

2016 SUCCESSOR SETTLEMENT AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND THE
WORCESTER PUBLIC SCHOOLS

PURPOSE

1. This Successor Settlement Agreement replaces and supersedes the Settlement Agreement entered into by the Civil Rights Division of the United States Department of Justice and the United States Attorney's Office for the District of Massachusetts (hereafter, collectively, the "United States") and the Worcester School District ("District") on January 26, 2008, and the Supplemental Settlement Agreement entered into on July 10, 2012. The District, by and through its undersigned representative,¹ agrees to the terms of this Successor Settlement Agreement (the "Agreement") and agrees to resolve the noncompliance findings raised as of the date of this Agreement by the United States regarding the District's obligations under the 2008 Settlement Agreement, the 2012 Supplemental Agreement, and the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1703(f) ("EEOA"). Upon execution of the Successor Settlement Agreement, the prior agreements between the United States and the District are null and void.

2. In consideration for the commitments made herein by the District, the United States agrees not to initiate judicial proceedings to enforce the requirements of the EEOA that are addressed by this Agreement. This commitment does not relieve the District from fulfilling any other obligations under the EEOA or other federal or state laws.

3. This Agreement shall become effective on the date of its execution by both parties. Absent any evidence-based compliance objections raised by the United States, this Agreement will expire ninety (90) days after the District submits all of the reporting obligations required by Paragraphs 25, 31, 36, 41, 45, 48, 49, 53, and 54 of this Agreement in a complete and timely manner, reflecting its full and good faith compliance in the completed SY 2016-2017.

¹ The District representative, by signing this document, gives assurances that she has the authority to bind the District, including successor administrators and members of the Worcester School Committee, for the Agreement's duration.

If the United States determines that the District is in partial compliance with this Agreement, the United States shall continue to monitor only those portions of the Agreement that remain out of compliance.² The parties may, upon mutual written agreement, amend this Agreement to address changed circumstances and/or to improve the delivery of services to English Learners.

4. This Agreement shall not be construed as an admission of liability by the District as to any violations of the EEOA and is entered into solely for the purpose of resolving a disputed claim.

5. As required by the EEOA, the District shall take appropriate action to overcome language barriers that impede equal and meaningful participation by English Learners in its instructional programs. *See* 20 U.S.C. § 1703(f).

DEFINITIONS

6. “Worcester School District” and “the District” refer to the Worcester School Committee and the public schools it operates.

7. “English Learners” and “ELs” refers to students who have been determined to be English Learners, Limited English Proficient, or Non-English Proficient and thus require assistance to overcome language barriers that impede their equal participation in the District’s instructional programs.

8. “FLEP” refers to a Formerly Limited English Proficient student who at one time was an EL but subsequently met the District’s criteria for exiting EL services.

9. “ESL” refers to English as a Second Language, which is direct, explicit instruction about the English language that provides a systematic and developmentally appropriate approach to teaching language. The Massachusetts Department of Elementary and

² This paragraph shall be interpreted consistently with the United States’ responsibilities and rights discussed in Paragraph 58 below.

Secondary Education (“MADESE”) and the District also refer to ESL as English Language Development (“ELD”) instruction. ESL and ELD instruction are equivalent in this Agreement and address the listening, speaking, reading, and writing standards as contained in MADESE guidelines.³

10. “SEI” refers to the Sheltered English Immersion program required by Massachusetts law. *See* MGL Ch. 71A. SEI is an instructional model for teaching grade-level content to ELs by integrating language and literacy development into content area instruction. SEI instruction systematically incorporates an array of teaching strategies that make the content (e.g., math, science, and social studies) more comprehensible to ELs while promoting their English language development.

11. “Core Content” refers to language arts, math, science, and social studies. “Core Academic Teacher” means the definition provided in 603 CMR 7.02.

12. “IEP” refers to an Individualized Education Program under the Individuals with Disabilities Education Act (“IDEA”), and “Section 504 plan” refers to a plan designed to meet the individual educational needs of a student with a disability under Section 504 of the Rehabilitation Act of 1973 (“Section 504”). “IEP Team” and “Section 504 Team” refer to the teams constituted under these laws to: identify the student’s individual needs; propose placements, programming, or services; and/or develop an IEP or Section 504 plan for the student.

13. “SWD” refers to a student with a disability under Section 504 or under the IDEA. “EL SWD” refers to a student with a disability who is also an EL.

³ To the extent the District relies on state laws or guidance for its commitments in this Agreement, they are referenced herein where appropriate. MADESE has adopted the WIDA (Worldclass Instructional Design and Assessment) English Language Proficiency Standards.

14. “Essential information” includes, but is not limited to: (a) information about special education matters arising under the IDEA or Section 504 (*e.g.*, IEPs or Section 504 meetings); (b) report cards and other academic progress reports; (c) information about the disciplinary process and any documents concerning discipline; (d) requests for parent permission for student participation in District/school sponsored programs and activities; (e) 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); (f) parent/student handbooks; (g) documents concerning enrollment or registration; (h) documents concerning academic options and planning; (i) 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; (j) information related to public health and safety unless there is an immediate health or safety emergency, at which time information may be initially distributed in English with interpretation and/or translation to follow as soon as practicable; (k) information about how to obtain translation and interpretation services from the District free of charge; and (l) any other written information describing the rights, responsibilities, benefits, and services that are available to all students and parents.

15. “Major Languages” refers to the most commonly spoken languages other than English for ELs in the District, which are Spanish, Vietnamese, Albanian, Portuguese, Arabic, Twi, and Nepali. For major languages that do not have an available written convention, the District may provide oral interpretation in lieu of written translation.

EL IDENTIFICATION

16. Appropriate staff members in the District’s EL Department or at the individual

schools shall review EL-related tracking data on a monthly basis to ensure that all students identified as eligible for EL services are receiving appropriate EL services, unless the students have opted out of or exited the District's EL programs. EL-related data includes the EL student's:

- a. overall English Proficiency Level ("EPL");
- b. proficiency levels in all four language domains;
- c. program placement; and
- d. disability status, including whether the student has been referred for a special education evaluation.

17. The District shall assess the English Language Proficiency ("ELP") of all matriculating Kindergarten ("K") students who are enrolled in its pre-K programs and whose Home Language Survey indicates a language other than English with a valid and reliable ELP test to ensure a current ELP level (i.e., within six months of enrollment in K) is used for placement in EL services in K. If the District assesses the ELP of students enrolled in its pre-K programs, it must use an age-appropriate, valid and reliable ELP assessment.

EL INSTRUCTION

18. The District shall provide EL services consisting of ESL and SEI content instruction at all schools enrolling ELs, except that SEI content instruction is not required at a school where all of the ELs satisfy the District and State criteria for a two-way bilingual program ("Two-Way Bilingual Program").

19. The District shall permit students identified as ELs with a disability ("EL SWD") to participate in the programs offered at the District's New Citizens Center if:

- a. The student would qualify for instruction at the New Citizens Center but for

his/her disability; and

- b. The services required to accommodate the student's disability can be provided by special education teachers or aides in a mainstream setting.

ESL Instruction

20. The District shall provide all ELs, including EL SWDs, with ESL instruction taught by an ESL-certified teacher, unless an EL's parent/guardian (or the student if he/she is 18 years old or older) voluntarily and knowingly refuses such EL services in writing.

21. The District shall provide ESL instruction taught by an ESL-certified teacher:

- a. At least two to three periods (a period is not less than 45 minutes) per day of direct ESL instruction, delivered by a licensed ESL teacher for all EPL 1 and 2 students, except all SLIFE students (students with limited or interrupted formal education who are enrolled in the New Citizen Program) who shall receive three periods;
- b. For at least one to two periods (a period is not less than 45 minutes) per day to all EPL 3 students, with ELs at the lower half of the EPL 3 score range receiving two hours and those in the upper half receiving at least one hour;
- c. For at least one period (of at least 45 minutes) per day to all EPL 4 and 5 students. The District may provide ESL instruction to EPL 4 and 5 students through the grade-level ELA block if the course is taught by an ESL-certified teacher who is also certified to teach the ELA course; and
- d. In placing ELs in ESL classes as prescribed above, the District shall ensure that all students receive their core content grade level courses (i.e., English language arts, math, science, and social studies).

SEI Instruction

22. The District shall ensure that all ELs, except those enrolled in the Two-Way Bilingual Program, are enrolled in SEI classes for all core content classes where instruction is primarily in English, and that all teachers of those core content classes are SEI-endorsed (including endorsements obtained through ESL certification) by the 2016-2017 school year, unless: (a) they have been granted a hardship waiver by the State of Massachusetts in which case they must obtain the SEI endorsement within a year of the hardship waiver's expiration; (b) they have been newly assigned to teach core content to ELs in SY 2016-17 or later, in which case they must earn the SEI endorsement within one year of the assignment; (c) they are enrolled in and successfully complete a fall 2016 or spring 2017 District-provided SEI endorsement program, and the District shall prioritize teachers hired prior to SY 2016-17 for the fall 2016 courses; or (d) they are on track to successfully complete an ESL certification program in the 2016-17 school year.

23. The District shall ensure that all ELs (except those students who participate in the MCAS Alternate Assessment ("MCAS-Alt"⁴)) receive core content instruction designed to enable them to perform at grade-level, be on track to graduate from high school, and be prepared to enroll in college. Toward these ends and consistent with SEI strategies required by the State's RETELL initiative, the District shall ensure, through monitoring of instructional practices, that SEI strategies are incorporated into classroom instruction using the SEI Smart Card, the RETELL SEI Classroom Observation Tool, or other evidence-based and state-endorsed SEI observation tools, which the District will submit to the United States for review.

⁴ A very small number of students with the most significant disabilities, about 1% statewide, take the MCAS-Alt. The MCAS-Alt consists of a portfolio of materials collected annually by the teacher and student. Evidence for the student portfolio may include work samples, instructional data, videotapes, and other supporting information and materials based on the student's performance in the subject being assessed.

INSTRUCTIONAL STAFF

24. The District shall actively recruit qualified, ESL-certified and SEI-endorsed staff for ESL, core content area, and special education teaching positions. In addition, the District shall actively recruit bilingual staff trained to work with ELs and staff with fluency in one or more of the languages of the District's ELs for relevant teaching and building administrative positions, and in particular for positions as special education teachers and aides.

25. The District shall require all newly hired core academic teachers of ELs to obtain an SEI endorsement or ESL certification within a year of their hire as a condition for their contract renewal. By July 1, 2016, the District shall provide written notice to all core academic teachers of ELs that if the teachers wish to continue teaching in a core academic area in SY 2016-17, they must obtain an SEI endorsement (including through an ESL certification) because—per MADESE regulations—the District will not be able to assign them to teach core academic content to ELs after July 1, 2016, without such certification or endorsement, unless they fall under exceptions a, b, and c referenced in Paragraph 22. This notice shall also remind teachers assigned to a MADESE or Worcester SEI cohort of the date by which they must renew their teaching license and that they will not be able to renew, extend, or advance their license without the SEI endorsement. In this notice, the District shall identify and explain all available options for obtaining an SEI endorsement or ESL certification in SY 2016-17, including but not limited to: enrolling in and successfully completing a DESE-approved, District-provided RETELL course beginning in fall 2016; enrolling in and successfully completing a fee-based RETELL course; passing the SEI MTEL exam; and completing the requirements for an ESL certification. By September 9, 2016, the District shall meet with any core academic teacher of ELs who lacks an ESL certification or SEI endorsement and has yet to: register for a fall 2016

RETELL course, register for the SEI MTEL exam, or commence the requirements for ESL certification. At this meeting, the District shall remind such teachers that they may not teach core academic content in WCPS in SY 2016-17 without the ESL certification or SEI endorsement and monitor each teacher's creation of a plan to obtain ESL certification or the SEI endorsement by the end of 2016 or, if necessary, by the end of SY 2016-17. If SY 2016-17 is the first year that the core academic teacher was assigned to teach ELs and the teacher lacks an SEI endorsement or ESL certification, the District shall meet with the teacher by September 9, 2016, and monitor each teacher's creation of a plan to obtain the SEI endorsement by no later than the start of SY 2017-18. The District shall submit to the United States a copy of the notice to teachers by July 15, 2016, and a copy of each teacher's plan by September 30, 2016.

26. The District shall ensure that all employees who evaluate teachers of ESL, SEI, and two-way bilingual classes are adequately trained regarding ESL instruction, SEI techniques, and native language instruction (where such instruction is provided in the school), so that they are able to conduct a meaningful evaluation. This professional development and/or training shall include at least: passing a RETELL Administrator Course and obtaining the SEI Administrator Endorsement; professional development to ensure that SEI strategies are incorporated into classroom instruction through the use of the SEI Smart Card, the RETELL SEI Classroom Observation Tool, or other evidence-based, stated-endorsed tools, which the District will submit to the United States for review, the grade-appropriate District-developed ESL modules, and site-based activities to promote the transfer of RETELL training to SEI classrooms (e.g., model lessons, coaching, professional learning communities); and for evaluating native language instruction proficiency in the language of instruction and training on the native language program model in two-way bilingual classrooms.

27. The District shall ensure that the New Citizens Center is staffed with sufficient special education teachers and aides to accommodate enrolled ELs with disabilities.

ESL-Certified Teachers

28. The District shall ensure that all ESL instruction is provided by an ESL-certified teacher. Toward that end, the District shall hire a sufficient number of ESL-certified teachers, reassign existing ESL-certified teachers to teach ESL, or train existing staff to become ESL-certified teachers or ensure that they obtain the ESL certification through other means (*i.e.*, not renewing their provisional contracts if they do not become ESL-certified within two years of their hire).

29. The District shall ensure that each school maximizes the number of ELs receiving ESL instruction with an ESL-certified teacher by, *inter alia*, requiring that principals assign ESL-certified teachers only to ESL classes if that is needed to ensure that all ELs in their respective schools receive the required amount of ESL instruction under this Agreement.

SEI-Endorsed Teachers

30. The District shall ensure that it maximizes its utilization of existing SEI-endorsed staff. Toward that end, the District, when assigning students to core content classes, shall first prioritize assignment of ELs to SEI-endorsed teachers.

31. Consistent with the requirements set forth in Paragraph 22 above, the District shall carefully plan and follow up quarterly with core academic teachers of ELs who are not SEI-endorsed or ESL-certified to ensure they complete the appropriate and available RETELL course, pass the MTEL SEI exam, or obtain an ESL certification, or are enrolled in and successfully complete a RETELL course during the 2016-17 school year. For core academic teachers newly assigned to ELs in SY 2016-17 who lack the SEI endorsement or ESL

certification, the District shall follow up quarterly with these teachers to ensure they obtain it within a year of their assignment to ELs. The District shall submit to the United States reports each year by July 15 and February 15, until at least July 15, 2017 and until compliance in this area and Paragraphs 22 through 24 is obtained, in electronic format (*e.g.*, Word or Excel file) regarding SEI-endorsed teachers that includes for each school: (a) the name of each core academic teacher; (b) whether the teacher is SEI-endorsed; (c) whether the teacher is ESL-certified; (d) the teacher's primary program area; (e) the teacher's time and/or daily hours assigned to SEI core content instruction; (f) the teacher's time or daily hours assigned to ESL instruction; and (g) for any core academic teacher that is not yet SEI-endorsed or ESL-certified, a copy of the teacher's plan to obtain these qualifications required by Paragraph 25, whether the teacher is enrolled in a RETELL or ESL certification course (including the anticipated date of completion), and the date by which their teaching license expires.

32. The District will utilize its focused instructional coaching opportunities for professional development to promote the transfer of RETELL strategies to SEI classrooms and effective, research-based ESL strategies to ESL classrooms.

ENSURING ACCESS TO INFORMATION FOR LEP PARENTS

33. The District shall provide LEP parents with meaningful access to information provided to non-LEP parents. To identify LEP parents, the District shall ask the parent registering the child in a District school, in a language they understand, whether they need oral and/or written communications in a language other than English.

34. The District shall provide translation and/or interpretation services as follows:

- a. When notices or documents containing essential information are distributed at the District or school level:

- i. such notices and documents shall be translated into the District's major languages and distributed to parents/guardians speaking those languages; and
 - ii. parents/guardians (or students over 18 years old) speaking languages other than the major languages shall be provided, in a timely manner, written or oral translations of the documents in a language they understand either upon the parents'/guardians' request or if the need for such translation becomes apparent.
- b. When District employee(s) communicate with LEP parent(s)/guardian(s) orally regarding essential information:
- i. the communication shall be provided in a language the parent/guardian understands by means of a qualified interpreter; and
 - ii. the interpreter must be provided without undue delay.

35. All interpreters provided to LEP parents by the District and/or its schools, whether as paid District employees, contractors, or volunteers, shall be:

- a. Bilingual and demonstrably qualified and competent to interpret;
- b. Trained in providing the interpretation they are asked to provide or sufficiently knowledgeable in both languages of any specialized terminology needed (*e.g.*, special education terminology) to provide the requested interpretation accurately; and
- c. Trained in the ethics of interpretation (*e.g.*, the need for accuracy and confidentiality in interpretation).

36. The District shall provide central office and school-based staff with electronic

access to an inventory of currently-available translated District-level and school-specific documents, and shall continue to expand the inventory so that it includes translations of all District-level essential information in the major languages and all District-provided translations of schools' essential information. The District shall update the list throughout the year by adding recently created District-level and school-specific notices that may be of use to other schools to meet their translation needs with minimal changes (e.g., notices about open houses, parent-teacher conferences, field trips, musical performances). The District shall provide the United States with updated versions of these lists on January 15 and July 15 of each year until the United States notifies the District that compliance with this paragraph has been achieved pursuant to Paragraph 3.

37. The District shall provide written or oral translations of information that is not deemed "essential information" upon receiving reasonable, specific requests for such information from LEP parents/guardians.

38. If a LEP parent/guardian requests that an adult family member or adult friend provide interpretation for a communication with the District or one of its schools, the District must provide interpretation through qualified District or outside resources for all essential information and any information that raises a potential conflict of interest.

39. Except in the event of an emergency and only if no District interpreter is available, the District shall not use family or friends of LEP parents for oral translations of District- or school-generated documents or for any other translation services. If there is an emergency and no District interpreter is available, the District shall follow up with the LEP parents in a timely manner to provide written translation of any and all relevant document(s) that were orally translated by family or friends.

RESOURCE ALLOCATION

40. The District shall provide adequate and appropriate instructional materials for ELs. These materials shall include ESL materials for ESL classes that are appropriate for the proficiency levels of the enrolled ELs. For SEI classes, the District shall ensure that core materials include an EL component and/or supplemental materials for ELs. For all classes in the Two-Way Bilingual Program, materials shall include native language materials that are grade and subject appropriate. The District shall ensure that each school provides materials in quantities that are sufficient for the number of ELs enrolled in that school.⁵

41. Toward this end, the District shall complete a review of its instructional materials including (i) the ESL materials staff are using; (ii) the available core print literacy materials used to promote ELs; and (iii) supplementary materials used to access grade-level core content. The District shall develop a plan to purchase additional EL materials and submit it to the United States for review by July 15, 2016. The District also shall report to the United States by July 15, 2017 in electronic format (*e.g.*, Word or Excel file) the EL materials acquired in the past school year for each school by title, author, publisher, publication date, type of material (*e.g.*, E-library, textbook, workbook, teacher manual, or guide), quantity, the targeted EPL levels, and condition (*i.e.*, new, good, discard, or replace).

42. The District shall ensure that the District's adopted ESL materials are available and in use in all ESL classrooms and that grade-appropriate training on using the District's adopted ESL materials is provided to all ESL teachers who have yet to receive this training.

MONITORING CURRENT AND EXITED ELS AND EVALUATING EL SERVICES

43. To monitor current ELs and FLEP students and to evaluate whether their

⁵ The District should not be relying on photocopies of workbooks or materials for students in lieu of having sufficient materials.

EL services are overcoming language barriers within a reasonable period of time, the District shall ensure that its data capacity analysis is able to disaggregate the following information by school and EL program (*i.e.*, SEI, two-way bilingual): English proficiency assessments (*e.g.*, ACCESS scores); standardized test scores (*e.g.*, MCAS); class grades; retention-in-grade rates; graduation rates; and enrollment in honors, special education, and enrichment programs (*e.g.*, Advanced Placement and gifted classes).

44. The District shall utilize the FLEP monitoring form attached hereto as Exhibit A.

45. The District shall submit to the United States reports by July 15, 2017 and January 15, 2018, with the first report due October 15, 2016, in electronic format (*e.g.*, Word or Excel file) that list all FLEP students, disaggregated by school, who were identified as requiring additional EL services.

SPECIAL EDUCATION

46. The District shall provide both special education services and EL services to each EL SWD in a manner appropriate to the student's individual needs. No EL SWD shall be denied EL services solely due to the nature or severity of the student's disability. The District shall not deny language services to students with disabilities who qualify as EL and shall not deny special education services to students who are EL and qualify for special education services. The District shall ensure that principals factor the needs of EL SWDs, including those in substantially separate placements, in each school's organizational and staffing plans and provide these students with EL services. For all EL SWDs, EL services required by Paragraphs 20-23 above shall be delivered by appropriately qualified personnel consistent with Paragraphs 22 and 28.

47. Under no circumstances shall the District deny EL services entirely, unless, in rare cases, the 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.

48. Each school shall develop, maintain, and share with the OELL and special education offices, a list of school staff members who meet all of the following criteria:

- a. Are ESL-certified or SEI-endorsed;
- b. Are knowledgeable about EL needs and services and relevant considerations related to ELs' language and cultural backgrounds;
- c. Have received training on the intersection between EL and special education services; and
- d. Are available to participate in special education team meetings.

The District shall revise this list in January and July of each year to ensure that it is current.

Beginning with the 2015-2016 school year, the District shall provide a copy of this list to the United States by July 15 and January 15 of each year. The District shall inform all principals, special education staff, and EL staff that IEP or Section 504 team meetings for each EL SWD must include one of the individuals on this list and ensure through monitoring that this requirement is met. If, prior to any IEP or Section 504 team meeting, the included individual is not already knowledgeable about the student, the District shall inform the individual where the student's files are located and when/how they can be accessed for his/her review.

49. The District shall develop and maintain a list of names and contact information for qualified professional bilingual special education evaluators in each of the District's major languages and other languages to the extent available, along with additional resources for those languages in which a bilingual evaluator is not readily available. The District shall revise this list in June and December of each year to ensure that it is current and that the individuals listed

are in fact available to conduct evaluations, and, beginning with the 2016-17 school year, shall provide a copy of this list to the United States by July 15 and January 15 of each year.

50. Consistent with applicable federal laws and regulations, every IEP of an EL shall consider the language needs of the EL, as those needs relate to the student's IEPs, and the District shall record in the IEPs the type of language and special education services provided to the EL. Every IEP shall also include: the student's current ACCESS and MCAS test scores (or if these scores are not available, the scores of a state-recognized alternative test for students with that disability) and the languages in which special education assessments were conducted; and modifications, if any, of standard assessment procedures. The IEP or SPED evaluations shall contain the role of the individuals completing the special education assessments, and the impact of language on the interpretation of the data, including a determination by the IEP team that the EL's level of English proficiency is not determinative of the decision to administer special education services.

51. The District shall ensure that the IEP team or Section 504 team of each EL SWD shall document, consider, and maintain in each EL SWD's special education file:

- a. A record of that student's language proficiency testing results;
- b. A record of that student's first language educational history, if any;
- c. Documentation of the special education assessments used to determine the student's disability or special needs, the language in which special education assessments were conducted, and the reasons for testing in that language;
- d. Documentation of the team's consideration of any effect language development issues might have on the special education assessment results; and
- e. Documentation that specifically tracks the length of time from: (i) the initiation of

any pre-referral interventions, if any; (ii) the date of referral for a special education evaluation; (iii) the date of the evaluation; and (iv) the date on which an IEP or Section 504 Plan was proposed.

52. The District shall further ensure that the IEP Team or Section 504 team of each EL SWD (in a manner consistent with and in the course of annual or regular consideration or reconsideration of the student's educational needs in accordance with state and federal laws governing the provision of special education and related aids and services) shall document, with specificity, in any new or revised IEP or Section 504 plan:

- a. Any accommodations for or modifications to standard language proficiency assessment procedures required by the student's disability or special needs, as well as an explanation for why accommodations and/or modifications are necessary;
- b. The IEP or Section 504 team's consideration of the student's language needs and the extent to which they are affected, in any or all domains, by the student's disability or special needs;
- c. The instructional model through which the student shall be provided EL services, as well as any modifications to the student's educational program required by the student's disability or special needs, and an explanation for why any such modifications are necessary; and
- d. Any other IEP or Section 504 team decision regarding the impact of a disability upon the delivery of EL services, or the impact of limited English proficiency on the delivery of special education services, and the basis for any modifications determined necessary.

ANNUAL REPORTING TO THE UNITED STATES

53. The District shall provide to the United States annual reports—in electronic format (*e.g.*, Word or Excel file)—fully detailing its efforts to comply with the provisions of this Agreement. The District shall submit the annual reports outlined herein each year by August 31, with the first report due August 31, 2016. The annual reports shall include the following information:

- a. A list of each individual EL student by ID number, and for each student the following information:
 - i. School, grade level, and native language;
 - ii. English Language Proficiency level;
 - iii. Special education designation;
 - iv. ESL class(es), including the type of class (*e.g.*, pull-out, push-in, ESL class) frequency, and duration (*e.g.*, Monday through Friday for 45 minutes/day);
 - v. Every SEI class, including content area, model (*i.e.*, EL-only class or mixed EL/non-EL class), frequency, and duration (*e.g.*, SEI math, EL-only, Monday through Friday for 45 minutes/day); and
 - vi. Whether or not each ESL teacher is ESL-certified and whether each SEI-content teacher is SEI-endorsed or ESL-certified;
- b. The number of K students whose Home Language Survey indicated a home language other than English; the number of such students who were tested with a test of English proficiency (i) in the spring or summer before entering K; or (ii) on or after the first day of K; and the number of such students identified as EL and

Initially Fluent English Proficient;

- c. The number of ELs by school, grade, and native language who opted out of language services;
- d. A list of all ESL, SEI, and two-way bilingual teachers⁶ that includes, for each teacher, their school, grade level(s) that they teach, language(s) they speak, certification(s) and endorsements, and years of teaching experience (note: if any EL tutor was used, please provide the same data);
- e. The number of students by school, grade, native language, and language service who were exited from the District's EL program by meeting exit criteria;
- f. The number of FLEP students by school, grade, native language, and language service whose language proficiency was retested and who were re-entered into the District's EL program;
- g. A description of the District's system for monitoring FLEP students over a two-year period, specifying the data that are reviewed and including a copy of the FLEP monitoring forms for each FLEP student that exited within the past two years;
- h. The number of ELs by grade and native language who: (i) were referred for special education services; (ii) were found eligible for such services; and (iii) received such services, the duration of such services (*e.g.*, bilingual special education teacher provides special education services and one period of ESL per day or special education teacher and a ESL-certified teacher provide special education services and one period of ESL per day);

⁶ The District shall also provide evidence of any MADESE-approved waivers.

- i. For each school, the number of special education teachers and aides with ESL, SEI, or bilingual training and/or certification(s), noting the type of training and/or certification(s), and the foreign language(s) that the teacher or aide speaks fluently;
- j. The names and dates of staff members who have been trained on intake procedures, and the most recent tracking data reviewed by the District's EL Department;
- k. For employees who evaluate teachers of ESL, SEI, and two-way bilingual classes, the name of each employee, the date(s) of professional development and/or training that each employee received pursuant to Paragraph 26 above, and whether each employee passed a RETELL Administrator Course and obtained the SEI Administrator Endorsement;
- l. The number of occasions/events broken down by school, language, and event type (e.g., IEP meeting, discipline conference, discipline hearing, parent-teacher night, etc.) for which a school requested an interpreter from the District, the District provided an interpreter, and if an interpreter was not provided, why;
- m. A list of all the District and school documents containing essential information that have been translated by name of the document and available languages, including identifying those that have been translated in the past school year and a link to all of the translated documents posted online for each school to use; and
- n. A description of any material changes that the District proposes to make to its procedures for:
 - i. Registering students;

- ii. Assessing ELs;
- iii. Assigning ELs to classes;
- iv. ESL, SEI, or bilingual curricula;
- v. EL-related training of EL, special education, or regular education teachers and principals;
- vi. System for monitoring current ELs as well as FLEP students over a two-year period; and
- vii. Providing translator and interpreter services to LEP parents.

54. Per Paragraphs 31, 36, 41, 45, 48, and 49, the District shall submit to the United States reports each year by July 15 and January 15, in electronic format (*e.g.*, Word or Excel file) regarding SEI-endorsed teachers, FLEP students, special education staff, and bilingual evaluators, through at least July 15, 2017, and until the District has provided evidence of compliance, consistent with Paragraph 3.

ENFORCEMENT

55. The District shall maintain electronic and hard copy records of information and data pertinent to compliance with the terms of this Agreement and 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 during the monitoring of this Agreement, if necessary, the United States, through its representatives and any consultant or expert it may retain, may visit the District at mutually agreeable dates, 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 shall honor any such requests by

making the requested reports, information, or data available to the United States for its review and duplication within 30 school days.


56. 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. Furthermore, the District and United States shall meet within 15 days of any such decision to determine whether the Agreement should be revised or supplemented in response to the court's decision.

57. 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 that the United States agrees that it will not initiate or pursue any enforcement action without first attempting to resolve issues by negotiating in good faith for 30 school days, or until the parties reach an impasse, whichever comes sooner, over adequate measures to correct any alleged shortcomings in the District's compliance with this Agreement.

58. The District understands and acknowledges that 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. Representatives of the United States may speak directly, without prior notice, without District counsel unless the District employee elects to have the presence of 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 EL obligations under the EEOA and this Agreement.

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

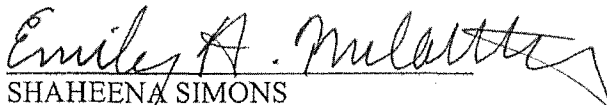
For the Worcester Public Schools


MAUREEN BINIENDA
SUPERINTENDENT
Worcester Public Schools
20 Irving Street
Worcester, MA 01608
(508) 799-3115

Dated: 7/11/16

For the United States

VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division


SHAHEENA SIMONS
EMILY H. MCCARTHY
U.S. Department of Justice
Civil Rights Division
Educational Opportunities Section
601 D Street, N.W., Suite 4300
Washington, D.C. 20530
(202) 305-3753

Dated: 7/11/16

CARMEN M. ORTIZ
United States Attorney
District of Massachusetts


DOREEN RACHAL
MICHELLE LEUNG

Assistant U.S. Attorneys
U.S. Attorney's Office
District of Massachusetts
Moakley Federal Courthouse
One Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3282



Student Name:

ID#:

Grade:

School Year: **2016-17**

Monitoring Year:

Quarterly Timeframe:

Instructional location:

Classroom Teacher: _____

Content Area (circle one):

Elementary

ELA

Math

Science

Standardized Test Score:	ACCESS: Test date:	MCAS ELA: MCAS Test date:	MCAS Math:
Data to Monitor Progress	What the data indicates - check appropriate box		
	BELOW Grade Level	AT Grade Level	ABOVE Grade Level
Writing Portfolio and assessments:			
Reading and literacy:			
Understanding (comprehension) of academic content compared to a Native English Speaker			
Oral fluency (production) during academic lessons compared to a Native English Speaker:			
Report Card Grades, Marks or Comments:			
End of Quarter Classroom Teacher Recommendation (please check one box):	<input type="checkbox"/> Re-designate as ELL for ESL and/or SEI instruction and future ACCESS testing. REASON: _____ <input type="checkbox"/> Concerned about student progress. REASON: _____ <input type="checkbox"/> Not a language issue, therefore student should remain as FLEP. (Note: classroom teachers <u>must</u> provide an explanation.) REASON: _____	<input type="checkbox"/> Student is able to remain at grade level in mainstream classrooms without ESL or SEI support. Remain as FLEP.	<input type="checkbox"/> Student is able to perform above grade level in the mainstream classrooms WITHOUT ESL or SEI support. Remain as FLEP.
Intervention Recommendations: <u>If there is concern about student progress or if student is recommended for ELL status, please check that all interventions have been followed.</u>	<input type="checkbox"/> Use of differentiated instruction <input type="checkbox"/> Support content objectives <input type="checkbox"/> Use of supplementary materials	<input type="checkbox"/> Sheltered instruction <input type="checkbox"/> Support language objectives <input type="checkbox"/> Cooperative grouping	<input type="checkbox"/> Emphasize content area vocabulary <input type="checkbox"/> Use of varied techniques

Principal: _____ Date: _____ ☐ I agree ☐ disagree with the above recommendation

Comment: _____