed the ESL course for that level, will be grouped for the following designated ELD course.

#### **Paragraph 10**

As soon as possible and no later than the start of the 2020-21 school year, the District will provide an additional period of ESL to newcomers and other ELs with English Language Proficiency levels 1 and 2. The District will satisfy this requirement to provide two periods of ELD instruction for newcomers and ELs with L1 and L2 English Language Proficiency levels in accordance with the District's final SY 2021-22 and 2022-23 scheduling guidance documents for its elementary, middle, and high schools.

#### **Paragraph 11**

If parents affirm, in a voluntary written waiver communicated to the parents in a language they understand, that they do not want their EL child to receive EL services, the District will ask the parents why they are opting out of EL services, record this information, and follow its procedures for opt-out EL students as set forth in Paragraph 8 of the Agreement, and report this information to the United States by December 31, 2018, and annually thereafter on July 15.

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<sup>3</sup> The District also will implement its Developmental Bilingual Model program consistent with the final SY 2021-22 and 2022-23 scheduling guidance documents.

#### Paragraph 22

By the start of the 2019-20 school year, the District will require enough core content teachers of ELs to have completed or be on track to complete the training outlined in Paragraph 21 to be able to comply with Paragraphs 13 and 14. Being “on track” to complete the training within three years means that teachers new to the District receive ten hours of professional development on teaching strategies and five hours of in-classroom support on using those strategies per year. For the 2021-22 school year, teachers who are not on track to complete the training required by Paragraph 21 but have completed at least 31 sessions of professional development, and will complete the remaining professional development and 15 hours of in-classroom support by the end of the 2021-22 school year, may teach core content classes to comply with Paragraphs 13 and 14. First and second year teachers will be considered to be “on track” if they have completed 10 hours of professional development and 5 hours of in classroom support for each school year they have been working in the District.<sup>4</sup>

#### Paragraph 42

The District will evaluate the effectiveness of each of its EL programs district-wide to determine whether they are 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 three-year longitudinal cohort analysis of each of its programs at the elementary, middle, and high school levels by disaggregating and monitoring the following data by current, former, and never ELs, for each EL program utilized by the District: standardized test scores, exit rates, dropout rates, graduation rates, retention in-grade rates, English Language Proficiency assessments, 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 2016-17 and who remain enrolled in the District over the term of this Agreement. The District will use the results of the longitudinal analysis to inform EL program decisions and ensure that every EL program it uses is effective.

In addition, the District will complete a supplemental longitudinal cohort analysis using a baseline year of SY 2018-19 and tracking the data prescribed above in this paragraph through SY 2022-23. This analysis may be used as a factor in assessing compliance with the Agreement and will be used to inform EL program decisions and ensure that every District EL program is effective. The parties recognize that the unprecedented circumstances from the pandemic and the resulting interrupted instruction are likely to affect the results of the supplemental longitudinal study, and the parties agree to take these circumstances into account when analyzing the District’s compliance with the Agreement.

By signing this letter, the Parties agree to extend the term of the Agreement until the District fulfills all of its outstanding obligations and provides a complete and accurate report

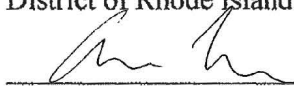
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<sup>4</sup> In the 2022-23 school year, the District will ensure that first and second year teachers receive these sessions in an order that, as closely as possible, mirrors the sequence set forth in the District’s professional development scope and sequence (the “PD matrix”).

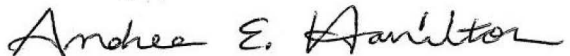
documenting its compliance with those obligations under Paragraph 43. The Parties agree that the District will submit a monitoring report with the information required by Paragraphs 43.A and 43.B for the then-current school year on October 1, 2021 and October 1, 2022, and all the sections of Paragraph 43 for the school year that just ended by July 15, 2022 and July 15, 2023. The District will provide the results of the supplemental longitudinal study to the United States by October 15, 2023. Following the submission of the complete reports and the supplement to the longitudinal study, the Parties agree that the United States will have at least 90 days to review the reports and raise any compliance concerns that might extend those noncompliant requirements of the Agreement further.

This letter does not relieve the District of any of its substantive obligations under the Agreement, and the United States will continue to monitor the Agreement consistent with its existing terms and enforcement mechanisms.

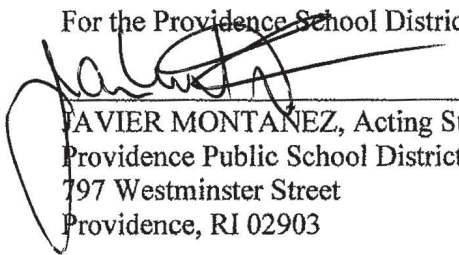
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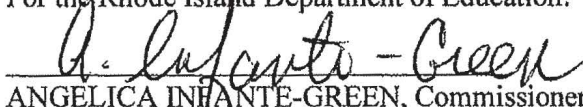
  
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Date: 9/29/21

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Date: 9/24/21