

# **AGREEMENT**

*between*

The United States of America

and

The Lewiston, ME School Department

## **AGREEMENT**

### **DEFINITIONS**

1. “Lewiston School Department” and “the Department” refer to the Lewiston, Maine School Department and the schools it operates.
2. “ELLs” refers to students who are English Language Learners, Limited English Proficient, or Non-English Proficient and thus require assistance to overcome language barriers that impede their equal participation in the Department’s instructional programs.
3. “ESL” refers to English as a Second Language.
4. “General education” refers to academic classes, programs, and services that are available to all students and are not part of the ELL program.

### **PURPOSE**

5. The Lewiston School Department, by its undersigned counsel, agrees to the terms of this Agreement and to comply fully with its provisions, which address and resolve the issues raised by the United States Department of Justice, Civil Rights Division (“United States”) regarding the Lewiston School Department’s legal obligations under the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1703(f) (“EEOA”).
6. In consideration for the commitments made herein by the Lewiston School Department, the United States agrees not to initiate judicial proceedings against the Department regarding the District’s education of ELLs.
7. This Agreement shall become effective on the date of its entry and shall remain in effect for three (3) full school years following that date. The date on which counsel for the United States signs the Agreement shall be considered the entry date of the Agreement. This Agreement is undertaken as a means of alternative dispute resolution to avoid litigation and for

the purposes of judicial and governmental economy. This Agreement shall not be construed as an admission of liability by the Lewiston School Department to any violations of the EEOA or state law.

## **GENERAL REQUIREMENT**

8. The Lewiston School Department shall, as required by the EEOA, take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs. 20 U.S.C. § 1703(f).

## **SPECIFIC REQUIREMENTS**

### **Registration, Identification and Placement of ELLs**

9. The Department shall ensure that uniform student registration materials are used at all schools and that those materials are available in English and Somali.

10. At each school facility, the Department shall compile a list of non-teaching and teaching personnel by language ability who are available to provide translation assistance when necessary to serve ELLs or their parents, relatives, guardians, or guests. To the extent practicable, the Department shall ensure that the non-teaching personnel on each school's list are used to provide these translation services, and that ESL teachers are not pulled away from their teaching and/or class preparation responsibilities to serve as translators.

11. The Department shall ensure that appropriate school-based personnel are trained in using the Department's translation services for written and verbal communications to ELLs and their parents, relatives, guardians or guests.

## **ELL Instruction & Services**

12. The Department shall implement a Specially Designed Academic Instruction in English model for its ELL curriculum. Such curricula shall be aligned with Maine's core curriculum content standards and the WIDA ACCESS language proficiency standards. The Department shall complete a draft ELL curriculum for grades K-8 by July 1, 2007 and a draft curriculum for grades 9-12 by January 30, 2008. The Department shall provide the United States with a copy of these curricula for review and comment, as specified in Paragraph 23. The Department may adopt an alternative research-based curriculum model aligned with comparable language proficiency standards, provided that the United States approves of any such changes pursuant to Paragraph 24.

13. The Department shall ensure that ELLs are integrated, to the extent practicable, with general education students in school instruction, functions, co-curricular activities, and extracurricular activities.

14. The Department shall retain an adequate number of certified ESL teachers such that Educational Technicians are not forced to perform long-term or unsupervised ELL instruction in contravention of state law. *See* 05-071-115 Me. Code R. § 10.1 (2005).

### ***Access to Programs***

15. The Department shall provide ELLs services that enable them to participate meaningfully in all of the Department's educational programs and activities for which they are eligible.

16. The Department shall notify all ESL and general education teachers as well as all parents/guardians of ELLs in writing that ELLs may be referred for gifted and talented programs, and shall ensure that the gifted and talented eligibility criteria permit consideration of all ELLs

regardless of their language proficiency level. If an ELL qualifies for the gifted and talented program and language services, the Department shall ensure that the ELL receives both such services.

### ***Resources for ELL Students***

17. The Department shall ensure that the media center and library in each school facility are fully accessible to ELLs. The Department's efforts in this regard shall include, but are not limited to providing orientation and training designed to assist ELLs in using appropriate written, audio, visual and computerized resources in the media center and library.

### **ESL Faculty Professional Development & Collaboration**

18. The Department shall ensure that all ESL faculty and staff receive the same notices, information, and materials as other faculty and staff who teach the same grade level(s) and subject area(s). The Department shall further ensure that ESL faculty and staff are represented in all relevant committee, school and Department meetings.

19. The Department shall ensure that all ESL teachers receive professional development training at least once per school year via Professional Learning Communities or specialized workshops. Such training shall, among other things, advise teachers on how to implement the Department's standards-based curriculum into their classroom instruction.

20. The Department shall ensure that all teachers of general education classes receive training at least once each school year regarding: (a) instruction of current and recently exited ELLs and (b) coordination with ESL teachers to identify and address any language barriers that may hinder current or recently exited ELLs from participating in general education classes. Such training also may be conducted through Professional Learning Communities or specialized workshops.

### **Monitoring Transitioned ELL Students**

21. The Department shall maintain a “case manager” system to monitor current ELLs and ELLs who have been exited from the ELL program for less than two full school years. Each ELL shall be assigned a case manager, *i.e.*, an ESL teacher who is knowledgeable about the student’s language proficiency and grade level expectations. Case managers will review the status of current ELLs at least twice per academic year. Case managers will review the status of exited ELLs at least once per academic year. All case manager reviews will be in writing and will address academic performance and continued language proficiency growth. The Department may adopt a reasonably comparable alternative to this ELL monitoring system, provided that the United States approves of any such proposed changes pursuant to Paragraph 24.

### **ELL Program Evaluation**

22. The Department shall develop a program evaluation design to assess the overall effectiveness of the ELL program on a Department-wide and individual school level. The underlying data for the design will include, but will not be limited to, three categories:

- (a) *Mastery of Academic Content*: performance on district curriculum and Maine Learning Results standardized testing data, grade point averages, literacy testing, student work samples, and graduation rates.
- (b) *Development of Language Proficiencies*: individual and group profiles of performance on WIDA ACCESS for ELLs and literacy assessments.
- (c) *Integration into School Programs*: participation in school activities, optional academic experiences, gifted and talented programming, early college programming, and post secondary planning.

Data will be collected for current ELLs and ELLs who have exited the ELL program within three (3) years. Once the evaluation design is implemented, data will be collected on an ongoing basis and reviewed at least annually. The Department shall provide a statement summarizing the finalized details of the design for review and comment pursuant to Paragraph 23. The Department may adopt a reasonably comparable alternative to this evaluation design, provided that United States approves of any such proposed changes pursuant to Paragraph 24.

**Plan and Procedure Review by the United States**

23. By July 1, 2007, the Department shall submit the following documentation to the United States for review: (a) the draft ELL curriculum for grades K-8 (*see supra* Paragraph 12) and (b) a statement summarizing the finalized program evaluation design (*see supra* Paragraph 24). By February 15, 2008, the Department shall submit the draft ELL curriculum for grades 9-12 (*see supra* Paragraph 12). The United States shall have thirty (30) days to raise any questions or concerns regarding any of this information, and the Department shall respond to these concerns within thirty (30) days. If, after receiving the Department's responses, the United States finds that the Department has adequately addressed the questions or concerns raised, the United States shall promptly notify the Department in writing, and the Department and the United States shall work to resolve any disagreements about the Department's proposed plans and procedures.

24. As noted in Paragraphs 12, 21, and 22, the Department may adopt an alternative ELL curriculum model, ELL monitoring system, and/or ELL program evaluation design after execution of this Agreement. Before implementing any such change, the Department must first obtain the approval of the United States. To do so, the Department must advise the United States of the proposed change in writing. Thereafter, the United States shall have thirty (30) days to raise questions or concerns regarding any of the proposed changes, and the Department shall

respond to these concerns within thirty (30) days. If the United States finds that the Department has adequately addressed any questions or concerns raised, the United States shall promptly notify the Department that it has no objection to the proposed change. If the Department and the United States cannot resolve any disagreements about the Department's proposed changes, the parties agree to submit the dispute to the appropriate district court for resolution.

### **Annual Reporting to United States**

25. The Department shall provide to the United States annual reports fully detailing its efforts to comply with the provisions of this Agreement. The Department shall submit the annual reports outlined herein each year by July 15th, with the first report due July 15th, 2007. If any of the information required for the annual report in a particular school year is available in a document that the Department already has prepared to comply with the No Child Left Behind Act (20 U.S.C. § 6301, *et seq.*) or other federal or state statute or regulation, the Department may include the document in its annual report and indicate the section of the annual report to which the document applies. The annual reports shall include the following information about the school year preceding each annual report, unless otherwise specified:

- (a.) The number of students, by school and grade, enrolled in the Department;
- (b.) The number of ELLs, by school, grade, and native language, separately listing the number of ELLs who were not served in a language acquisition program and the number of ELLs who elected not to participate in a language acquisition program;
- (c.) The number of students, by school, grade, and native language, who completed a home language survey in connection with registering for the school year preceding the annual report; the number of any students who, based on their responses on the home language survey, were referred to a certified teacher to determine if language proficiency testing was needed; the

number of students who were given a language proficiency test; and the number of any students who ultimately were identified as ELLs;

(d.) Copies of each school's list of non-teaching personnel available to provide Somali to English and/or English to Somali translation assistance;

(e.) A list of ESL teachers, by school, grade, language(s), certification(s), and years of experience;

(f.) A description of any training provided to Department personnel in the following areas: (i) procedures for administering the home language survey and referring students to a certified teacher for initial language evaluation; (ii) procedures for using the Department's translation services; (iii) implementation of the Department's ELL curriculum; (iv) teaching current and recently exited ELLs in general education classes; and (v) coordination between ESL and general education teachers. For each such training, please describe the content of the training, provide the date(s) on which the training was provided, and provide the number and type of Department personnel who attended the training.

(g.) The number of students, by school, grade, native language, and years in the ELL program, who were exited from the ELL program;

(h.) The number of students, by school, grade, native language, and years in the ELL program, who were re-entered into the ELL program;

(i.) The number of ELLs, by grade and native language, who were (i) referred for special education, (ii) found eligible for special education, including the ELL's disability category, and (iii) received special education services, including the nature and duration of such services (*e.g.*, 45 minutes a day of resource with an ESL special education teacher).

(j.) The number of ELLs, by school, grade and native language, who (i) were referred for the gifted and talented program, noting the referring individual (*e.g.*, ESL teacher or parent); (ii) found eligible for the gifted and talented program; and (iii) participated in the gifted and talented program, noting the nature and duration of the participation (*e.g.*, 45 minutes of pull-out a week).

(k.) All reports generated as part of the Department's program evaluation design described in Paragraph 22.

(l.) A description of any plans or procedures that the Department proposes to implement in connection with complying with this Agreement;

(m.) Any other information that the Department believes will be helpful;

(n.) In the annual report due July 15, 2007, the following information: (i) all school policies that outline ELL student registration and placement procedures and the personnel involved in those procedures, and (ii) uniform ELL registration materials in English and Somali.

### **Recordkeeping**

26. For the duration of the Agreement, the Lewiston School Department shall maintain records of all information pertinent to compliance with the terms of the Agreement and shall provide such information to the United States upon request.

### **ENFORCEMENT**

27. The Lewiston School Department agrees to cooperate with the United States' efforts to monitor the Department's compliance with this Agreement.

28. The Lewiston School Department acknowledges and understands that, in the event of a breach by the Department of this Agreement, the United States may initiate judicial

proceedings to enforce the specific terms, commitments and obligations of the Department under this Agreement.

29. The Lewiston School Department acknowledges and understands that the United States, consistent with its responsibility to enforce the EEOA and notwithstanding the terms of this Agreement, retains the right to investigate and, where appropriate, initiate judicial proceedings concerning alleged violations of the EEOA by the Department.

30. Before requesting judicial relief for alleged violations of the EEOA or this Agreement, the United States shall notify the Department of any such violations and seek an amicable resolution of the dispute within forty five (45) days of that notification.

31. This Agreement, including signature pages, ends on page 12. The following signatures indicate the consent of the parties to the terms of this Agreement. The date on which counsel for the United States signs the Agreement shall serve as the entry date of this Agreement.

**For the United States:**

WAN J. KIM  
Assistant Attorney General

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Date Signed

**For the Lewiston, ME School Department:**

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END OF SIGNATURES

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Date Signed