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District of New Jersey

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Civil Rights Division
Educational Opportunities Section

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MC:KF
DJ 169-48-80
USAO 2017V00785

December 12, 2024

Via Electronic Mail Only

Brenda C. Liss
General Counsel
Newark Public Schools
765 Broad Street
Newark, NJ 07102
Bliss@nps.k12.nj.us

**Re: Partial Termination and Extension of September 2021
Settlement Agreement Between the United States of
America and the Newark Board of Education**

Dear Ms. Liss:

As you know, on September 1, 2021, the United States Department of Justice (“United States”) and Newark Board of Education (“the District”) (collectively, the “Parties”) executed a Settlement Agreement (“Agreement”) that aims to resolve noncompliance issues identified by the United States under Section 1703(f) of the Equal Educational Opportunities Act of 1974 concerning the District’s English Learner (“EL”) programs and practices. The District has worked diligently to implement the provisions of the Agreement and has demonstrated substantial compliance for a period of one year with the following specific requirements in the Agreement: Identification and Placement of EL students (¶¶ 2-9); Provision of EL Services and Access to the Core Curriculum(¶¶ 10-14); Staffing and Professional Development (¶¶ 15-23); Curriculum (¶¶ 24-26); EL Access to Special Services (¶¶ 27-29); Program Monitoring and Evaluation (¶¶ 35-41), and Reporting (¶ 42). We wish to acknowledge the District’s – and particularly the Office of Bilingual Education’s – dedicated and extensive work on behalf of EL students.

However, the District has not yet demonstrated substantial compliance for a period of one year with the Agreement's requirements on communicating with limited English proficient ("LEP") parents in a language they understand. *See* Agreement ¶¶ 1, 31, 32, 33, 34, 48, 49; United States' Compliance Monitoring Letters to the District dated April 14, 2023 and March 19, 2024. Specifically, as we discussed during our November 15, 2024 meeting, language access testing conducted by the United States revealed that the District does not consistently use Qualified Interpreters either on-site or through Language Line to assist LEP speakers who call schools' front offices. To ensure that the District substantially complies with its obligations in the Agreement related to communicating with LEP parents, the Parties agree that the following constitutes the Amended Agreement:

1. All definitions on pages two and three in the original Agreement remain in effect.
2. The District will demonstrate substantial compliance with Paragraphs 1, 31, 32, 33, and 34 of the original Agreement.
3. The District will conduct telephone-based language access testing in at least 30 District schools during the Spring Semester 2025. The District will submit a proposed plan for this testing to the United States for review and approval by February 3, 2025. The plan will include, but is not limited to, a script and training/orientation for testers, data collection and data analysis methodology for testing results, names of schools being tested, names and titles of persons who will conduct the testing, controls to ensure validity of testing (such as using phone numbers not associated with the District to make the calls, not providing advance notice of the timeframe for testing, etc.), and non-English languages to be spoken during testing. The United States will approve or provide feedback on the District's proposal by February 17, 2025. If the United States provides feedback, the District will incorporate the feedback and submit the updated proposal by February 24, 2025. If the feedback has been incorporated, the United States will approve the proposal by March 3, 2025. If the feedback has not been incorporated, the District's proposal will not be approved, the Amended Agreement will be null and void, and the obligations of the original Agreement, in its entirety, will resume.
4. By July 1, 2025, the District will submit a report that includes all available data demonstrating its substantial compliance with Paragraphs 1, 31, 32, and 34 of the original Agreement and this Amended Agreement. This report will include, but is not limited to, the results of the District's language access testing; a description of all remedial efforts the District implemented or plans to implement in response to the District's Spring Semester 2025 language access testing results; and an explanation of all actions taken since the date of this letter to ensure that school clerks and other District employees responsible for communicating with LEP parents about registration, school selection, enrollment, and EL services receive appropriate and effective training on the District's telephone-based interpretation vendor and the use of school-based Qualified Interpreters.

5. The District will, for the duration of this Amended Agreement, preserve and maintain all records and documents, including all electronically stored information, used to compile required reports and all other documents related to its compliance with the Amended Agreement. The District will provide such information promptly to the United States upon request. (Original Paragraph 44.)
6. The District will provide data and other information in a timely manner in accordance with the reporting requirements of this Amended Agreement. With reasonable advance notice, the United States, through its representatives and any consultant or expert it may retain, may conduct site visits (in person or remotely), interview staff, and request any additional reports, information, or data necessary to monitor the District's compliance with this Amended Agreement and with the Equal Educational Opportunities Act. The District will make the requested reports, information, or data available for 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 Equal Educational Opportunities Act and this Amended Agreement. The United States may also evaluate the District's compliance with this Amended Agreement and the Equal Educational Opportunities Act by conducting language access testing at any of the District's schools or any of the District's offices that serve the public. (Modified original Paragraph 45.)
7. In the event of a breach by the District of this Amended Agreement, the United States may initiate judicial proceedings to enforce the Equal Educational Opportunities Act and the specific commitments and obligations of the District under this Amended Agreement and paragraphs 1, 31, 32, 33, and 34 of the original Agreement; provided, however, that the parties agree first 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 Amended Agreement is for any reason held to be invalid, unlawful, or otherwise unenforceable by a court of competent jurisdiction, such decision will not affect the validity of any other part of the Amended Agreement. The District and United States will meet within 15 days after a court's decision to determine whether the Amended Agreement should be revised or supplemented in response to the court's decision. (Original Paragraph 46.)
8. This Amended Agreement will be binding upon the Newark Board of Education and its members in their official capacity, successor members of the Newark Board of Education and successor administrators in their official capacity, and any State entity that assumes authority from the Newark Board of Education to directly control and oversee the District's operations under New Jersey law. The District understands and acknowledges that this Amended Agreement does not relieve the District from its other obligations under the Equal Educational Opportunities Act or other federal laws. The United States, consistent with its responsibility to enforce the Equal Educational Opportunities Act, retains the right to investigate and, where appropriate, initiate judicial proceedings concerning any future alleged

- violations of the Equal Educational Opportunities Act by the District. (Original Paragraph 47.)
9. The Amended Agreement will terminate 60 days after the District submits its report due on July 1, 2025 provided the parties agree that the District has demonstrated substantial compliance with all provisions of this Amended Agreement. (Modified original Paragraph 48.)
 10. The burden will be on the District to demonstrate substantial compliance in writing with each of the provisions of this Amended Agreement. Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, will not constitute failure by the District to maintain substantial compliance. At the same time, temporary compliance during a period of sustained non-compliance will not constitute substantial compliance. (Original Paragraph 49.)
 11. The parties may, upon mutual written agreement, amend this Amended Agreement to address changed circumstances and/or to improve the delivery of services to ELs. (Original Paragraph 50.)

The following signatures indicate the consent of the Parties to the terms of this Amended Agreement, without admitting any violation or non-compliance with the EEOA or any other law and without admitting the accuracy of any of the findings of the United States, which is effective upon its mutual execution. The District representative, by signing this document, gives assurances that the representative has the authority to bind the District, including successor members of the District's School Board and successor administrators, for the Amended Agreement's duration.

For the United States:

PHILIP R. SELLINGER
United States Attorney
District of New Jersey

/s/ Kelly Horan Florio 12/12/2024

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/s/ Christine Bischoff 12/12/2024

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For Newark Board of Education:

/s/ Hasani K. Council

Hasani K. Council
Board President

Date: 12/12/2024